NEW YORK STATE SENATE

THE

STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 3, 1999

11:11 a.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The Senate will come to order. I ask evenone present to please rise and recite with me the Pledge of Allegiance to the Flag.

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

ACTING PRESIDENT MEIER: In the absence of clergy, I ask everyone to please bow their head in a moment of silence.

(A moment of silence was observed.)

ACTING PRESIDENT MEIER: Reading of the journal.

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

ACTING PRESIDENT MEIER: Without object the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports the standing committees.

Reports of select committees.

Communications and the reports from state officers.

Motions and resolutions.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

On behalf of Senator Skelos, please place a sponsor star on Calendar Number 104.

ACTING PRESIDENT MEIER: A sponsor star will be placed on Calendar 104.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President, on page 28, I offer the following amendments to Calendar Number 704, Senate Print Number 827-A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendments are received and adopted and the bill will retain its place on the Third Reading Calendar.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

On page number 6, I offer the following amendments to Calendar Number 95,

Senate Print Number 830, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendments are received and adopted and the bill will retain its place on the Third Reading Calendar.

Senator Skelos, we have some substitutions. Would you like us to do those now?

SENATOR SKELOS: Please make them.

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 54, Senator Seward moves to discharge from the Committee on Rules, Assembly Bill Number 839, and substitute it for the identical Third Reading Calendar 1103.

On page 55, Senator Rosado, moves to discharge from the Committee on Rules, Assembly Bill Number 3007, and substitute it for the identical Third Reading Calendar 1112.

On page 56, Senator Seabrook, moves to discharge from the Committee on Rules,

Assembly Bill Number 7053, and substitute it for the identical Third Reading Calendar 1121.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Skelos

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Rules Committee in the Majority Conference Room.

Senator Skelos.

SENATOR SKELOS: I believe there is a privileged resolution at the desk by Senator Saland. May we please have the title read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Saland, Legislative Resolution Number 1681, honoring Jennifer Berkmayer upon the occasion of her designation as recipient of the outstanding achievement award for the advancement of quality in child care on June

4, 1999.

ACTING PRESIDENT MEIER: The question is on the resolution. All those in favor, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Skelos.

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

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

THE SECRETARY: Calendar Number 97, by Senator Spano, Senate Print 1372, an act to amend the Labor Law, in relation to payroll records.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 257, by Senator Larkin, Senate Print 2534, an act to amend the General Municipal Law, in relation to the transfer.

SENATOR PATERSON: Lay the bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 331.

SENATOR RATH: Lay the bill aside for the day, please.

ACTING PRESIDENT MEIER: Lay the bill aside for the day.

Senator Rath, you are referring to Calendar Number 257?

SENATOR RATH: Correct.

ACTING PRESIDENT MEIER: Lay Calendar Number 257 aside for the day. The Secretary will continue to read.

THE SECRETARY: Calendar Number 331, by Senator Bonacic, Senate Print 3660-A,

an act to amend the Private Housing Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside. Senator Paterson, it would be helpful to me because of my bad ear if you would speak up.

SENATOR PATERSON: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: Calendar Number 343, by Member of the Assembly Vitaliano, Assembly Print Number 4062, an act to amend Chapter 695 of the Laws of 1994.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 372, by Senator Saland, Senate Print 2976, an act to amend the Social Services Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 523, by Senator Stafford, Senate Print 3832, an act to amend the Executive Law.

SENATOR RATH: Lay the bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

Senator Bruno.

SENATOR RATH: Mr. Chairman.

ACTING PRESIDENT MEIER: Senator Rath.

SENATOR RATH: One moment, please, Mr. President.

May we please lay aside the entire non-controversial calendar and take up the controversial calendar starting with Calendar, please, 1140.

ACTING PRESIDENT MEIER: The Secretary will read the controversial calendar starting with Calendar Number 1140.

THE SECRETARY: Calendar Number 1140, by Senator Bruno, Senate Print 5727, an

act to amend the Vehicle and Traffic Law, in relation to fees for registration.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Bruno, an explanation has been requested of Calendar 1140 by Senator Paterson.

SENATOR BRUNO: Mr. President, this is a tax cut bill and it removes the ton mileage tax from the large trucks that transport goods across this State, 18,000 pounds or more.

We are the only state in the United States that punishes owners of large vehicles that transport every good that consumers and businesses in this State need. So the net results has been that trucking companies locate their facilities outside of New York State. So who benefits? Massachusetts, Connecticut, New Jersey, Pennsylvania. And who loses? The citizens of New York State.

The bottom line net result for this investment in the delivery of goods to businesses and people is about $30 million net. And the feeling is with that investment it will be more than made up over the years by

not making trucking companies noncompetitive here in New York State.

We did, in this chamber, the earned income tax credit last week. And many of my colleagues, both sides of the aisle, supported that. Why did we do that? We did that because there are 1,100,000 people in this state who are at the poverty level who are trying to rise above the poverty level and who are trying to earn an income and we in this chamber think that it is unfair to tax those people so we actually created a tax credit, an increase by 50 percent the funds that are available to those people to help them be more independent, more productive, return dignity to their lives.

Now, the Assembly has not to this moment passed that piece of legislation. How quick they jumped on the commuter tax and passed that the same day it left this chamber. I wonder why, with the higher paid suburbanites being the beneficiaries. I wonder why, when people making less than 30,000 a year, most of them 10, 12, 14,000 a year.

Why does that not pass the Assembly? And my colleagues who are questioning, and my favorite colleague, the Deputy Minority Leader, questions the merits? Well my answer is that we are going to continue to cut taxes here in this chamber for the people of this state individually and collectively and for the businesses in this state to make all of the people more comfortable, more competitive with the other states.

So I would urge you to support this because as I said initially we are the only state in the United States that has this particular tax on truckers and it is unconscionable in my mind that we continue, at times when we have a two plus billion dollar surplus, and that's why we ought to past the EITC, the earned income tax credit for the people of this state and you ought to, instead of debating this, encourage your colleagues in the Assembly to pass that bill today and when this bill leaves this house with your support I am sure I would encourage them to pass that today, just as they did the commuter tax that

created so much controversy and now is going to end up in the courts.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, that was an explanation that deserved to be stated and any restated because it is actually an issue that has been of concern to the Senate Minority. It was taken up in conference committee last year by Senator Gold and Senator Stachowski and as a matter of fact, in March of this year Senator Stachowski offered it as an amendment to another piece of legislation that we passed earlier. So we are strongly in support and really wanted to give the sponsor the opportunity to explain publicly and right here in this chamber as an additional advocacy to the legislation that we are the only state in the union that has this type of tax. That it probably assesses 30 million or I think that is about the amount that Senator Bruno quoted, which is really unnecessary. It in many ways chills the transportation of goods and services around

this State.

Quite frankly, I do not know how we wound up as the only state in the United States that has this tax, but certainly the action we're taking here today will certainly go a long way toward trying to relieve it. We just wanted, for purposes of publication, to -- it to be known that Senator Stachowski in his wisdom had brought this to the floor as part of an amendment in March and even if we didn't want to pass the amendment, we really should have passed the bill about three months ago.

So I am sure that is alright as long as it gets passed, so I am sure that we'll extend the same courtesy to the other house that they might properly examine and go through all of the elements of this legislation as the Majority went through this bill for the last couple of months after Senator Stachowski introduced it. But I am wholeheartedly in favor of it and I thank the Majority Leader for the compliment and also for the explanation.

It is a very good bill. It is one

we believed in for awhile and one that we can hopefully jointly lobby to make law as soon as possible.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: On the bill.

ACTING PRESIDENT MEIER: Senator Nozzolio on the bill.

SENATOR NOZZOLIO: Mr. President and my colleagues, this is another effort to unshackle the taxpayers of this state from the oppressive taxation that has been placed upon them during the decade between the late '80s and early '90s.

Senator Bruno's bill today does what we need to do to enhance one of those job producing industries in the State, and that is transportation.

Last year, as credit should be given as credit is due, the other side of the aisle talked about last month. I want to talk about last year when Senator Bruno put forth a total reduction of this tax and then, in compromise had to settle for cutting it in half, which was nonetheless, a giant step,

even though forged in compromise.

Today this measure sends a clear message to the trucking industry, the transportation industry across New York that we are serious about bringing the jobs back to this State that traveled out of this State.

I have the largest section of the Thruway and I have the largest trucking company in this State that is still headquartered in New York State. Unfortunately we lost so many transportation related jobs because of taxes like this.

Senator Bruno has certainly my highest praise and the highest praise most importantly of those men and women who are involved in the transportation industry in New York.

Mr. President, thank you for the opportunity to support this fine legislation.

ACTING PRESIDENT MEIER: Senate Duane.

SENATOR DUANE: Thank you very much, Mr. President.

On the bill.

ACTING PRESIDENT MEIER: Senator

Duane on the bill.

SENATOR DUANE: I agree that this legislation would provide relief which our state is one of the very few in the nation which has not provided this kind of relief for the trucking industry, but there are so many things that New York State does not have that other states have, for instance, a bias bill.

So many states across the nation in fact have a bias bill but here in New York State we don't have a bias bill.

Similarly, we don't have a lesbian and gay civil rights bill here in the State of New York and yet many states around the nation do have a civil rights bill which protects people based on sexual orientation from discrimination.

And so while I completely agree that we do need this relief for the industry and it is sad that we have not yet gotten it. I am looking forward to the day very soon when we will have this kind of relief for the trucking industry, but so too am I looking forward to the day when all of the people in the State of New York will be able to live

lives free of the threat of biased related violence in their lives, that people in every neighborhood and every town and city across this State will not have to walk the streets in fear that they maybe victimized by a bias related incident, as is the case in so many states across this nation, and particularly states on the east coast of our nation where this kind of a protection is already being provided.

I just wanted to lend my voice and agree that it is time that we rectify some of the things which we do not have in the State of New York but which are in effect in other states in our nation and to say that we should follow suit and make sure that soon, very soon, by the end of this session, that New York State also has a bias related violence bill as do so many other states in our nation.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I rise because what I have learned in this chamber is that when the voice of the

Majority says no it does it very quietly. When the voice of the Majority says yes, it does it very loudly. And this is a perfect example of this.

We could have had this legislation tucked into the budget resolution three months ago when Senator Stachowski put it on the floor. It could already be in the discussions. It would already be a part of it. I hope Senator Bruno is shaking his head yes because he wants it to be a part of the budget deliberation this year. My hope is that it will part of the budget deliberation.

But what I am always astounded at is how the Majority in this house can vote so quietly for a no back in March and now stands up and proclaims loudly, Yes, we want to do this, it is the right thing. I can remember several Senators from this side of the aisle and saying, vote for this amendment, it is the right thing to do. But the word from the Majority was no, no, we don't want to do this now because it is a Democratic idea.

I would suggest to my colleague, Senator Nozzolio, who I agree with on the

merits of this bill, that what we need to do in this house is not unshackle simply the oppression of high taxes. Lets unshackle this body from the oppression of partisan politics too so than an idea, whether it comes from this side of the aisle or that side of the aisle is considered on the merits, and the mere fact that it is proposed by Democrats doesn't draw no votes from the other side.

I would point out to my colleagues from the other side of the aisle that you have had the best of all possible worlds. You voted no once, you voted yes once. Maybe the only thing that is left is to vote maybe. Then you can cover all your bases.

I would simply point out one other thing to Senator Nozzolio and others. There are those who think that this tax out of the middle of nowhere. That this tax all of a sudden just poof, it appeared and all of a sudden it was a terrible thing to do to the truckers in this State.

You know how it came about? The Majority of this house, the Republican Majority of this house approved a budget in

1991 that put the tax in place.

So I guess what we really should do is reframe the debate. Senator Nozzolio was correct. Lets free them from the shackles of high taxes. Why don't we just add the qualifier that is necessary to make it truly accurate? Lets free them from the shackles of high taxes that were passed and put into put into place by the majority of this house.

Lets free them from ourselves. Lets free them from what we had to do in 1991, and I would acknowledge that this house had to do some very difficult things in 1991 because unlike today when there seems to be a lot of money sitting in the State treasury, back then there wasn't and we had to come up with a way to meet shortfalls. But let anyone in this house think for a second that this tax came about because somebody else put it in place. This tax is on the books, this tax is causing problems to our truckers because the majority of this house put it there.

I think it is now time, as I thought it was in March, that the Majority of this house now take it off the books. We

don't need it any more. But I would just suggest to everyone that what really needs to be unshackled there is the creative wisdom of this collective body. What we need to do is stop the partisan politics, get down to the business of governing and consider ideas on their merits and not simply because they originate in this side of the house.

I agree with Senator Bruno about this bill. I also with the earned income tax credit. Great idea. Originated on this side of the house. This is the second thing that the Majority has done that we started. It is been our package. We welcome you to the inspired look at a way to reduce taxes in this State, and we are pleased that our agenda seems to be moving ever so slowly across the aisle.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. This act shall take effect January 1, 2001.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we call up Calendar Number 701, by Senator Velella.

ACTING PRESIDENT MEIER: The Secretary will read Calendar Number 701.

THE SECRETARY: Calendar Number 701, by Senator Velella, Senate Print 3862, an act to amend Chapter 455 of the Laws of 1997 amending the New York City Civil Court Act.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT MEIER: Senator Velella, an explanation has been requested of Calendar Number 701 by Senator Dollinger.

SENATOR VELELLA: Mr. President, this is a five year extender of a bill which we passed as a pilot program to allow the marshals in the City of New York only to enforce money judgments from the Family Court

or Supreme Court of any county within the City of New York. It is going to be an effective tool and has been an effect tool to help enforce money judgments based on child support against deadbeat dads and allow the marshals to enforce -- or the sheriff for the City of New York, to enforce these judgments.

It will continue the program until June 30, 2004. And it will also increase the bonding required by marshals from 40,000 to 60,000. And groups that had questioned this in the past, city employees, have removed their objections. There are no union objections to the bill.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, just one question of Senator Velella.

ACTING PRESIDENT MEIER: Senator Velella, do you yield to a question?

SENATOR VELELLA: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: When we do

these bills that create short time frames in which we experiment with a new idea we usually get some report back or some information back that this idea has worked. Do you have any evidence that indicate that the use of the marshals in this case has achieved the goal of the legislation that you originally articulated a couple years ago?

SENATOR VELELLA: Well, there is no formal report because we didn't want to put a cost in. One thing we didn't need was another government study of something. So what we have done is we have asked people out in the area who are the marshals themselves, how is it working in terms of producing revenue for them, the sheriffs if it has in fact caused a problem. The unions who objected to it when we put it in if in fact it has caused a problem with marshals doing work that was previously done by city employees. And when we did the bill they know that its time is up now. The extender has been around for the whole session. Nobody has filed a memo in opposition. Nobody has come to me to ask for an amendment and to the best of my

knowledge the people I have spoken to that are involved in this, the marshal, the sheriffs, the court employees, all think it is working, so I have no knowledge of anybody objecting.

SENATOR DOLLINGER: That's good enough for me, Mr. President.

Thank you.

ACTING PRESIDENT MEIER: Read the last section.

I'm sorry Senator Hevesi.

SENATOR HEVESI: Mr. President, would the sponsor yield to one quick question, please.

ACTING PRESIDENT MEIER: Senator Velella, do you yield to a question?

SENATOR VELELLA: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: I believe this legislation is necessary and I'm glad it is before us. Just a question for you as to why we would not -- why the extender? Why not make this a permanent provision of law?

SENATOR VELELLA: I would have no problem in making it a permanent bill and I

agree with you, it would lighten our work burden for the Legislature. However there are people who feel that after the first trial this certainly still raises some questions that need to be looked at and in 2005 the Legislature will take another look at it and see if it is working, and hopefully at that time probably make it permanent.

I would be happy to make it permanent. There were just people who felt in the process of drafting the bill and in the process of negotiating it and talking to sheriffs and talking to the unions, let's take another short five or six year look at it and come back and revisit it.

SENATOR HEVESI: Thank you. Through you, Mr. President. Senator Velella, what areas might be of concern such that we would want to revaluate?

SENATOR VELELLA: It is mainly a question of where the revenues are going to go. The sheriffs were afraid this was going to take a lot of business away from them and they would not be able to generate the fees that came out of this. It has not dramatically

effected their ability to earn their ways.

In addition the employees of DC 37 who were very much concerned when we first passed the bill that this might interfere and have private individuals, marshals, taking jobs of city employees. That in fact has not taken place and the fact that they do not oppose this bill shows that. But again, people are a little gun shy and they say, well, lets give it a few more years and take a second look at it again and I can't blame them. Maybe we didn't have enough experience in the short period. I think it is only about two, three years that we gave it. Maybe they want to take another look and the Legislature in 2005 will make that judgment.

SENATOR HEVESI: Thank you. Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Hevesi on the bill.

SENATOR HEVESI: This is a good bill. I am glad it is before us and I would just hope that when it comes back before us in another few years that we have a comprehensive reevaluation specifically taking into account

the several concerns that Senator Velella just articulated for us, which are real concerns and which we should take a look at. I just get nervous from time to time as I see these extenders. If it is necessary to have this legislation codified in the law I don't think that we should in perpetuity extend the provisions that are before us. If it is necessary to make this permanent, lets make it permanent. And if we need a comprehensive reevaluation to determine whether the permanency is necessary, lets do that. But the bill before us is a good bill and I support it.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I was wondering if the sponsor would yield to another couple of questions.

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

SENATOR VELELLA: I certainly

will, but I have never seen a bill with so much support that has so many questions.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Well, through you, Mr. President, I'm not a hundred percent sure I am going to be supporting this bill so perhaps my questions will be -

SENATOR VELELLA: I will clear up your misconceptions.

SENATOR DUANE: -- best of all. You don't know whether they are misconceptions yet, Senator. I am wondering if you could tell me what other areas besides child support, what other ways of getting payment are the sheriffs now entitled to?

SENATOR VELELLA: That would be any judgments, money judgments, that the courts have entered and the marshals will get their fees on a percentage basis of what they are able to collect, so there is no hit on the government itself.

If they collect money they take a percentage out of it, similar to the way the sheriffs do and it would be money judgments

from the Supreme Court, which are larger judgments now. They also will be collecting on student loans that people have forfeited on and have money judgments against them, a battery of other areas. Wherever you have a judgment that you owe money they will now be able to collect on after the court has made a decision that you owe that money.

SENATOR DUANE: Through you, Mr. President.

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

SENATOR VELELLA: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DUANE: During the anecdotal study you did of how this bill was working, I was wondering if any of the people who had actually had their property or money garnished, whether any of them were questioned as to whether or not this was done in an appropriate manner?

SENATOR VELELLA: Most deadbeats don't like to pay and get caught, so I would assume that they complained an awful lot. But

none that were justified. No abuses came to point where money judgments were enforced or property attached that should not have been.

Nobody had a legitimate complaint, just a regular deadbeat who doesn't like to pay his bill.

SENATOR DUANE: Through you, Mr. President.

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

SENATOR VELELLA: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DUANE: To your knowledge absolutely no mistakes were ever made in the collecting of these judgments?

SENATOR VELELLA: To my knowledge no mistakes were made. However, that does not mean that there were no mistakes made, just like there may have been a mistake made in originally granting the judgment against somebody who shouldn't have had a judgment. That would be the courts problem. To my knowledge, nobody has called any mistake to my attention. I know of none. If you know of

some we ought to work toward that. Maybe that's why people want that window for the 2005. But I absolutely know of no mistakes that were made in the enforcement by the marshals. Maybe one did occur. I don't know.

SENATOR DUANE: Through you, Mr. President.

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

SENATOR VELELLA: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Was that information supposed to be part of the scope of the investigation when the legislation was originally enacted?

SENATOR VELELLA: I don't understand the question.

SENATOR DUANE: Whether or not mistakes could happen or would happen and then if they did happen.

SENATOR VELELLA: To be honest with you, no the marshals are appointed, confirmed by the City Council, as you know. You were a member of that body.

SENATOR DUANE: One of the best.

SENATOR VELELLA: What?

SENATOR DUANE: One of the best.

SENATOR VELELLA: Yeah, the marshals do a good job. I assume you are talking about the marshals, not the council, when you say the best.

But there was a process that was put into effect that said we have a lot of money judgments out there for deadbeat dads for people who have defaulted on college loans and a battery of other things. The sheriffs office was not really enforcing those. They had other duties to do and there was a need to provide additional manpower so we thought about the marshals. Now, whether or not that specifically, would marshals make more mistakes than sheriffs who enforce those judgments, I don't believe that was part of the criteria. We thought that they were both capable of doing the job. It was a question of whether or not we should give them that authority. But I assume, and maybe sometimes to assume is to make a fool of you and me, as you know, but not to use the other word, but

certainly I do not know of any case where they have not properly exercised their powers and their duties and there is no reason to believe that would make any more mistakes than a sheriff would, who has the power to do it now.

Somebody will make a mistake. Lawyers make mistakes. Legislators make mistakes. Even legislators from Manhattan sometimes make mistakes. About a week ago last Tuesday a few of them.

SENATOR DUANE: To clarify one final point, Mr. President, would the sponsor yield?

ACTING PRESIDENT MEIER: Senator Velella, will you yield for one final point?

SENATOR VELELLA: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Then I am to assume then that in this next window of approval that as part of the scope of study that looking at or documenting mistakes will not be part of the study, the scope of the study?

SENATOR VELELLA: Well, Senator,

in 2005 I do not know if you will be here. I don't know if I will be here. But I have enough confidence that the Senate will be in the proper hands and the proper control to deal with this in the right way.

SENATOR DUANE: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: It would be my great hope though that we would have the tools at hand for whatever leadership would be running this wonderful body to make the best possible decision about whether or not the program has been working. And I think that is my final word on the bill at this point.

Thank you.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: We'll give Senator Velella a break.

I have a question of Senator Paterson or the departing -- no. Senator Paterson, I have a question for you.

SENATOR RATH: Point of order.

ACTING PRESIDENT MEIER: One moment, Senator Oppenheimer, there is a point of order on the floor.

SENATOR RATH: The floor was not under the control of Senator Paterson at the time so I think Senator Oppenheimer, you are out of order.

ACTING PRESIDENT MEIER: That is correct. Under the rules of the Senate, only a member currently having control of the floor can yield. So the point of order is sustained.

SENATOR OPPENHEIMER: Okay. Then we'll call back Senator Dollinger.

ACTING PRESIDENT MEIER: No.

SENATOR OPPENHEIMER: I mean, someone had to be here.

ACTING PRESIDENT MEIER: It is the opinion of the Chair that at the current time the sponsor of the bill has the floor, or let me take that back. You have the floor at this moment, Senator Oppenheimer. Under the rules of the Senate you can ask a member who has sponsored the bill to yield to a question.

SENATOR OPPENHEIMER: Alright, so

we'll go back to Senator Velella. Senator Paterson, I give him the floor.

ACTING PRESIDENT MEIER: Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, just a point of order, my reading of the rules is not that it is the member that currently has the floor but your ruling is correct. It is that a question cannot be asked of a member that has not chosen to speak on the particular piece of legislation. I just wanted to clear that up.

ACTING PRESIDENT MEIER: Let me restate that so we can clarify it.

The rule in fact is that a member who currently has the floor can be asked to yield or a member who has previously spoken on the legislation, that is correct.

SENATOR PATERSON: Exactly. Now, while I am here, Mr. President, would Senator Velella yield for a question?

SENATOR VELELLA: I would, but I believe Senator Oppenheimer has the floor, Mr. Chairman.

ACTING PRESIDENT MEIER: Well,

this is all very entertaining, but it is correct that Senator Oppenheimer currently has the floor.

SENATOR OPPENHEIMER: Thank you. I am delighted to have the floor and the chair.

I just have a question which was asked to me a moment ago by Senator Montgomery, and it is sort of if Senator Velella will yield.

SENATOR VELELLA: Are you sure you prefer me to Senator Paterson?

SENATOR OPPENHEIMER: Actually, either can give me this information.

ACTING PRESIDENT MEIER: Senator Velella, do you yield to a question?

SENATOR VELELLA: Yes.

SENATOR OPPENHEIMER: We were questioning why two years ago the following peopled voted against this; Connor, Dollinger, Gentile, Kruger, Lachman, myself, Paterson, Santiago, Seabrook, Smith, Stavisky and some Republicans; Kuhl, Leibell and Saland.

SENATOR VELELLA: Two years is a long time. They have been educated. They

misunderstood it two years ago and they understand now and the I believe that they will properly vote for the bill now.

SENATOR OPPENHEIMER: It seems to me to be a good bill but we had both Democrats and Republicans opposed to it in 1997.

SENATOR VELELLA: I think I can clear that up.

There was some confusion at the time as to whether or not this included New York State sheriffs outside the city. Some of the sheriffs from upstate were concerned about it. There was some questions as to whether or not this would displace union employees from DC 37 and they had issued a memo and then retracted it. So there was some confusion as to exactly what this bill would do.

It is strictly confined to the City of New York. There are no sheriff groups that object to it. There are no unions that object to it now. After the two years they realized that the predictions that this would have terrible effects on other people did not materialize but still have requested that it not be permanentized.

SENATOR OPPENHEIMER: I see. Thank you, Senator.

On the bill.

ACTING PRESIDENT MEIER: Senator Oppenheimer on the bill.

SENATOR OPPENHEIMER: I just want to say that it seems like a fine bill and my confusion about two years ago is valid if I voted against something two years ago, I wanted to know, because my memory isn't so perfect on every bill two years ago why I did it, and Senator Montgomery had the same concern.

Thank you.

ACTING PRESIDENT MEIER: 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.)

THE SECRETARY: Ayes 55, nays 2. Senators Duane and Goodman recorded in the negative.

ACTING PRESIDENT MEIER: The bill

is passed.

Senator Rath.

SENATOR RATH: Mr. President, would you please take up Calendar 1115.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1115.

THE SECRETARY: Calendar Number 1115, by Senator Maziarz, Senate Print 2315-A, an act to amend the Parks, Recreation and Historic Preservation Law, in relation to establishing.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Maziarz, an explanation has been requested by Senator Paterson.

SENATOR MAZIARZ: I know that Senator Paterson lives in the City of New York and probably is not familiar with the Erie Canal so I will explain it to him as best I can.

This legislation, Mr. President, designates a geographic area of Niagara, Orleans, Monroe, Wayne and Erie Counties as

the Western Erie Canal Heritage Corridor. It provides for the establishment of an 18 member Western Erie Canal Heritage Corridor planning commission to develop a comprehensive management plan for the Western Erie Canal Heritage Corridor over the next three years and submit it to the Office of Parks, Recreation and Historic Preservation for approval.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Maziarz would be so kind as to -

ACTING PRESIDENT MEIER: Yield?

SENATOR PATERSON: Yield.

ACTING PRESIDENT MEIER: Senator Maziarz, would you yield?

SENATOR MAZIARZ: Oh, absolutely, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Senator Maziarz, in 1820, New York City, where we are interested in this legislation, had a population that actually measured out to three

percent of the national population. In other words, the number of people that lived in New York City constituted three percent of the national population. And interestingly enough we also shared about three percent of the country's economic development. Philadelphia, Pennsylvania constituted two percent of nations population, did two percent of the business. Charlotte, North Carolina was one percent of the nation's population and did one percent of the business.

By 1830, only a decade after that, New York City grew to eight percent of the nations population and was now responsible or 38 percent of the economic developmental that occurred in this country really making New York City the great metropolis, but what was really not known is that probably in addition to the Erie Lackawana Railroad construction it was the building of the Erie Canal that put New York City in and also benefited this entire state by making New York the real economic epicenter of rail freight and also shipping.

ACTING PRESIDENT MEIER: Senator

Paterson, I believe Senator Maziarz yielded for a question.

SENATOR PATERSON: Yes, I know. I am getting to the question.

ACTING PRESIDENT MEIER: Well, I wish you would.

SENATOR PATERSON: The point is that -- Mr. President you have interfered with my train of thought and without the Erie Lackawana Railroad I wouldn't be able to get it back.

But the point I am making is that what goes on in western New York does have a tremendous effect on what happens in New York City. Now, my question is, those who live in the area of the building of the original canal, I am wondering how well they are served by this new western corridor Erie Canal heritage commission that Senator Maziarz is suggesting. In other words, those who actually live along the region that the canal served, are they put at a disadvantage by this expansion of service and actually of decision making to an 18 member commission that expands into other parts of wester New York?

That is my questions.

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: Mr. President, first I want to thank Senator Paterson for pointing out another example of how upstate New York is taking care of our brothers and sisters in the City.

To answer the Senator's question, in the last several years the state, through the New York State Thruway Authority, the Federal Housing Urban Development Corporation have been allocating funds for the restoration of the western portion of the Erie Canal. The area of the canal in Syracuse and in the Mohawk Valley region has also received both federal and state funding to restore the historic areas of the locks and also to facilitate recreational boating, which is growing particularly large in Niagara, Orleans and the Monroe County areas, so that -- but there is no comprehensive plan developed. It tends to be piecemeal by the counties and this commission would assist in developing at least a western systemwide comprehensive plan from

Rochester to Tonowanda.

And I may add, Senator Seward who is not here right now is going to ask me who appoints the members of this commission and there is a member from the Senate -- or Senator Connor gets to appoint a member of this commission. Senator Paterson, I am going to strongly recommend that he appoint you to that commission because you have obviously great historical knowledge of the Erie Canal.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: If Senator Maziarz would yield for another question?

SENATOR MAZIARZ: Surely, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: It is considered -- it is uniformly appreciated in western New York that I see you have counties that have different populations, you have areas perhaps that are not even really included in the commission. The county executives each have two appointments but the

counties don't all have the same number of people. Is this something that has been a concern to any of your constituents, an even number of people on the board which makes me wonder how they break a tie. Just to request a couple questions about the structures of the board itself, if you would give us an idea?

SENATOR MAZIARZ: All five of these counties, Senator Paterson -- Mr. President, through you. All five of these counties, Senator Paterson, have passed resolutions in support of the commission.

Perhaps if you didn't show up at the meeting Senator there would be an uneven number then they could pass something.

SENATOR PATERSON: We don't want to discourage perfect attendance, Senator, but Mr. President, I thank Senator Maziarz for answering the questions and for his brother hood as an upstater and we will continue to flourish with his and the assistance of everyone in western New York.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Mr. President,

would the sponsor yield?

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

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Senator Maziarz, your member in support refers to existing planning efforts and that they should be incorporated into the commissions comprehensive review.

Just for an understanding as to why this legislation is necessary, can you outline for us what the existing planning efforts are and why they are by definition insufficient?

SENATOR MAZIARZ: Senator, they vary by county and that is the problem. Some of the counties seem to want to concentrate on the historical preservation of the canal, lets say in Niagara. Orleans, quite frankly, has done very little as far as restoration of the canal. Monroe County has done a great deal but seems to tend to concentrate on recreational boating, pump out facilities,

shower facilities, over night facilities for boaters. We want to have all these services available; the heritage areas, the areas for recreational boating, for overnight stays if you will, but we would like to develop it in a more comprehensive plan so that when boaters are coming down the canal that they will not find long stretches where services are not available.

SENATOR HEVESI: Thank you. Mr. President, would the sponsor yield to another question?

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

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Senator, is the make up of the 18 member commission based on a geographic proportionality? In other words, each area that would have a party to decisions as to the planning are represented in that particular proportion?

SENATOR MAZIARZ: Mr. President,

through you. Each county has two appointments. The Assembly majority and minority each have appointments and the Senate majority and minority have appointments and the Governor has appointments.

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

ACTING PRESIDENT MEIER: Senator Hevesi on the bill.

SENATOR HEVESI: Mr. President, just briefly, I think this is a good piece of legislation. I commend Senator Maziarz for bringing it to our attention and certainly defer to his expertise on this important piece of legislation which really insures that planning of our wonderful resources in the State of New York will be done in the best possible way. It is an admirable goal and I believe should be mirrored in other pieces of legislation, particularly since we do from time to time have problems where single parochial interests might compromise the over all integrity of a comprehensive management approach. I think this a wise piece of legislation. I commend Senator Maziarz for

bringing it to our attention and I intend to vote in the affirmative.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Would the Senator yield to just one question?

ACTING PRESIDENT MEIER: Senator Maziarz, will you yield for just one question?

SENATOR MAZIARZ: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: I concur with much of what my colleague Senator Hevesi said.

My question is, there have been a number of initiatives with respect to the canal. HUD has had one, Andrew Cuomo had one, Governor Cuomo had one. The Cuomos have been involved in the canal. The Thruway Authority, the Canal Division of the Thruway Authority. My question is, do we need another group to sit down and do this planning or why couldn't what's there now do it and not just throw this extra organization which will put another layer on top of this?

SENATOR MAZIARZ: The problem is,

quite frankly, Senator, I think that all the groups that you have mentioned have had some very good intentions but they really haven't done a very good job of it. Recreational boating, as you know, particularly in the area east of Rochester is very popular along the canal, but what we are finding out is that without some comprehensive systemwide plan you are going to have stretches where there is just nothing going on and then stretches where you really have too much going on.

The other very important consideration is that some of the historic areas of the canal are -- I mean there is considerations for landfills near the canal. There are considerations to sell some of the canal side property to private residential developers which would ensure that public access would not be available.

So I think that everyone, or a lot of other organizations and groups have tried, some with very good intentions, but they have not done a very good job. And we are thinking with this Heritage Quarter Planning Commission in conjunction with another Heritage Quarter

Planning Commission that has been established and has done a very good job that we can do better.

SENATOR DOLLINGER: One final question.

ACTING PRESIDENT MEIER: Senator Maziarz, do you yield for another question?

SENATOR MAZIARZ: Yes, I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: It is more of a suggestion, depending on the answer.

You raise the issue in the scope of the bill that you are going to look at Native American settlements?

SENATOR MAZIARZ: I'm sorry, I didn't hear you.

SENATOR DOLLINGER: Through you, Mr. President, the bill references a review of Native American settlements, yet the commission -- does the commission require the appointment of a Native American representative.

SENATOR MAZIARZ: No, the bill does not require.

SENATOR DOLLINGER: I would just suggest, as you know, the construction of the new salt mine in Livingston County and a number of other issues have cropped up in which there have been claims that Native Americans have not been represented on the commissions and the bodies that have some jurisdiction over Native American settlements, Native American culture, and particularly Native American history, since this is a region, because of the presence of the Iroquois Confederation, the canal runs right through or abuts a lot of Native Americans.

I would just strongly suggest that to overcome that potential problem that the Native Americans be included with a designated representative on the commission.

SENATOR MAZIARZ: Mr. President, through you.

I will answer that Senator Dollinger by saying that is an excellent suggestion. I will certainly recommend it to the appointing authorities of which I'm not one, including your minority leader. I recommended Senator Paterson. Perhaps they

could take his place on the commission.

SENATOR DOLLINGER: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I am going to vote in favor of this bill as well. I commend Senator Maziarz, my colleague from Niagara County, for his concern about the western region canal development. He is absolutely correct when he says that east of Rochester there has been greater development of the canal; Fairport clearly comes to mind, Pittsford comes to mind. But it also highlights one of the interesting aspects with respect to the canal and its future is that many years ago when our form of transportation changed in New York and we abandoned the canal as the means of bringing goods to market and instead opted for trucks and motor vehicles, we paved over significant portions of the canal. And one of the reasons why it has been difficult to get the State's attention on the canal is that the portions of the canal that went through Syracuse, went through

Rochester, and that I believe even went into downtown Buffalo, those portions of the canal have all been filled in. And as a consequence, the canal now generally meanders through largely rural areas which do not have the same connections to cities that canals have in Europe. If you are -- I am sure you are familiar, the major canals in Europe go through the major cities, usually right through the middle of them. They are natural tourist attractions because they are a waterway in a city. Rochester had that. In fact, Rochester, the community I represent, also had an aqueduct over the Genesee River that was one of the most unusual pieces of architecture in the whole Erie Canal process. It is now Broad Street in Rochester and to some extent it has been difficult to rally support for the canal when it doesn't go through the major cities in western New York.

I think this is a good idea. I think we took some steps 40, 50, 60 years ago that now are coming back to make it more difficult to develop the canal, I hope that this bill if it passes and becomes law will

increase the focus on the canal as a possible resource in the future. I will be voting in the affirmative, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Mr. President, I ask that you call up Calendar Number 1128, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1128.

THE SECRETARY: Calendar Number 1128, by Senator Maziarz, Senate Print 4613, an act to amend the Vehicle and Traffic Law, in relation to increasing penalties.

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Maziarz, an explanation has been requested of your bill.

SENATOR MAZIARZ: Thank you, very much, Mr. President.

Very simply, Mr. President, this bill would make it a Class E felony offense if you are convicted of a fourth DWAI within ten years in the State of New York.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Maziarz would yield for a question?

ACTING PRESIDENT MEIER: Senator Maziarz, do you yield?

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Senator Maziarz, does the legislation encumber any

restrictions on plea bargaining to the defendant?

SENATOR MAZIARZ: No, it does not.

SENATOR PATERSON: Mr. President, if Senator Maziarz will continue to yield for another question?

ACTING PRESIDENT MEIER: Do you continue to yield?

SENATOR MAZIARZ: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Senator, you made certainly an explanation of the fact that this is the fourth conviction. Being that it is the fourth conviction did you give any thoughts to perhaps establishing a mandatory prison term since this person has on four occasions, three prior to the one at which they are being tried at this time has actually put neighbors and residents danger, certainly by the fourth time one would think that with the person still having a license that there would be more than a criminality, a need for punitive actions, incarceration.

SENATOR MAZIARZ: Mr. President, through, this bill does make it, as I said a Class E felony that is punishable by a fine of not less than 1,000 nor more than 5,000 thousand or by a period of imprisonment as provided for in the Penal Law, or both a fine and imprisonment so the discretion would be up to the judge as to whether or not the defendant should go to jail.

SENATOR PATERSON: Thank you, Mr. President. If the Senator would continue to yield.

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

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: As you know, when prosecuting an E felony there is often what they call the E felony split, which is a certain amount of jail time and a fine. But really, where the defendant in my experience in law enforcement, where the defendant is able to pay they generally would rather take

the fine. So what you have is a possibility of individuals who are causing this problem but are really able to alleviate it financially, but perhaps as a prelude to their fifth violation, and one of these violations could result in somebody being seriously injured if not killed, so I would just want to make the suggestion and ask what Senator Maziarz thinks of the suggestion that perhaps a minimum sentence be attached to this legislation.

SENATOR MAZIARZ: Thank you, Mr. President, through you.

I think it is a good suggestion, Senator Paterson. I think we could certainly take a look at it, but again I think the discretion regarding individual circumstances are better left up to the judge and the local prosecuting attorney, but it is certainly a suggestion we would take a look at, Senator.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator

Paterson on the bill.

SENATOR PATERSON: In the past I have been somewhat opposed to altering the plea bargaining arrangements, but in the particular cases where I would think it might actually need some revision would be these specific situations where the actual plea may be a prelude to unfortunately another event.

Now, if I could ask Senator Maziarz to yield to one final question.

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Senator, I noticed that the bill passed this house unanimously in 1997, didn't get out of committee in 1998. What is your assessment of the reason that we have not been able to convince of other house that perhaps this is apt legislation?

SENATOR MAZIARZ: Actually, I have been talking to Assemblywoman Connelly and I believe that she is going to sponsor this bill if she has not already in the other

house, Senator Paterson, and Assemblywoman Connelly is an able person. I believe she is in leadership over there. Deputy Speaker. And I expect great things out of our colleagues in the Assembly.

SENATOR PATERSON: Thank you. One last question. When is the first commission meeting up in western New York?

SENATOR MAZIARZ: Senator Dollinger kicked you off the commission. You don't have to worry about it.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Thank you, Mr. President. Would the sponsor yield to a few questions?

ACTING PRESIDENT MEIER: Senator Maziarz, do you yield to a question?

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Senator Maziarz, does the judge under law have no discretion to impose jail time upon the fourth conviction of

DWAI.

SENATOR MAZIARZ: I believe he does have discretion, yes.

SENATOR HEVESI: Mr. President, would the sponsor continue to yield?

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

SENATOR MAZIARZ: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Can you tell me what is the maximum?

SENATOR MAZIARZ: Under current law?

SENATOR HEVESI: Yes.

SENATOR MAZIARZ: No, I don't have that information, Senator. I apologize.

SENATOR HEVESI: If you would?

SENATOR MAZIARZ: I will get that to you.

SENATOR HEVESI: Would you? I would appreciate that.

Mr. President would the Senator continue to yield?

ACTING PRESIDENT MEIER: Senator

Maziarz, do you continue to yield?

SENATOR MAZIARZ: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR HEVESI: Senator Maziarz, I do not know, based on the last question I had, whether you would know this, but under the second conviction of a DWAI or the third conviction is there jail time that a judge can impose?

SENATOR MAZIARZ: Yes, either or. He could do a fine or jail time.

SENATOR HEVESI: Mr. President, through you.

ACTING PRESIDENT MEIER: Senator Maziarz, did you continue to yield?

SENATOR MAZIARZ: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR HEVESI: Senator, under your bill the -- only if the fourth conviction comes within a ten year span can the judge impose the maximum penalty; correct?

SENATOR MAZIARZ: Yes.

SENATOR HEVESI: Why is the ten

year span in this legislation?

SENATOR MAZIARZ: Well, I think we had to pick or we had to draw the line some where and I think it actually mirrored some of the Vehicle and Traffic Law and the Penal Law for the DWI sections.

SENATOR HEVESI: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Hevesi, on the bill.

SENATOR HEVESI: Mr. President, I voted for this bill out of committee. I think it is a good piece of legislation but I certainly need to echo the comments of Senator Paterson. Not to have mandatory jail time after the fourth DWAI conviction is just incomprehensible. And I will take it a step further to suggest that after the second I would like to know, and I am sure that Senator Maziarz will furnish me with this information, what is the imposition of a penalty after the second DWAI conviction, and to further suggest a few things; Number one is, I believe that upon the third convictions of a DWAI offense that the audacity of someone to have been

convicted first the audacity of them to have been convicted one time and then to go ahead and get a second DWAI conviction probably is grounds for a mandatory prison sentence. To do it a third time is absolutely outrageous. And every time that we don't deter that behavior by a prison sentence, by having that person actually off the road or by the threat of the penalty we maybe lending ourselves to not preventing and injury, DWAI related, that we could have prevented.

And on the fourth conviction, think about it, the fourth conviction, somebody four times has gotten into that car with their ability impaired, a complete and utter disregard to not only himself and whoever may be riding in his car, but to every single other person on the roads. Absolutely the most egregious kind of conduct for us not to have a mandatory incarceration for that individual is a short coming in the current law.

And one additional point. I think it is irrelevant for this person who has little respect for human life, it is

irrelevant that we have this ten year limit. Why are we protecting this person's right after a certain span to then go out and reoffend? What difference does it make that we set this arbitrary ten year time frame within which all of his convictions or her convictions must fall?

If two or three time or, God forbid four times someone is convicted of DWAI for the remainder of their natural life they should be denied the ability of holding a drivers license, putting at risk the lives of everyone in this chamber and of their families and their friends.

The fact that this legislation is even necessary in and of itself is an argument why we need mandatory prison time for individual convicted of their fourth sentence. It boggles the mind.

So, Senator Maziarz, I compliment you on this legislation. I would ask that we revisit this and really get even tougher than we already are on individuals who would so blatantly disregard our lives and the lives of everyone else on the roads on the State of New

York.

I intend to vote in favor of this bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Waldon.

SENATOR WALDON: Thank you, very much, Mr. President. Would the gentleman yield to a question or two?

ACTING PRESIDENT MEIER: Senator Maziarz, do you yield?

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR WALDON: Thank you, Mr. President.

Senator, in constructing this proposal did you think it necessary that it should build in a component that would take from the fines a percentage of the money so that these people who are prone to driving under these conditions, so that the people who are prone to driving under these conditions would have the opportunity for some kind of therapy, paid for by the fines?

SENATOR MAZIARZ: No, Senator. A certain portion of the fines do go back to the local county DWI coordinators. How they spend that money, I know they spend it on anti-drunk driving programs, SADD programs, MADD programs, but not specifically targeting it to any particular program.

SENATOR WALDON: Would the gentlemen yield to another question?

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

SENATOR MAZIARZ: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR WALDON: Senator, do you consider it meritorious that we should have a designated portion of the monies accumulated by fines so that these people would not any longer be a danger to themselves but also a danger to others on the roads, would that be something that you might want to consider?

SENATOR MAZIARZ: I would, in a simple answer I would give you, yes. However, I would hate to be put in a position where we at the State Legislature are telling the local

county DWI coordinators that they must spend a certain amount of dollars for a particular program. I think that those decisions are better at the local level. I would not oppose something like that.

SENATOR WALDON: Thank you, very much, Mr. President. Thank you, Senator Maziarz.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: We have had a fair amount of success with our drunk driving laws and we have seen a decrease in the numbers of people driving drunk, particularly with younger people which is very advantageous and good for the future.

I would like to echo the concerns of Senator Hevesi, which is if someone has been brought to the courts four times for having driven while drunk there is absolutely no -- I fear there is little opportunity for rehabilitation because he has been offered rehabilitation, or she has been. And if it is the fourth time there doesn't seem to be much avenue open.

I normally would support strongly rehabilitation, clinics, a variety of preventive and rehabilitative measures.

I am the founder, one of the founders of MADD in Westchester County. Mothers Against Drunk Driving. I feel very strongly, as you can imagine because I was a founder many years ago. But it is very worrisome to think that someone has been out there four times, caught four times, probably person has been out there driving drunk 4,000 times to get caught four times.

It is just very worrisome that person might be out on the streets driving again.

That is my concern and I will support the bill, but I hope that something stronger can be legislated and I commend that to you, Senator.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Mr. President, would you please call up Calendar Number 331.

ACTING PRESIDENT MEIER: The Secretary will read Calendar Number 331.

THE SECRETARY: Calendar Number 331, by Senator Bonacic, Senate Print 3660-A, an act to amend the Private Housing Finance Law, in relation to the powers of the New York State Housing Finance Agency.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Bonacic, an explanation has been requested by Senator Paterson of Calendar Number 331.

SENATOR BONACIC: Thank you, Mr. President.

This is a piece of legislation that would authorize our New York State Housing Finance Agency known as HFA, to establish subsidiaries, which would acquire and hold title to real properties when they receive

some form of assistance from the United States government, whether it be in connection with foreclosures or other situations pursuant to the operations of the HFA programs.

We now have other public benefit corporations that have this authority such as the New York City Housing Development Corporation, the New York State Urban Development Corporation and the Empire State Development Corporation.

Rather than talk about the formality of the legislation, it is now a standard industry practice for lenders when they do their mortgage documents that they provide for the use of subsidiary corporations to be formed and it is to prosecute foreclosures to shield the parent corporation from the risks involved in taking title to managed property.

It is an internal thing that will facilitate the FHA and give them the powers to finance more affordable rental units throughout the State of New York.

There is Assembly companion bills that passed both the Housing Assembly

Committees. They are now before the Ways and Means on the Assembly floor.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Bonacic would yield for a question?

ACTING PRESIDENT MEIER: Senator Bonacic, do you yield to a question?

SENATOR BONACIC: Absolutely.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Senator, as you mentioned, the Empire State Development Corporation and the New York City Housing Development Cooperation already have this process and I'm not entirely happy with the way it has been run in New York City. I can't really comment. I don't really know enough about how ESDC -- actually I think ESDC does a pretty fine job. But I am a little suspect of what really amounts to establishing the corporate shields agency to agency because it is really the interaction on often foreclosure that bring in federal issues that this would actually apply, so my original question is

does HFA have a management plan for how they are going to effect these transfers or create this?

SENATOR BONACIC: Yes. I don't think the issue is whether they have a management plan, it is when they have -- when they are getting federal assistance from the U.S. government and they see an opportunity to purchase or acquire other land to expand to increase affordable housing whether it is in your district or any district in the State of New York, they are prone to go and do it. They may not take that opportunity and take title to these lands because they don't want the liability so they will do nothing. They will just keep what they have and they won't be aggressive in taking advantage of other opportunities.

The second point I would like to make with your specific question, when they decide to see a housing opportunity to take title to an additional piece or property and if that property becomes distressed and there is a foreclosure and they have to take it back, they run the risk of losing federal

assistance. And that would just diminish their ability or capacity to do other things in housing.

So when you say a management plan, I don't think there is any blue print exactly, but it is lost opportunities where they would not do anything if they didn't have this subsidiary to protect them from liability.

SENATOR PATERSON: Senator, thank you for the answer. There are a couple areas we can go in. Let me see if I can put them in some kind of priority order. If the Senate would yield for a question.

ACTING PRESIDENT MEIER: Senator Bonacic, do you yield for a question?

SENATOR BONACIC: I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: How does the entity that established the subsidiary protect the parent corporation from liability?

SENATOR BONACIC: As you know now, it does not exist with the HFA, we don't have that power to create subsidiaries.

So that it does not exist in this

situation, okay. But lets assume that we passed this legislation and you are asking for an example of how it would apply, I assume. Is that your question?

SENATOR PATERSON: Yes.

SENATOR BONACIC: Okay. The example that was given to me by our housing people was that if there were a foreclosure by the FHA of its mortgages on properties which receive mortgage interest reduction contracts from the U.S. Department of Housing and Urban Development it would lead to a termination of the subsidy.

So in that case, as an operation of law the mortgage being foreclosed would end and the contract corresponding to that mortgage may be terminated. So in this case it is not a question of a shield, it is a question of losing federal assistance had this law been in effect in trying to apply it to your question.

SENATOR PATERSON: Mr. President, if Senate Bonacic would yield.

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

SENATOR BONACIC: I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: So Senator, I think I understand this now. In other words, it is the action itself that impinges upon the parent corporation, the HFA, from receiving the federal dollars, not the outcome. In other words, once you are already tied up in a legal fight this actually diminishes your standing, your rating so to speak to receive federal money and therefore if it is operating through the subsidiary the legal action taken by another party still has full effect but does not injure the -- or doest restrict the parameters of the parent corporation to continue trying to acquire property.

SENATOR BONACIC: That's correct.

SENATOR PATERSON: Okay. If the Senator would yield for another question?

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

SENATOR BONACIC: I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Speaking from the point of view of one who would feel that the subsidiary corporation is liable, is the recovery in any way damaged by the fact that the parent corporation is now not the prime party in the litigation?

SENATOR BONACIC: Well, it is diminished in the -- well, depending on the outcome of the litigation, the subsidiary would be diminished to the extent of and adverse judgment. But federal assistance would not be terminated to the principal corporation and that is one of the primary goals we are trying to accomplish by this legislation.

SENATOR PATERSON: Senator, if you will continue to yield, my question is, the party who is in litigation against the subsidiary, are their recoveries in any way limited or lessened by the fact that we have created the subsidiary?

SENATOR BONACIC: You have to know the facts of the case. Every case is different.

I would say that the litigant, the

plaintiff seeking to recover could recover against the subsidiary to the extent of the net worth of that subsidiary. So conceivably they could be -- the plaintiff could be diminished to the extent of the lack of assets by the subsidiary.

SENATOR PATERSON: Right. If the Senator would continue to yield?

SENATOR BONACIC: I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Then the absence of the federal dollars that are contained in the parent corporation, wouldn't that contribute to what would be the inevitable loss on the part of the plaintiff because the subsidiary is now devoid of assets that would be available if a judgment was rendered?

SENATOR BONACIC: Well, we have to decide as a matter of policy what we want to do with HFA. Is it our intent to preserve and enhance the stability of that program and try and seek more affordable housing throughout the State of New York? If the

answer to that question is yes as a matter of state policy, then we want to create a subsidiary to do two things; one to protect the principal corporation from liability which would impede the expansion of a housing program. And number two, do nothing to interrupts federal assistance to our principal corporation. And in the case where you are concerned about that plaintiff and the subsidiary, maybe they might be diminished in a certain set of facts where they would not come out as whole has there not been a subsidiary.

SENATOR PATERSON: Okay. Thank you, Senator. Your answers are very clear and my understanding is certainly enhanced through the conversation with you. I just have one last question, if you would yield?

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

SENATOR BONACIC: I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Senator, at a point that the property is now taken over and

managed, is there any plan in the legislation for the disillusion of the subsidiary at a point that its worthiness is no longer needed?

SENATOR BONACIC: I think I appreciate your question and your concern. I don't want to give the impression that we as a matter of state policy create subsidiaries that are shell corporations that are intended to not make a subsidiaries projects worth while. If a subsidiary -- think of it as an extension of the HFA, having the same powers, the same goals and enhancing housing but just trying to give the main corporation a little more protection from liability and not to cut off at any time our economic pipeline from Washington with federal assistance when it comes to housing.

So they should function and proliferate and be worth while. They are not just intended, you know, to defraud a plaintiff, to hurt him or diminish any litigation that one may want to take against a subsidiary.

They are not managed in any lesser manner than the HFA. They make sure that the

premises are kept up in a proper state, meet all the code violations and that the tenants are properly taken care of.

SENATOR PATERSON: Thank you, Senator Bonacic.

Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Paterson on the bill.

SENATOR PATERSON: Mr. President, Senator Bonacic and I have the same dream but we have a favoring perhaps of different values. I think that the focus of this legislation is to provide our housing finance agency with all of the utilities that it can muster toward generating revenue, particularly from the federal government.

In the past the actions and liabilities of acquiring property have put the HFA in difficult positions and so by establishing the subsidiary we can certainly create a situation where we continue to try to increase the available housing stock in this state and to put it in a decent affordable rate through the work of our agency.

However, there are individuals,

people like you and I who at times bring claims against these agencies. They are tax payers. They are citizens. They go to court seeking relief. We have created a situation where we favor the value of the whole over the rights of the individual. Really what happens at this particular point, and I think Senator Bonacic was very honest in allowing us to be aware of this, that an individual might not have the opportunity to receive the damages that they might otherwise have received had the agency been whole. And because of this it raises a concern for me about passing legislation such as this because in the end the individual suffers. We are a society that was really founded on the basis of individuals, individualism, where people were not always subjugated to the needs, opinion or wishes of the whole society.

And for that reason I would really favor a negative vote on this bill, although I would tend to think that with a little work the interests of all of us would be well served through Senator Bonacic's legislation if we find a way so that the plaintiff in some

up coming litigation is not hindered from bringing a civil action if a person feels that they have been wronged.

ACTING PRESIDENT MEIER: Read the last section.

I'm sorry, Senator Sampson.

SENATOR SAMPSON: Would the sponsor yield for a couple of questions?

ACTING PRESIDENT MEIER: Senator Bonacic, do you yield?

SENATOR BONACIC: I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SAMPSON: Senator Bonacic, I understand the idea of where you want to keep the parent separate from the subsidiary. My question is, would the parent be involved in any decision making with respect to the subsidiary?

SENATOR BONACIC: I would assume, because it does not exist today, we don't have subsidiaries for HFA, but if they are creating the subsidiary with the same powers and duties, I am sure that they communicate with each other, the parent and the subsidiary.

So for the purposes of trying to achieve common goals, I would say there is common communication. But as to whether or not the subsidiary functions by itself, I would have to say it does, making its own decisions.

SENATOR SAMPSON: My concern is that if you want to be separate and apart and if the parent is being involved, the subsidiary's decision making then in essence what we are doing is we are shielding the parent from any sort of liabilities, however they are indeed involved if they are making certain decisions that the subsidiary is being involved in.

SENATOR BONACIC: You raise a principal of law that if the principal is making the decision or shared employees with the agent and if, in fact, it is the agent and there is no shield, but that is, you know, an issue of law that we hope doesn't operate that way if and when this legislation passes and goes forward, that the subsidiary would be separate and distinct from the parent corporation.

SENATOR SAMPSON: I think the legislation is good, however -

ACTING PRESIDENT MEIER: Senator Sampson, do you wish the sponsor to continue to yield?

SENATOR SAMPSON: On the bill.

ACTING PRESIDENT MEIER: Senator Bonacic, do you yield?

SENATOR BONACIC: I would, but I think he is on the bill, Mr. President.

ACTING PRESIDENT MEIER: On the bill.

SENATOR SAMPSON: I think the bill is good but certain principles I am concerned about as to if we are really trying to protect the principal from liability we have to ensure that certain amendments and legislation is put forth to create such separate entities. So we can't be involved in any decision making to prevent that whole issue of liability.

Thank you.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

SENATOR PATERSON: Slow roll call.

SENATOR MORAHAN: Mr. President, please ring the bells.

ACTING PRESIDENT MEIER: The Secretary will ring the bells.

More than five members having arisen, there will be a slow roll call. The Secretary will call the roll.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Balboni.

SENATOR BALBONI: Yes.

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: Yes.

THE SECRETARY: Senator Breslin.

(No response.)

THE SECRETARY: Senator Bruno.

(No response.)

THE SECRETARY: Senator Bruno.

(Senator Bruno was recorded as voting in the affirmative.)

THE SECRETARY: Senator Connor.

(Senator Connor was recorded as

voting in the affirmative.)

THE SECRETARY: Senator DeFrancisco.

(No response.)

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Yes.

THE SECRETARY: Senator Duane.

SENATOR DUANE: Yes.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Yes.

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: Yes.

THE SECRETARY: Senator Gentile.

SENATOR GENTILE: Yes.

THE SECRETARY: Senator Gonzalez.

(No response.)

THE SECRETARY: Senator Goodman.

(No response.)

THE SECRETARY: Senator Hannon.

(No response.)

THE SECRETARY: Senator Hevesi.

SENATOR HEVESI: Yes.

THE SECRETARY: Senator Hoffmann,

excused.

Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Kruger.

(No response.)

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lachman.

SENATOR LACHMAN: Yes.

THE SECRETARY: Senator Lack.

(No response.)

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle.

SENATOR LaVALLE: Aye.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Aye.

THE SECRETARY: Senator Libous.

(No response.)

THE SECRETARY: Senator Maltese.

(No response.)

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Aye.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Markowitz.

(No response.)

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Aye.

THE SECRETARY: Senator McGee.

SENATOR McGEE: Aye.

THE SECRETARY: Senator Meier.

SENATOR MEIER: Yes.

THE SECRETARY: Senator Mendez.

(No response.)

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: Yes.

THE SECRETARY: Senator Morahan.

SENATOR MORAHAN: Yes.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: Yes.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

(No response.)

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Yes.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Rath.

(No response.)

THE SECRETARY: Senator Rosado, excused.

Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Sampson.

SENATOR SAMPSON: Aye.

THE SECRETARY: Senator Santiago.

(No response.)

THE SECRETARY: Senator Schneiderman.

(No response.)

THE SECRETARY: Senator Seabrook.

(No response.)

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Yes.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Aye.

THE SECRETARY: Senator Smith.

SENATOR SMITH: Yes.

THE SECRETARY: Senator Spano.

SENATOR SPANO: Yes.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Yes.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

(No response.)

THE SECRETARY: Senator Trunzo.

(No response.)

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

SENATOR WALDON: Yes.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT MEIER: Call the absentees.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: Yes.

THE SECRETARY: Senator

DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator Gonzalez.

(No response.)

THE SECRETARY: Senator Goodman.

SENATOR GOODMAN: Aye.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Kruger.

(No response.)

THE SECRETARY: Senator Lack.

(No response.)

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Aye.

THE SECRETARY: Senator Maltese.

(No response.)

THE SECRETARY: Senator Markowitz.

(No response.)

THE SECRETARY: Senator Mendez.

(No response.)

THE SECRETARY: Senator Onorato.

(No response.)

THE SECRETARY: Senator Rath.

SENATOR RATH: Yes.

THE SECRETARY: Senator Santiago.

(No response.)

THE SECRETARY: Senator Schneiderman.

(No response.)

THE SECRETARY: Senator Seabrook.

(No response.)

THE SECRETARY: Senator Stavisky.

(No response.)

THE SECRETARY: Senator Trunzo.

(No response.)

THE SECRETARY: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes.

ACTING PRESIDENT MEIER: The Secretary will announce the results.

THE SECRETARY: Ayes 47, nays one.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Mr. President, there will be an immediate meeting of the Housing, Construction and Community Developmental Committee in the Majority

Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Housing Committee in the Conference Room.

Senator Morahan.

SENATOR MORAHAN: I ask that you call up Calendar Number 533.

ACTING PRESIDENT MEIER: I'm sorry, Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, very much, Mr. President.

I just wanted to be recorded on a vote that was made yesterday. I know you can't, but I wanted it noted that had I been in the chamber to vote on Calendar 449, which was Senate Bill 3651, that I would have voted in the affirmative. It was late yesterday afternoon that it came up.

ACTING PRESIDENT MEIER: The record will so reflect.

The Secretary will read.

THE SECRETARY: Calendar Number 533, by Senator Skelos, Senate Print 4439-A, an act to amend the Social Services Law, in relation to charging of a fee.

SENATOR SMITH: Explanation.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT MEIER: Senator Skelos, an explanation has been requested by Senator Dollinger.

SENATOR SKELOS: Thank you, Senator Dollinger.

This legislation makes the acceptance of or the offering of any fee, compensation or other thing of value for the placing out or adoption of a child other than by an authorized agency a Class C felony and repeat offense would be a Class D felony.

Currently it is an A misdemeanor.

SENATOR DOLLINGER: I will yield the floor to Senator Smith.

ACTING PRESIDENT MEIER: Senator Smith.

SENATOR SMITH: Thank you, Mr. President.

Would the sponsor kindly yield for a few questions?

ACTING PRESIDENT MEIER: Senator Skelos, do you yield?

SENATOR SKELOS: Yes, Mr.

President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SMITH: Thank you, very much.

Through you, Mr. President, the previous bill, did it not have a monetary amount of $10,000 as a fine?

SENATOR SKELOS: The previous bill?

SENATOR SMITH: Yes.

SENATOR SKELOS: I am dealing with this bill. I'm not sure what the previous bill had.

SENATOR SMITH: Okay. We are increasing the penalties, and since there are no amounts allocated in the bill, would it be fair to say that if a person received something that we might think is minor, say a very expensive bottle of champagne or some very expensive chocolates, could that be construed as a fee?

SENATOR SKELOS: Senator Smith, we are not changing the law at all as to how a person could be prosecuted. All we are saying

is that baby selling, which has occurred in a number of instances in the state, recently in Nassau County we had a birth mother attempting to sell her child for $60,000. I have a letter from Aaron Britvan, who is very active in the area of adoption and the bill, which is supported by the New York State Bar Association, he has seen situations where individuals have sought $120,000 finder fees and the most that could happen, even if it was a repeat offense, is that they would be charged with an A misdemeanor.

I think baby selling is a horrendous act. We should not be putting babies up for sale. There is a proper process right now established in the law for private placement adoption which says that basically if you are seeking to adopt you can help with certain medical expenses, that type of thing, which the court must approve, and you can adopt a child.

We are not changing the law at all other than the penalty side of it. If you think the penalties are inappropriate, fine. I feel that in making it a felony is correct.

SENATOR SMITH: Through you, Mr. President.

I am not in disagreement with you, Senator Skelos. I am just trying to get a clarification of exactly what it would do and especially since you have other problems, I believe the family, the two women who were bringing the children from Mexico and that was just recently. So it is a problem that is rampant, but I wanted to know exactly how it would operate because from what I am reading anyone that may receive any kind of renumeration, that is why I am asking if there shouldn't be some kind of something in the bill.

SENATOR SKELOS: Senator, the law continues to operate the way it has for years.

Certainly a district attorney, I don't believe that if a person gives a bottle of wine, but of course the birth mother shouldn't be drinking if she is pregnant. I don't think the DA is going to prosecute.

Here we have a situation where it really comes down to baby selling, baby buying. It is supported by the District

Attorneys of Nassau County, the New York State Bar Association and the Adoptive Parents Committee.

SENATOR SMITH: Thank you. Would the sponsor continue to yield?

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

SENATOR SKELOS: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SMITH: But isn't there a possibility of evading prosecution by this means. For instance, if I gave you cases and cases of champagne, they would be worth a great deal of money. It would not be monetary, but it would be of value.

SENATOR SKELOS: That is of value and you would be prosecuted for that.

SENATOR SMITH: Thank you, very much.

SENATOR SKELOS: Or you could be prosecuted for that.

ACTING PRESIDENT MEIER: Senator Waldon.

SENATOR WALDON: Mr. President,

would the gentleman yield to a question or two?

ACTING PRESIDENT MEIER: Senator Skelos, do you yield?

SENATOR SKELOS: Yes.

ACTING PRESIDENT MEIER: The sponsor yields

SENATOR WALDON: Thank you, Mr. President.

I also read the stories of the mother in Mexico who sold two of her children was promised a home. The description of the home was an adobe hut with a kind of corrugated tin roof and a flush toilet and that was heaven for her. The person who was negotiating it for her in Mexico did not build the home. Took the children and gave her little or nothing and those children eventually ended up in America and were sold here apparently.

My question is do we have comedy with Mexico in situations like this and can we reach the person who did the initial negotiation with the mother in Mexico, part one. Well, I will let you answer each part of

it.

SENATOR SKELOS: I'm not totally familiar with that case but I would imagine they would be charged federally in that instance and again this bill very simply raises the penalties.

We can bring up a number of cases that may exist throughout the country and they may or may not apply. All we are saying is if your prosecuted in New York State it will now be a felony prosecution and the felony level will increase if your prosecuted a second time. That is all the bill does.

SENATOR WALDON: Would the gentleman yield to another question or two, Mr. President?

SENATOR SKELOS: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR WALDON: One, I appreciate your clarification, Senator.

I am just trying to find out how it helps us to prosecute people who participate in this very nefarious scheme that I saw in the newspaper. I think it is abhorant that

children should be bought and sold.

I can understand the plight of the mother because she was so destitute with six or seven children that she could not even provide food for working for, I think it was $20 a week as a maid someplace and not even able to feed her children. But the bad people involved in this are the persons who negotiated initially in Mexico, brought the children to the person who was the conveyor supplier in the states, and eventually those children may end up in the State of New York.

So what you are saying is that your bill would reach the person who brings the child into New York and would be able to prosecute and elevate the penalty in terms of the fine, etc, and the prosecution in terms of jail time, etc, but would not be able with its long arm to reach into Mexico and that would have to be done on the federal level.

SENATOR SKELOS: Again, whatever the law is in the state in terms of reaching that person is not changed. What this legislation very simply does is increased the penalty, the punishment, the deterant factor.

The statement buy the State of New York saying we don't tolerate baby selling, and if you do you are going to be charged with a felony rather than a misdemeanor. That is simply what the bill does.

SENATOR WALDON: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Waldon on the bill.

SENATOR WALDON: Thank you, Mr. President. Thank you, Senator Skelos. I think what you are doing is very commendable. I think the people who participate in the sale of children under these circumstances are creating a great problem for society. One, the children are not ushered through the proper screening agencies. They are not given the proper health care to insure that they have the proper immunizations. They are not placed in a manner that insures that the family they are going to will be a whole family which will nurture them and raise them in a manner that we want all of the children in the State of New York to be raised, even though we sometimes fail as a society.

So I commend what you have done. I think it is great. I comment the thoughtfulness you put into it and the timeliness of your move. So I encourage all of our colleagues to vote in the affirmative and to support your efforts.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

Will the sponsor yield to just three quick questions?

ACTING PRESIDENT MEIER: Senator Skelos, do you yield to three questions? And I will keep count.

SENATOR SKELOS: Quick questions.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: They are quick because this amends a specific section and the questions that I had maybe addressed in earlier portions of the Social Services Law.

The first one is, does this exclude

contain an exemption for legal fees so if you pay legal fees either as the birth mother or as the recipient parent that it is excluded?

SENATOR SKELOS: It doesn't deal with legal fees.

SENATOR DOLLINGER: This doesn't effect fees that lawyers would charge?

SENATOR SKELOS: All it effects is the increase in penalties. It does not change any other part of how kids are adopted. All it does is increase the penalty.

SENATOR DOLLINGER: Okay. The second question is, through you, Mr. President, I think what Senator Smith was referring to, and she may not have had the prior version of the bill, but there was - the original draft of your bill said it is a misdemeanor if the recipient gets less than $10,000. If they get more than $10,000 it is a Class D felony.

My question is, why did you make that change from the first print to the A print?

Why did you make that change? Was there something about that?

SENATOR SKELOS: Just felt that it would be appropriate to strictly increase the penalties if you violate the law at all.

SENATOR DOLLINGER: Not based on dollar value?

SENATOR SKELOS: Right.

SENATOR DOLLINGER: That's all I have, Mr. President. The explanation is satisfactory.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Senator Paterson, why do you rise?

SENATOR PATERSON: We would like a slow roll call on this vote.

ACTING PRESIDENT MEIER: At least five members have arisen.

The Secretary will call the roll.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Balboni.

SENATOR BALBONI: Aye.

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: Yes.

THE SECRETARY: Senator Breslin.

(No response.)

THE SECRETARY: Senator Bruno.

(Senator Bruno was recorded as voting in the affirmative.)

THE SECRETARY: Senator Connor.

(Senator Connor was recorded as voting in the affirmative.)

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISO: Yes.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Yes.

THE SECRETARY: Senator Duane.

SENATOR DUANE: At my seat, yes.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Yes.

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: Aye.

THE SECRETARY: Senator Gentile.

SENATOR GENTILE: Yes.

THE SECRETARY: Senator Gonzalez.

(No response.)

THE SECRETARY: Senator Goodman.

SENATOR GOODMAN: Yes.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hevesi.

SENATOR HEVESI: Yes.

THE SECRETARY: Senator Hoffmann, excused.

Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Kruger.

(No response.)

THE SECRETARY: Senator Kuhl.

(No response.)

THE SECRETARY: Senator Lachman.

SENATOR LACHMAN: Yes.

THE SECRETARY: Senator Lack.

(No response.)

THE SECRETARY: Senator Larkin.

(No response.)

THE SECRETARY: Senator LaValle.

(No response.)

THE SECRETARY: Senator Leibell.

(No response.)

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Aye.

THE SECRETARY: Senator Maltese.

(No response.)

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Yes.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Yes.

THE SECRETARY: Senator Markowitz.

(No response.)

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator McGee.

SENATOR McGEE: Yes.

THE SECRETARY: Senator Meier.

SENATOR MEIER: Yes.

THE SECRETARY: Senator Mendez.

(No response.)

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: Yes.

THE SECRETARY: Senator Morahan.

SENATOR MORAHAN: Yes.

THE SECRETARY: Senator Nanula.

(No response.)

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

(No response.)

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Yes.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Rath.

(No response.)

THE SECRETARY: Senator Rosado, excused.

Senator Saland.

SENATOR SALAND: Yes.

THE SECRETARY: Senator Sampson.

(No response.)

THE SECRETARY: Senator Santiago.

(No response.)

THE SECRETARY: Senator

Schneiderman.

SENATOR SCHNEIDERMAN: Yes.

THE SECRETARY: Senator Seabrook.

(No response.)

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Aye.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Yes.

THE SECRETARY: Senator Smith.

SENATOR SMITH: Yes.

THE SECRETARY: Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Yes.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: Aye.

THE SECRETARY: Senator Trunzo.

(No response.)

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

(No response.)

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT MEIER: The Secretary will read the absentees.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: Yes.

THE SECRETARY: Senator Gonzalez.

(No response.)

THE SECRETARY: Senator Kruger.

(No response.)

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lack.

(No response.)

THE SECRETARY: Senator Larkin.

(No response.)

THE SECRETARY: Senator LaValle.

(No response.)

ACTING PRESIDENT MEIER: Announce the results. No?

THE SECRETARY: Senator Leibell.

(No response.)

THE SECRETARY: Senator Maltese.

(No response.)

THE SECRETARY: Senator Markowitz.

(No response.)

THE SECRETARY: Senator Mendez.

(No response.)

THE SECRETARY: Senator Nanula.

SENATOR NANULA: Aye.

THE SECRETARY: Senator Onorato.

(No response.)

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Sampson.

SENATOR SAMPSON: Aye.

THE SECRETARY: Senator Santiago.

(No response.)

THE SECRETARY: Senator Seabrook.

(No response.)

THE SECRETARY: Senator Trunzo.

(No response.)

THE SECRETARY: Senator Waldon.

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Ayes, 44. Nays, 1.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. Would you please call Calendar Number 1091.

ACTING PRESIDENT MEIER: The Secretary will read Calendar Number 1091.

THE SECRETARY: Calendar Number 1091, by Senator DeFrancisco, Senate Print 672, an act to authorize the New York State Urban Development Corporation to utilize certain funds.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator DeFrancisco, an explanation has been requested by Senator Paterson.

SENATOR DeFRANCISCO: Yes. Back on last Labor Day, there was a devastating storm in Central New York that affected many counties, and all the counties are listed in the bill.

In the past when we've had such occurrences, whether it be floods on Long Island or in Central New York or ice storms in

the North Country, we've been in a position to attempt to help homeowners from bearing some of the costs that they are not able to obtain through their insurance. Most recently, last year I think we did a bill dealing with the area around Mechanicville.

And the bill that I've prepared here is basically identical to that bill, indicating that homeowners with unreimbursed expenses could apply for up to $5,000, or 50 percent of the claim, of the cost of their claim, whichever is less, to be reimbursed through the New York State Urban Development Corporation. And that's what this bill would do.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. I certainly don't have any objection to the relief that we're providing. But if Senator DeFrancisco would yield for a question.

ACTING PRESIDENT MEIER: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Senator, what is the precedent for using economic development funds from the Regional Economic Development Partnership Program for relief to -- from storm damage to the homeowners and renters in the areas that you've described?

SENATOR DeFRANCISCO: The precedent that I used was Senate Bill 6780A, which passed last year during last year's session and was passed unanimously by this house.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If the Senator would continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: We're in June of '99. This incident happened in September of '98. And you point out, and I agree with this, that this type of relief should be

timely.

Should this situation happen in the future, do you have any suggestion as to how we could get the resources to these areas quicker than nine months, when the storm has actually passed and presumably the people that live or rent in that particular area have pretty much gotten through this situation?

SENATOR DeFRANCISCO: Well, unfortunately, we're dependent upon the budget each year, so it's difficult to say that there's going to be a fund always available. But most of the hurt that homeowners have experienced have already been taken care of by either homeowner's insurance or, in some cases, FEMA or SEMO aid.

But there's a crack in some cases where either the deductible for the homeowner's insurance or some special situations arise where those did not cover it. So that's what this bill is for.

It's not that people are waiting with bated breath to get through this terrible time. What we're trying to do is be consistent with what occurred in other natural

disasters for the people that were hit by this storm.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you. If Senator DeFrancisco would yield for another question.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Senator, the same storm that you referred to in September 1998 damaged some other areas outside of the areas you've covered in the legislation. For instance, I'm aware -- I've been made aware that Queens County suffered a number of losses to homeowners and renters -- lines down, injury to people's automobiles and that kind of thing.

Would you be open to perhaps some kind of standard by which if any township or county met the threshold they would also be eligible for assistance?

SENATOR DeFRANCISCO: That -

ACTING PRESIDENT MEIER: Excuse

me gentlemen, one moment.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. There will be an immediate meeting of the Civil Service and Pensions Committee in the Majority Conference Room, please.

ACTING PRESIDENT MEIER: An immediate meeting will be held of the Civil Service and Pensions Committee in the Majority Conference Room.

SENATOR MORAHAN: Excuse the interruption, gentlemen.

SENATOR DeFRANCISCO: That would not apply to this bill, Senator, insofar as these counties were declared disaster areas by either the state or the federal government. That's what kicked in the majority of the aid here, FEMO and SEMO. So that's what this bill would apply to. I don't -- FEMA. I don't think that -- FEMO is SEMO's brother. But - FEMA.

But I don't think we should broaden this bill to include every time a wire has gone down, whether it's in the Bronx or

Syracuse. You need a disaster area declaration which would kick in with other assistance.

SENATOR PATERSON: I see. So the standard was those areas that were eligible for federal assistance or the Federal Emergency Management Administration. Okay, good.

I have one final question for Senator DeFrancisco, Mr. President.

ACTING PRESIDENT MEIER: Senator DeFrancisco -

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: - gladly yields, Senator Paterson.

SENATOR PATERSON: Senator, did the victims of this -- in this area receive any other assistance other than the one that we're providing now?

SENATOR DeFRANCISCO: Yes. Federal emergency assistance as well as SEMO assistance, State Emergency Management Office assistance. But that did not cover all the losses. Nor did it in the storm that we took care of with last year's bill, and this is

modeled after that bill.

SENATOR PATERSON: I'm sorry, Mr. President. If the Senator would yield for one further question.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: What about those who are not covered by any insurance or were not covered, would any of the resources properly assist them?

SENATOR DeFRANCISCO: I'm not sure I understand the question. If there was no insurance, that's one of the main reasons for the bill. If someone got short on insurance and it didn't cover the entire loss, then they can apply for up to $5,000 or 50 percent of the claim, whichever is lesser.

So it's those -- those situations or a case where the insurance doesn't cover it. If a tree goes down and it lands in the driveway, doesn't hit the house, most insurance companies wouldn't necessarily pay for that because there's no damage to one of the structures. This would fill in that gap.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Paterson, on the bill.

SENATOR PATERSON: I'm assuming from what Senator DeFrancisco said that anyone who was covered under the insurance would not be included in the resources that would be made available through the Regional Economic Development Partnership Program as we're providing through the State Urban Development Corporation.

So with that understanding, I'm quite satisfied with the explanation. Thank you.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Thank you, Mr. President. Would the sponsor yield for a few brief questions?

SENATOR DeFRANCISCO: Yes.

SENATOR HEVESI: Senator DeFrancisco, my understanding is that this legislation authorizes expenditures up to $5 million.

SENATOR DeFRANCISCO: That's correct.

SENATOR HEVESI: Was that -- that number is based on an assessment of what the damage -- what the damages are in terms of both the individual claim amounts and the aggregate number of claims?

SENATOR DeFRANCISCO: No, it's - it really wasn't a scientific number, nor was the number that was picked for last year's storm. The reason is it's almost impossible to determine what damages were not covered by insurance of an individual homeowner or a farmer or someone who's got some damage on their property that was not covered by other relief programs or other insurance.

There had to be a cutoff point. We used $3,000 -- or the sponsor of last year's bill, with the Mechanicville storm, used the number $3,000. This was much more extensive. Many more counties, as you see from the memo, were affected. So we picked that number as an outside limit.

SENATOR HEVESI: Through you, Mr. President.

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

SENATOR DeFRANCISCO: Yes.

SENATOR HEVESI: Last year's number was not based on any type of assessment?

SENATOR DeFRANCISCO: I don't see how you could do an assessment on individuals' damages that aren't covered by homeowner's insurance or another program.

With the municipalities you can make a determination, because municipalities were given relief by FEMA or SEMO up to a certain percentage of the loss. And that bill -- there's another bill I have that's going to address that if it gets to the floor. But this one, with individuals it's virtually impossible to tell what claims are out there until a program is offered.

SENATOR HEVESI: Thank you.

Through you, Mr. President. Mr. President, would the sponsor yield for an additional question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR HEVESI: Do you know how close we came last year to the cap that was placed within the legislation?

SENATOR DeFRANCISCO: We were nowhere near the cap. I think the cap was like $3 million. From what I was told, it was under a million dollars that was applied for.

SENATOR HEVESI: Thank you.

Just a few more questions, if the sponsor would yield.

SENATOR DeFRANCISCO: Yes.

SENATOR HEVESI: Senator, my question for you is we've now -- we have a provision in this legislation which provides up to $5,000 for an individual claim, or 50 percent of the project cost per claim. Am I to understand that we are capping claims at $5,000?

SENATOR DeFRANCISCO: That's correct. Whichever is less, $5,000 or 50 percent of the claim.

SENATOR HEVESI: Thank you. And my final question, Mr. President.

ACTING PRESIDENT MEIER: Senator

DeFrancisco, do you yield for a final question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR HEVESI: Under this bill, the Public Authorities Control Board does not have to approve claims, I assume in order to expedite the relief for those who have suffered damages. My question to you is, does their normal process of reviewing claims of a similar nature take an exorbitant amount of time?

SENATOR DeFRANCISCO: You know, it's very difficult to identify what an exorbitant amount of time is. But I've been informed that the administration of the last fund, last year, went smoothly and we didn't -- at least my district didn't hear any complaints about it.

SENATOR HEVESI: Truly the final question.

My concern here is that in all likelihood this review process by the Public Authorities Control Board is in place in order

to prevent fraudulent claims from being filed. And while I understand that there is a necessity to have timely claims for these individuals who have unfortunately been the victims of a natural disaster, I'm concerned that there may be some unscrupulous people out there who will take advantage of the well-intended provision in this bill which exempts the oversight that is normally there. I'd just like your comment on that.

SENATOR DeFRANCISCO: My only comment is in all walks of life, whether it be in politics or in government or in business, there's always unscrupulous people. All we can do is set up a procedure and hopefully weed those out and benefit the people who really are in need.

SENATOR HEVESI: Thank you.

On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi, on the bill.

SENATOR HEVESI: I would just like to make a suggestion that in the wake of one of these disasters and a piece of legislation similar to this, that there be

some kind of random audit to make sure that we are not being victimized by individuals, unscrupulous as they may be, because we were trying to do something beneficial to the majority of people out there.

And if we find that there is widespread fraudulent claims being submitted because individuals may know, hey, this is a good chance for me to put in a claim, that we then take another look at how we structure these bills and whether we make a real determination as to is this the best way to proceed or can we proceed in another way where there's an expedited review process but still remain -- there has to still be a review process, potentially, to avoid there being this kind of fraudulent behavior.

I think that would be something that we should take a look at in the future. And perhaps after this good piece of legislation is passed and becomes law, maybe this should be the case for which the state then performs some auditing. And I may suggest to the state comptroller that this is an appropriate exercise of his power.

I intend to vote in the affirmative.

ACTING PRESIDENT MEIER: Senator Maziarz.

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

ACTING PRESIDENT MEIER: Senator Maziarz, on the bill.

SENATOR MAZIARZ: Thank you, Mr. President. It's obvious, Mr. President, that there's some sort of a slowdown going on here today in the Senate. But I wanted to just recognize the importance of this particular piece of legislation.

In the western end of New York State -- particularly in Niagara, Orleans, and in Wayne counties -- the apple farmers of our state were almost completely wiped out in those three counties by this Labor Day storm. And certainly Senator DeFrancisco's bill is going to help them out somewhat.

Their losses, however, are much more severe than this. And quite frankly, the federal government, under the U.S. Department of Agriculture and the Clinton administration,

has not -- not come to the aid of apple farmers in New York State. They instead have concentrated almost all of their storm relief on growers of corn, soybeans, and wheat. I think it's an insult to the farmers of New York State.

Senator Nozzolio, Senator Kuhl, Senator Hoffmann and I are working vigorously to put together a program with an expedited review process that Senator Hevesi mentioned which would mirror the program that was used in the North Country last year.

So I just want to rise in support of this bill, congratulate Senator DeFrancisco. This bill is going to bring some much-needed relief. And Senator DeFrancisco's bill encompasses a lot of different areas, and I particularly wanted to mention the apple farmers to let them know -- and hopefully it's going to reported -- that help is on the way and that, unlike the administration in Washington, this administration under Governor Pataki does care about them.

Thank you.

ACTING PRESIDENT MEIER: Senator

Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President.

I rise to certainly reinforce what Senator Wright has said. I look forward to an opportunity for the urban center in New York City to have a closer relationship with the farmers upstate, because I think it's important for us and it's also important for them. We want to have access to fresh produce and other products, and certainly they want access to our markets. So we have a common interest.

But I would like to just ask a question of Senator DeFrancisco with regard to the legislation.

Senator, you know, last -- I believe it was last session the Governor proposed, as part of our budget, I believe, a relief program for those areas where the storm had impacted and destroyed people's homes and properties and farms. Now, the 5 million that you're talking about, is this part of the budget or is this -- is this fund already in place from prior years? Or does this in any

way relate to our budget process, which is not going on at this moment?

SENATOR DeFRANCISCO: It authorizes the New York State Urban Development Corporation to use the funds that they have for this purpose. It's my understanding that there's leftover funds from last year's bill that we did for the relief of Mechanicville and that general vicinity.

But obviously a lot is dependent upon the budget. In the event that the funds are not sufficient that are left, then certainly we would have to budget sufficient funds to cover this.

SENATOR MONTGOMERY: And so Mr. President, if you will, I'd just like to ask, then, if this could possibly be an off-budget or over-budget bill, or do we know that the Governor is going to in fact propose for this program enough funding that we're going to be able to cover this?

SENATOR DeFRANCISCO: Well, it authorizes New York State Urban Development Corporation to use these funds, so obviously there's no mandate that it has to use these

funds. It just gives them the authority to do what they've done on prior bills such as this in previous disasters.

My guess is that there will be funding in the budget, because it's been done in the past.

SENATOR MONTGOMERY: So in other words, if the other house comes up with some proposal and there is an agreement, hopefully, that either covers this or goes beyond that, then that means that piece then must be negotiated as part of our budget process?

SENATOR DeFRANCISCO: I would think so, if there's insufficient funds from last year's budget. And Assemblyman Magee is sponsoring it in the other house.

SENATOR MONTGOMERY: Okay. Thank you, Senator. Thanks, Mr. President. I think that clarifies it, that we in fact are possibly talking about a budget issue. Which naturally is a little bit premature, since we don't have a budget yet. But I thank you.

And I certainly agree with the legislation.

ACTING PRESIDENT MEIER: Senator

Duane.

SENATOR DUANE: Thank you, Mr. President. Would the sponsor yield for a few questions?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you.

I'm curious as to why it is that the State Urban Development Corporation was chosen to perform this function as opposed to ESDC.

SENATOR DeFRANCISCO: Once again, I didn't want to reinvent the wheel. If it's worked before and the Governor signed the bill before, like he did last year, it seems to me -- and it passed unanimously in this house last year for a similar disaster -- I used the same language. There was no great wisdom in doing it this way.

SENATOR DUANE: As far as you know, do you know whether or not it has been the practice for disaster relief to use UDC every time since the consolidation which created ESDC?

SENATOR DeFRANCISCO: I don't know the answer to that.

SENATOR DUANE: Through you, Mr. President. Now -

ACTING PRESIDENT MEIER: Yes.

SENATOR DUANE: Now, as you are probably aware, every agency and department in the State of New York, with the exception of the New York State Senate, provides domestic-partner benefits. And actually as a result of a request I made to ESDC in 1996, because they had their own board - previously, domestic-partner benefits had not been offered by ESDC. And as a result of my inquiry to them, they did start to provide domestic-partner benefits.

I'm wondering whether or not you're aware of whether or not the UDC provides domestic-partner benefits.

SENATOR DeFRANCISCO: I'm trying to think in my own mind what relevance that has to this particular issue. Maybe you could enlighten me on that.

SENATOR DUANE: Well, I have - if I may respond to the sponsor's question to

the questioner.

ACTING PRESIDENT MEIER: Without objection, Senator Duane.

SENATOR DUANE: I'm always looking in state government and among quasi-state agencies to find out whether or not they were required to provide domestic-partner benefits as a result of the Governor's Executive Order or whether, as is the case with ESDC, they were not de facto required to provide domestic-partner benefits.

And here I find a situation where there's a state agency where I had not personally made the request to them as to whether or not -- or the inquiry as to them as to whether or not they provided domestic-partner benefits.

So the trail of questions was leading to why it is that we may have given this responsibility and this duty to an agency which may or may not at this time be providing domestic-partner benefits. Because as the sponsor knows, it is my position and I think it's the position of people in the civil rights field that to not provide

domestic-partner benefits is actually discriminatory, because in fact employees who have domestic partners end up not being paid the same amount of money as those employees who may be married.

So I'm trying to find out whether or not this discrimination exists in an agency which we are now giving these duties and responsibilities to.

SENATOR DeFRANCISCO: I can't answer that question. That was not one of the issues on my mind when I was researching this particular bill.

But anticipating the future question, this bill applies the relief applies no matter what your sexual orientation nay be as a victim.

SENATOR DUANE: Through you, Mr. President.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DUANE: And I believe the

Senator is probably also aware that domestic-partner benefits also apply to people regardless of their sexual orientation as well. So it's sort of a perfect civil rights initiative.

I have an additional question, Mr. President.

ACTING PRESIDENT MEIER: Does the Senator continue to yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I'm wondering whether or not the sponsor knows whether or not UDC continues to have an independent board of directors as does ESDC. I know in the old days when UDC did a lot of the duties which now the state -- ESDC does, it had an independent board of directors. Do you know whether that's the case with the UDC now?

SENATOR DeFRANCISCO: No, I don't know.

SENATOR DUANE: And an additional question, Mr. President.

SENATOR MONTGOMERY: Senator

DeFrancisco, do you continue to yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DUANE: I'm wondering whether UDC is considered to be an agency of the state or is it a sort of off-budget agency of the state.

SENATOR DeFRANCISCO: I have no idea. I don't know what your definition might be.

And once again, I wish there was some relevance to these questions. It would make the debate much more productive.

SENATOR DUANE: Mr. President, with the sponsor's permission I can respond to that, what the relevance is.

SENATOR DeFRANCISCO: I didn't ask a question, Mr. President.

SENATOR DUANE: Well, I did ask a question, if it was an off-line or an on-line agency -

ACTING PRESIDENT MEIER: And the Chair heard the sponsor answer that. If you want to address the bill, you can speak on the

bill, Senator.

SENATOR DUANE: For instance, DHCR is an on-line agency. It's under the direct control of the Executive branch. But, for instance, ESDC is quasi-independent of state government. And I was wondering which more closely resembles what UDC falls under, because that may answer my question about domestic partnership, for instance.

Because if it is like the DHCR, then domestic partners would be covered. But if it is more like ESDC, then we would have to make an inquiry to the head of UDC to find out whether or not they're providing those benefits.

SENATOR DeFRANCISCO: I don't know the answer to that question. And I would hope that the answer to that question is not crucial in your decision whether to grant relief to people who were harmed by a storm, which included deaths, in central New York. But if it has some relevance, you know, then that's something you're going to have to determine.

SENATOR DUANE: On the bill,

Mr. President.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: I am planning on supporting this initiative. I often support legislation which may not be perfect in every way to my point of view. But oftentimes, on balance, I decide to support legislation because it helps people.

But I think it's always relevant to raise the issue of where in the state of New York, with state agencies, domestic-partner benefits are being granted and where they are not. It would be interesting to find out if there was another place in state government besides the state Senate where those benefits were not provided to employees.

And I plan on continuing to try to make sure that throughout the State of New York, throughout state government, that all employees are treated equally. And as you know, it is my hope that in the very, very near future that employees of the state Senate will be provided with the same rights as other state employees.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: I'd just like to briefly rise to support Senator DeFrancisco's bill and tell him it's a great idea and I'm glad he's providing this opportunity for the people that were -- had financial difficulties imposed on them by the storm, particularly the apple people that Senator Maziarz spoke about.

And I feel it's a shame that the two majorities in Washington didn't provide the President with enough money that he could also provide the aid that he's giving to the Midwest that was severely hit by storms, and that if that money would have been put in by the majority, he might have had enough money to cover the New York State farmers also.

Thank you.

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator

Maziarz, on the bill.

SENATOR MAZIARZ: Mr. President, Senator Stachowski is showing his lack of knowledge of the apple farming industry. The U.S. Department of Agriculture is an Executive agency. There is more than enough money for disaster relief. That agency has decided, made a policy decision to favor growers of wheat, corn, and soybeans over Northeast apple farmers.

And just to give you an example of the insult to New York apple farmers, one farmer, Krenning Orchards, located in Knowlesville, in Orleans County, lost in excess of half a million dollars in apple crop. Governor Pataki went to Knowlesville, met with the Krenning people and assured them that the State of New York was going to come through for them after they learned that the total recovery from the USDA under this Administration would only be approximately $30,000.

Thank you, Mr. President.

SENATOR STACHOWSKI: Would Senator Maziarz yield for a couple of

questions?

ACTING PRESIDENT MEIER: Senator Maziarz, do you yield for a question?

SENATOR MAZIARZ: Sure.

SENATOR STACHOWSKI: Seeing as I'm not that well-versed on this and, you know, you said that the farmers in the Midwest were favored as opposed to the apple farmers, Senator, are these decisions made by Agriculture, or the amounts of money provided, are those done by statute? Or does the department randomly just give a number and give it to the people that had the loss?

SENATOR MAZIARZ: No. Those are policy decisions made by the Executive agency, sir.

SENATOR STACHOWSKI: But the amount of money given to different groups, that's determined by the agency -

SENATOR MAZIARZ: Yes.

SENATOR STACHOWSKI: - individual location by individual location, farmer by farmer, and they say, Well, you lost a million, we're going to give you 30,000?

SENATOR MAZIARZ: Yes. That's

policy within the Executive department, yes.

ACTING PRESIDENT MEIER: Senator -

SENATOR STACHOWSKI: And they just randomly do that without any kind of - and this is a new policy that is put - Mr. President, if he will continue to yield.

SENATOR MAZIARZ: Yes, I continue to yield.

SENATOR STACHOWSKI: This is a new policy, and that the reason they got so little is because this Administration, as opposed to any previous Administration, has decided to do it that way? Or it's policy that has been long-standing and just carried out and that that specific department - Agriculture, in this case -- would just provide the same policy relief that's usually provided in a storm and the decision's made by whoever makes those decisions in that department as to what they would give?

SENATOR MAZIARZ: I know that the USDA policy, as it is currently constituted, favors the farmers in the Midwest over New York State apple growers. And I know that

after the Labor Day storms of 1998 when Governor Pataki came to western New York, Senator Stachowski, and met with those farmers, that he promised them that the State of New York would come through for them because it was apparent that the USDA, under the current Administration and the current policies, was not going to do that. And they did not.

SENATOR STACHOWSKI: Mr. President, if Senator Maziarz would continue to yield.

SENATOR MAZIARZ: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR STACHOWSKI: Senator, is this Administration and the agricultural decisions that are made favoring the Midwest farmers over the Northeast farmers any different than any of the other agricultural bills that come out of Washington or agricultural decisions that are always slanted towards the Midwest farmers, as opposed to the Northeast farmers, in every area of agriculture?

SENATOR MAZIARZ: I'm not really

aware of federal legislation, whether it's always favored them or not, Senator.

SENATOR STACHOWSKI: On this legislation. And I can make a remotely applicable comment just like Senator Maziarz to make the political statement that he did.

The Northeast farmer's always been held kind of like a second-rate person in a lot of the agricultural decisions that were made, and this Administration is no different than any other one. If that were the case, then we wouldn't have to have a Northeast compact, because the dairy farmers would be treated equally every place in the country, and they're not.

In every kind of growth thing it seems that since the majority of farm production comes from the Midwest, that they get the majority of the application of aid, et cetera.

And I'm not going to be the one that's going to say -- and stand up and say, just to make my governor look good or my policy look good, that the Washington administration favored the Midwestern farmers

when I don't know the seriousness of what they lost. I think it's a terrible thing when we use this floor to take advantage of somebody's mishap, whether it's the apple farmers here as opposed to the person that lost everything they have in the Midwest, as opposed to - even though I represent New York State, I don't like to see political things judged on people's loss.

And I'm sure that those people that made those decisions, it's a trying thing for them and they don't like to favor one against the other. And I would hope that we wouldn't try to do that.

And that's why I'm glad that Senator DeFrancisco's bill covers all these different areas and we try to do as much as possible, as New York State legislators, in an even-handed way and we don't worry too much about, when we vote for bills, no matter whose bill it is, as long as it treats people fairly, and we don't worry about getting a political statement in, we worry about getting an end result.

ACTING PRESIDENT MEIER: Senator

Smith.

SENATOR SMITH: Thank you, Senator.

Senator Stachowski's last remark segues into what I was going to say. This bill doesn't really actually take care of all of the areas in the state of New York. I believe that Senator DeFrancisco said that those areas where FEMA and SEMO came into were inclusive in this bill.

Well, southeast Queens, SEMO and FEMA was there. And those homeowners have the same kinds of losses that they did upstate. And as long as all of the people of the state of New York who suffered under this storm are not included, then I cannot vote for the bill, because it's discriminatory.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator

DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes. I'd just like to indicate my surprise at what was just mentioned, that the Bronx was considered a disaster area which -

SENATOR SMITH: Not the Bronx.

SENATOR DeFRANCISCO: Queens, I'm sorry. I got it mixed up with the Bronx that was mentioned before.

I'm surprised at hearing that. And I will check that out. And in the event that that is true, I will do all that I can to try to bring in another bill to correct that, because that's not the information I received.

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

The Secretary will announces the results.

THE SECRETARY: Ayes, 56. Nays, 2. Senators Paterson and Smith recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Mr. President, I'd ask that you recall Calendar Number 885.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 88 -- just - just -- I have several people talking to me at the same time. Just a second.

We'll hold that for a second.

Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President.

On Senate 4439A, Calendar 533, there was a slow roll call. I was at a committee meeting. Had I been in the chamber, I would have voted in the affirmative.

ACTING PRESIDENT MEIER: The record will so reflect.

SENATOR LEIBELL: Thank you, Mr. President.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 885, by Senator Marchi, Senate Print 1180, an act to amend the Public Authorities Law, in relation to directing the Triborough Bridge and Tunnel Authority.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Marchi, an explanation has been requested.

SENATOR MARCHI: Mr. President, this is an old-timer. I've been introducing it ritually since 1991, when the federal government had imposed a mandate that the toll across the Verrazano Bridge be collected going into Staten Island. And this was -- the mandate was proclaimed -- issued in 1986. With the expiration of the mandate, I know many Islanders have been disquieted that this might change, and others who are affected by any variation of that method of handling the problem.

This would make it a matter of statute that the tolls be collected going into Staten Island rather than the other way or at the other end of the bridge in Brooklyn. Any alternative would be disastrous. Traffic piles up in Staten Island beginning very early, maybe 5:00 or 6:00 o'clock in the morning and extending through the morning.

So that the traffic moves out rapidly so that people going to their places

of employment or other purposes, commercial or otherwise, are able to meet those time-intensive requirements without -- without any undue hindrance. Coming back, you can absorb the amount of waiting time that -- in waiting for the toll to be collected, but it's simply not a disposable item in practical life during the morning.

So this would make what is existing practice law in the state of New York.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: Yeah. Through the Chair, will the Senator yield for a question?

ACTING PRESIDENT MEIER: Senator Marchi, do you yield for a question?

SENATOR MARCHI: Yes.

SENATOR LACHMAN: Are you aware, Senator Marchi, of a TBTA environmental study, impact study, of 1993?

SENATOR MARCHI: But it's appropriate that you raise it, Senator.

SENATOR LACHMAN: I raise it only because they say in the study that a one-way

toll has a minimal effect on air pollution. And they also discuss the problems that exist now in terms of traffic crawl in Chinatown, Manhattan, and Bensonhurst and Bay Ridge in Brooklyn.

Now, I think the intent of this legislation was a good one. But I think the impact of the legislation upon the community is not a good one, it's a negative one.

As you know, I happen to live in Bensonhurst. I live ten blocks from the highway, from the Belt Parkway. It takes me, on a Sunday afternoon, approximately 13 to 15 minutes to get on the Belt Parkway, and sometimes another 5 to 10 minutes to get to the Verrazano Bridge. And there is no question in my mind that having the toll only on one side rather than both sides impacts negatively upon the communities in terms of traffic tie-ups and in terms of pollution created by these traffic tie-ups.

So regretfully -- and we seldom differ, Senator Marchi, I will have to vote no on this bill.

SENATOR MARCHI: My advice to

you, Senator, would be to continue voting no, given the reasons that you've assigned.

But we just don't have that luxury of, you know, going the other way around. I mean, it's impossible if you have to get on the job or you have a time-intensive date. So if I were in your shoes, I could understand perfectly.

SENATOR LACHMAN: Okay.

SENATOR MARCHI: Be my guest.

ACTING PRESIDENT MEIER: Senator Stavisky -

SENATOR MARCHI: But we cannot afford that, and I -- Senator Gentile is an expert on that, and Senator -

ACTING PRESIDENT MEIER: Senator Stavisky. Senator -

SENATOR MARCHI: Yes.

ACTING PRESIDENT MEIER: - Senator Stavisky has the floor.

Yes, Senator.

SENATOR STAVISKY: Mr. President and members of the Senate. I can understand why Senator Marchi has introduced this legislation. It benefits his constituents and

does not benefit the constituents elsewhere in the city of New York.

There are those of us who represent districts that are covered by the Whitestone, Tirboro, Throgs Neck, and other crossings across the river. And I see no relief for these constituents in Brooklyn, in Manhattan, or in Queens who do not enjoy the benefits as that Senator Marchi would confer with his legislation. Aren't my constituents or those in other districts serviced by MTA bridges entitled to the same consideration as Senator Marchi seeks for his constituents?

ACTING PRESIDENT MEIER: Senator Marchi.

SENATOR MARCHI: Mr. President, I certainly -- I believe that your complaint or your lament is legitimate and properly on the floor. But I simply cannot answer that problem.

We have -- we're an island out there. Our only connection to the -- by motor vehicle to the city of New York is that bridge. You eliminate that, that means thousands of people who cannot get on their

job in a timely -- in any kind of fashion. We'd be cut adrift. There would be a paralytic effect. We have no other option.

We can go to Jersey very quickly. We have three bridges that go to Jersey, and that's very accessible. And we have people going back and forth, Jerseyites working in Staten Island and New York and vice versa.

But as far as the Island is concerned -- and I'm sure that the Senator, my colleague, knows very well, and also his predecessor, Senator Connor -- Senator Gentile and Senator Connor -- it's a problem. You've placed a problem on the floor. I wish I had an answer.

But we really -- we'd be committing suicide if we made any alteration to the existing pattern. I don't know of any alternative. It's the only connection that we have by motor vehicle to the city of New York. And to reverse that pattern would have catastrophic -- not just inconvenience, but a catastrophic effect on the community that I come from.

ACTING PRESIDENT MAZIARZ: Senator

Duane -- I'm sorry, Senator Stavisky, you have another question?

SENATOR STAVISKY: Those of us who represent communities in Queens, Brooklyn, the Bronx, and Manhattan, I ask you to consider that this legislation is beneficial only to one borough and does not consider the cost, the imposition, and the inconvenience on the other bridges that I've mentioned which cross the very same river. And there are people who work and live in the boroughs that I've mentioned, boroughs of the city of New York, that are entitled to the same consideration that Senator Marchi gives to his constituents.

I do not understand why this legislation is limited to one borough, one part of the city, and ignores the others. I think that this is a special-interest piece of legislation that does not address the needs - legitimate needs -- of constituents who travel between Brooklyn, the Bronx, Manhattan. And I think we are entitled to the same consideration which this bill woefully ignores.

My respect for Senator Marchi is not diminished by this legislation, which is a special-interest bill for one borough, one part of the city, while never giving consideration to the rights and needs of constituents who represent districts in other parts of the city where there are bridges which impose tolls in both directions on residents in districts represented by many of the members of this body.

This is the reason why, on a prior vote in 1997, there were negative votes on this legislation from Senator Lachman, Senator Kruger, Senator Gold, Senator Leichter, Senator Markowitz, Senator Montgomery, Senator Nanula, Senator Onorato, Senators Seabrook, Paterson, Smith, and Stachowski, in addition to myself.

We must not give special privileges to one part of the city, ignoring the rights of constituents who represent communities that have the same problem and who pay tolls in both directions. And I wish that my colleague, Senator Marchi, had given consideration to these constituents.

Constituents who cross the Whitestone Bridge, the Triboro Bridge, the Throgs Neck Bridge, and other crossings over the same river that Senator Marchi seeks to protect his constituency must not be put at a disadvantage.

I'm speaking on behalf of Republicans as well as Democrats whose communities are in the area where the MTA does impose tolls in both directions. And until Senator Marchi will broaden the legislation to permit the same consideration to these constituents, I will ask that this bill be defeated, and I will cite the nonpartisan vote in 1997 on this bill when Senators Connor, Gold, Kruger, Lachman, Leichter, Markowitz, Montgomery, Smith, Onorato, Paterson, Seabrook, and Stachowski all voted in opposition to this very same bill, for the reasons I have cited.

I would like to support the legislation if it were broadened to include consideration for my constituents and yours in the boroughs that I've mentioned. But until that happens, I cannot in good conscience

endorse this legislation, which seemingly gives a benefit to one and not to others. I think this is a mistake.

I think we were right in opposing this bill in 1997, and I ask my colleagues to consider the same circumstances. Crossing a bridge under MTA jurisdiction in one part of the city is as sacred to our constituents as Staten Island is to Senator Marchi. And for these reasons, I will continue to oppose this bill and ask my colleagues to do the same.

Thank you.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Stavisky.

Senator Marchi.

SENATOR MARCHI: Mr. President, I have -

ACTING PRESIDENT MAZIARZ: Senator Marchi, on the bill.

SENATOR MARCHI: -- been a member of the Senate for 43 years. For many of them I was chairman of New York City, chairman of Finance. I made all kinds of efforts to cooperate with every mayor that we've ever had, irrespective of party affiliation. And

I've tried to be very responsive to any request that I could possibly express myself affirmatively on the floor, in any and all circumstances.

And you have too, Senator. I don't deny you your objectivity or the legitimacy of the problems you present. They are problems.

But there is no way in which we can connect to the rest of the city without multiple means of transportation, whether it be a ferry and -- we have no subways. I mean, we have no -- we have no magic by which we can reach the rest of the city. And this is our only connection to the continent of North America, is that bridge. It's the only one, unless we go to another state.

And sometimes many people do. They'll go over to the state of New Jersey and then make the long way around into the state of New York. And that's the way I get up here to Albany. I have to go to New Jersey to do it when I -- every week when I come up here. But it's a nightmare.

And if this pattern were altered on the Island for tens of thousands of people -

and I would believe and submit that even your Minority Leader, when he had -- he shared that district, my distinguished colleague, it's - it's -- we've got a rather difficult chore to discharge here.

So I submit -- I understand anybody who would -- who is disquieted should reflect the sentiments you've expressed. I mean, I won't question that. But I think the majority of this chamber should be responsive and affirmative on this issue.

ACTING PRESIDENT MAZIARZ: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. Would the sponsor yield to a -

ACTING PRESIDENT MAZIARZ: Senator Marchi, would you yield for a question from Senator Duane?

Senator Duane.

SENATOR DUANE: Through you, Mr. President.

The imposition of the one-way toll was something done before we had the tool of E-Z Pass; is that not correct?

SENATOR MARCHI: It was federally mandated in 1986. And they established this pattern, and it's been continued ever since.

I wouldn't want to impose on, you know, anybody's intelligence that it's likely to be changed, because of the problems it would raise. But it is disquieting, as I move around the district, that in the -- I haven't heard the argument raised contrary to it recently. But certainly early on, a variation on that theme. And the sentiments expressed by Senator Lachman, of course, gives you a different perspective.

But with us, it's life or death. I mean, it's like aiming a rifle at us if it was ever changed, for tens of thousands of people down there.

SENATOR DUANE: If I could just continue with my questions through you, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Marchi, do you continue to yield to a question from Senator Duane?

Senator Duane.

SENATOR DUANE: As I understand

it, the reason for making the one-way toll did have to do with the traffic tie-ups and the backups at the toll booths, et cetera. That was the primary reason, and the problems that that caused.

SENATOR MARCHI: The federal government at that point thought it was in the interest -- in the balanced interests of everyone involved that it be collected going into Staten Island. People coming home or returning from work or returning from other engagements have a large space to operate in, and there's adequate room to handle it. But sometimes you're inconvenienced.

But that inconvenience would be frightening if it were reversed. I just don't -- I mean, we're only faced with hard choices here. So that's the problem we have.

SENATOR DUANE: Mr. President, if I could -- I'm going to try to formulate it in the form of a question.

ACTING PRESIDENT MAZIARZ: Senator Duane.

SENATOR DUANE: It has to do with does the sponsor now think it's possible, with

the advent of the technology of E-Z Pass, that traffic flow could be eased, as is the point of E-Z Pass, to the point where that tie-up would not be such a problem?

And I'll actually put my second question along with the first, and put it in the context of saying if there were to be a two-way toll to be enacted, I would be very supportive of, for instance, providing a discount for E-Z Pass use, thereby encouraging even more people to use E-Z Pass and thereby ensuring that the traffic tie-ups would not create the terrible problems on Staten Island which previously were being created.

And my question is, would the sponsor consider those options as other ways of mitigating the problems which have been caused by not having E-Z Pass, which we now have, and the problems caused in Brooklyn and Manhattan by the one-way tolls?

ACTING PRESIDENT MAZIARZ: Senator Marchi, do you continue to yield?

SENATOR MARCHI: I -- I believe that the Senator's remarks are completely appropriate. And indeed, I have an E-Z Pass,

and many Islanders do. Those who use it ritually, of course, it's an easier problem to solve. And it becomes a matter of expense, I guess, if it's spasmodically used and needed. But that's obviously one of the best ways of handling it.

But even so, the -- if the pattern were reversed and we had that traffic going the other way, it would just be terrible in the morning, especially if you were trying to get on a job or something like that. It's just the nature of the beast. That's - that's it.

ACTING PRESIDENT MAZIARZ: Senator Duane.

SENATOR DUANE: Mr. President, on the bill.

ACTING PRESIDENT MAZIARZ: Senator Duane, on the bill.

SENATOR DUANE: I would like to see at least a study as to whether or not E-Z Pass, the encouragement of the use of E-Z Pass, including the possibility of a volume discount for E-Z Pass, might be something which could lead us back to having the two-way

toll on the Verrazano Bridge.

I completely understand and can see Senator Marchi's point of view on this matter and my colleague on this side of the aisle as well, Senator Gentile, on why it is that they feel the way they do about it.

But I would be remiss if I didn't speak to the terrible problems which it has caused in lower Manhattan, not least of which is the enormous increase in air pollution which has occurred in Manhattan south of 14th Street. The traffic in the evening is such that it is choking. We have increasing incidences of asthma, which are already at a very high level. This has only made the problem far worse.

I'm also concerned that there is some environmental racism going on in this, because one of the most -- one of the neighborhoods that is most negatively impacted is Chinatown, which has a huge number of children, a huge number of older people living in it. They are virtually trapped within this terrible air pollution every afternoon. Sometimes it starts as early as 12 noon and

doesn't end till near midnight.

And it is just blatantly unfair for a neighborhood which in some ways may be less empowered than other parts of the city to be put at such an enormous health risk and such an enormous disadvantage.

I'm also -- and earlier today we did vote on legislation which provides relief to the trucking industry, which I was supportive of. But I also believe that we need to be looking at the -- frankly, the dishonesty of people in the trucking industry and how they take advantage of using the Holland Tunnel to go west. You can see trucks backed up for miles along Canal Street and along Varick Street. They do this to manipulate fees, which we should be getting for the people of the state of New York and the city of New York, for these truckers to use our city streets and avenues. And what happens is, is that they end up contributing even less because of the situation which has been brought up.

And while it's possible that in the short run that my position won't be the one

that will win, I'm not naive about that. I do think in the absence of that, though, that we must not stop looking at other solutions, which would include incentivizing the use of E-Z Pass with an eye towards allowing that to be used in both directions on the bridge. And also looking at how it is that trucking concerns take advantage of the situation and make it so that they are enormous offenders in the pollution of lower Manhattan and parts of Brooklyn, as well as cheating New York out of revenues which we rightfully deserve to get from them for their use of our hard-worn city streets and avenues.

So with great respect for Senator Marchi and my colleague Senator Gentile on this issue, I must respectfully vote no on it, but also request we look at other avenues to mitigate the terrible problems which have arisen 1986.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Marchi.

SENATOR MARCHI: I just want to point out that -

ACTING PRESIDENT MAZIARZ: Senator Marchi, on the bill.

SENATOR MARCHI: -- I'm not insensitive to your statement. In fact, I represented lower Manhattan for a good number of years, and Chinatown was one of my -- well, it was right in the heart of my district for a period of twenty years. So then our population increased, increased, increased, and now Senator Gentile comes across the water to help us out, and, before him, Senator Connor.

But there was a time when I had a farming community, you know. So I stretched from my Staten Island farm all the way up into Chinatown and beyond, beyond. And in fact - well, just before, I was the first one that had the whole area. But we even went into Rockland County. Can you imagine the size of the district and the change, demographic changes that have taken place over the years?

But I'm sensitive to your -- I know what you're talking about. On the other hand, count your blessings. Everybody's fighting to get into Manhattan. It's the capital of the

world. The world -- the whole world is your empire, and we're fighting to get into it. So it has its advantages. And I certainly -- I think I -- I sympathize with the problems you have raised.

ACTING PRESIDENT MAZIARZ: Senator Gentile.

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

The bill, Senator Marchi's bill, brings up an issue that is very near and dear to my heart, the transportation across the Verrazano Bridge, both from Brooklyn and from Staten Island. I have great personal experience with transportation across the Verrazano Bridge, having experienced it many, many times in the week. And I must say I have experienced the delays on the Staten Island Expressway even with the one-way toll, and those delays can be tremendous and very burdensome.

So certainly the one-way toll has helped to alleviate some of that backup, and certainly from the Brooklyn end or the toll plazas on the Staten Island end of the bridge.

And the studies do show that the pollution is very negligible. So certainly I think that this is -- addresses one aspect of the burden that Brooklynites and Staten Islanders have in dealing with that bridge.

Unfortunately, unfortunately, the bill doesn't address the most serious issue of driving across that bridge, and that's the burdensome toll on that bridge. And certainly that's an issue that I've been dealing with and I think you have too, Senator Marchi. Especially in light of -- especially in light of the debates we've heard in the last two weeks over how burdensome the commuter tax is on our suburban residents in New York. Most people do not realize that the revenue collected on the Verrazano Bridge is the highest of all the bridge and tunnel bridges in the city of New York.

And that tells me that it's a cash cow. And out of that cash cow goes a tremendous percentage to support the operation of Long Island Rail Road and Metro-North Railroad. And that is the burden that we face every single day when we travel across the

Verrazano Bridge. If we used the money collected on the Verrazano Bridge on the Verrazano Bridge, it would be lined and paved in gold. We need to have some relief for our residents traveling across that bridge.

As you know, Senator Marchi, many Brooklynites -- many Staten Islanders are former Brooklynites, and the two mix very easily. Many of my Brooklyn residents travel to the College of Staten Island and to Wagner College and to many of the colleges on Staten Island, forced to pay $7 a day to get across that bridge. Forced to pay, if they work in Staten Island, $7 a day to get across that bridge.

There is an answer. There is an answer. We do not need to make it the cash cow of the Bridge and Tunnel Authority. We need to do what I have been suggesting we do, is to use the E-Z Pass technology, much as we do for Staten Island residents, and make the E-Z Pass technology calculated to zip codes that use this bridge on a daily basis, and reduce the toll and the burden that the residents and my constituents in Brooklyn as

well as my constituents in Staten Island have on a daily basis.

So your idea, Senator Marchi, on the one-way toll is a good one. It does not impact in the ways that have been suggested. In fact, I agree with Senator Stavisky, we should do a regional plan on this, and I believe we can work one out. And I hope we can have some suggestions on that. So I agree with Senator Stavisky. But we should not deny the plan that you have suggested here, because it's the only one on the board. We should work on the other ones also.

But your suggestion is only a stopgap measure, Senator, until we get to the real issue of reducing and then eliminating the toll using the E-Z Pass on the Verrazano Bridge. So I do support the legislation.

Thank you.

ACTING PRESIDENT MAZIARZ: Senator Marchi, on the bill.

SENATOR MARCHI: A postscript. Your remarks are very constructive. The biggest part of this is not the cost itself. I mean, the bridge has been paid off by now.

But we do subsidize -- the biggest slice goes to the support of the subway system, too.

Of course, we run into that whether it's your people or -- you know, over in that part of the district, the major portion -- or this, the Staten Island, sooner or later there's the question of how you meet your local expenses once you get into the big city.

ACTING PRESIDENT MAZIARZ: Senator Hevesi.

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

ACTING PRESIDENT MAZIARZ: Senator Hevesi, on the bill.

SENATOR HEVESI: Mr. President, there have been a number of good points made here. So let me weigh in with what I hope will also be a number of good points.

First of all, at the risk of sounding like somebody who is of much more advanced age who you always hear say things like "I remember when a movie was a nickel and you could buy a bag of candy for a penny," let me say to you I remember when the tolls on these bridges were $1.50. It wasn't very long

ago, and it wasn't very long ago that it was cheaper in recent times also, even cheaper than $1.50.

So let me start off by saying that to charge $3.50 -- that's without the E-Z Pass discount -- for this interborough traveling is preposterous. It means that if I want to go from my district in Queens into Manhattan and I don't want to take the 59th Street Bridge because I'm going into lower Manhattan or the 59th Street Bridge is congested, it means that I have to pay $7 every time I go into the city. And I'll tell you all here, my colleagues, I go into the city just about every day that I'm not up here, for various reasons. Seven dollars, it's a lot of money.

Want to hear something worse? In my home borough of Queens there is a toll that we have imposed on residents of Queens and any other borough in the city for travel within our own borough on the Cross Bay Bridge. You've got to pay $1.50 to go out to the Rockaways. It's $1.75, I stand corrected by Senator Waldon, $1.75.

And we were told for years and

years -- because recently, you should know, for residents it has recently been enacted that residents get to make that transfer for free, very much based on the same logic that Senator Gentile was artfully articulating for us how it is an additional burden and impediment for these residents who have as their livelihood a necessity to travel outside of their borough or out of their community on the Rockaways. And we were told for years you cannot eliminate that toll on the Cross Bay Bridge because the bond covenants wouldn't allow it. Well, that just turned out not to be true.

And so now we have that terrible burden there remaining for all other residents of the city and the state, anybody who wants to get out to the Rockaways, and we have this additional terrible burden of a $3.50 charge every time we want to go from borough to borough. It's really outrageous.

The E-Z Pass technology has allowed us to do a number of things that we never have before been able to do. And I've heard the suggestions made here that E-Z Pass has

eliminated traffic congestion. I would not say that it has eliminated it. It has worked in several instances to ease that traffic congestion.

But the problem is in the city of New York that many times when you are traveling towards a toll plaza you're only traveling there with two or three lanes. Then, within 500 or so feet of that toll plaza, you open up into six or seven or eight lanes, thereby enabling people to go to a designated E-Z Pass lane. Well, the problem is once you've filled up that entire toll plaza, now your three lanes begin to back up and queue up, and so you have terrible traffic problems even with the E-Z Pass, and it becomes a struggle even to get to the E-Z Pass lanes.

And I'll tell you why I say this here, because my colleague Senator Stavisky articulated his opposition to this legislation based upon the fact that other residents of the city in other boroughs were excluded from the beneficial aspects of Senator Marchi's legislation.

Now, let me say right off I support Senator Marchi's bill and I'm going to vote in favor of it, because traffic mitigation efforts -- traffic congestion mitigation efforts are paramount in the city as congestion is getting worse and worse and worse. And the one-way toll on Staten Island I believe provides a tremendous relief for individuals traveling in one direction.

And I'll remind everybody, although it's logical, this is a logical conclusion, by doing a one-way toll you don't increase the amount of congestion or traffic on the direction that you are still required to pay the toll because you have to stop there anyway to pay it. Okay? Now, traffic on Staten Island always was terrible crossing that bridge. It's a good idea.

Here's what the problem is. This legislation has an adverse impact. Senator Duane spoke of it, Senator Marchi acknowledged it, and a number of others have addressed it. The adverse impact is that when this was enacted, I believe, either it was an unanticipated impact or it was anticipated and

disregarded that trucks would decide, because they pay a hefty price to make the crossing, that they instead would go through Manhattan, across Canal Street to the Holland Tunnel and into Jersey. Okay?

And we forfeited a lot of revenue from that, and we have created a tremendous traffic problem in Manhattan. And I am extremely sympathetic to that traffic problem.

However, there is a greater good here. And the greater good is the elimination of tremendous traffic congestion as a result of the two-way toll.

Now, Senator Stavisky points out that Senator Marchi's bill neglects to benefit anyone else in the city. I agree completely. And I have a plan, which I'm going to now tell you about, to benefit the entire city of New York in a way that doesn't disadvantage any particular community. And it is a direct result, a direct result of the E-Z Pass technology. So allow me to articulate it for you. And understand here that it does not ignore the traffic considerations that are ignored under the bill that we are going to

vote on today.

Here's the plan, and it's comprehensive. On the Throgs Neck Bridge going from the Bronx into Queens, you will have a one-way toll coming southbound. Okay? Toll plaza collects the toll in the Bronx. On the Whitestone Bridge, same situation. You have a one-way toll at the Whitestone toll plaza going from the Bronx into Queens.

Now, here's where it gets complicated: the Triboro Bridge. From the Triboro Bridge going from the Bronx into Queens you also have the $7 toll, because if you didn't, then individuals who would have to pay the $7 from the Bronx into Queens would swing over to the Triboro and come in. So you have to charge the $7 toll coming into Queens from the Bronx.

But -- and here's the important point here -- from the Triboro Bridge going from the Bronx into Manhattan, I don't want to charge a $7 toll. The reason I don't want to charge a $7 toll is if you do that, you will have unbelievable congestion from people going up the Major Deegan and taking the Willis

Avenue Bridge or the 3rd Avenue Bridge into Manhattan to avoid the $7.

So here's what I propose. Going from the Bronx into Manhattan, that toll is not $7, it's $3.50, which it is right now. That's the toll that it is right now. So you will not have the increased congestion on those streets. And anybody who says, "Well, Senator Hevesi, if you don't charge $3.50 there, you could have individuals who will slide across on that $3.50 toll into Manhattan, take the FDR Drive south to the 59th Street Bridge to get to Queens in order to avoid the other $3.50 they would have had to have paid were they to have taken the Triboro into Queens or the Whitestone or Throgs Neck into Queens," I say to you I seriously doubt whether anybody would deal with the extra 45 minutes to an hour if there's no traffic, really, to do that.

Now, how else do we do this? On the Queens Midtown Tunnel, Queens Midtown Tunnel, you have also a one-way toll. And you can't do this -- the ideal world is to do this from Manhattan, put the toll in Manhattan so

you'd have to pay it as you're going out to Queens. Can't do that for practical reasons, because you've got traffic up onto 2nd Avenue and onto 36th Street, 35th, 34th, and 37th and 38th. Really can't do it. So we have to put it in Queens, okay, where there already is a tremendous traffic problem in Queens. So if you're coming from Queens into Manhattan, you'd have to pay that toll, that $7 toll.

Which creates one additional problem. Here's the problem with the entire structure we've set up, and I'm going to tell you what the solution is, based on E-Z Pass. Based on the system I just laid out for you, somebody could, a truck driver or anybody else, come south from Westchester, Senator Oppenheimer's district, come south from the Bronx down into Queens, pay the $7 toll to get into Queens either on the Throgs Neck, the Whitestone or the Triboro, swing into Queens, and then take the Midtown Tunnel into Manhattan and have to pay another $7 in order to get into Manhattan. So we'd then be charging them $14 to get into the city.

However, with E-Z Pass technology,

what you can do is that vehicle travels through one of the toll plazas crossing from the Bronx into Queens, and then when it crosses through again that toll plaza -

ACTING PRESIDENT MARCELLINO: Excuse me, Senator. Senator. It's an interesting dissertation, perhaps fodder for a series of bills and legislation. I don't know if it's germane to the bill we're talking about. I know you're speaking on the bill, but we're talking about Senator Marchi's bill and not a proposal for -

SENATOR HEVESI: Well, Senator -

ACTING PRESIDENT MARCELLINO: If you have an amendment that wants to be brought out or something -- I hate to make a suggestion like that, but -

SENATOR HEVESI: Well, Senator Marcellino, Senator Stavisky -- I'm sorry, Senator Paterson.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Point of order. The legislation we're talking about,

Senator Marchi's bill, has to do with a one-way toll in Staten Island, which is a part of New York City.

Senator Hevesi is talking about the encumbrances due on the residents of Queens. He's not talking about their tax problem. He's not talking about their education situation. He's talking about their transportation problems. He's talking about the Whitestone Bridge, the $7 toll if you go from Bronx to Queens. All of this, in my opinion, is not even a question of germaneness. It's right on point with the transportation issue raised by Senator Marchi.

I submit to you, Mr. President, that this is quite germane and quite appropriate.

SENATOR HEVESI: And, Senator Marcellino, might I say that I am responding both to Senator Stavisky and Senator Marchi, as we have a problem recognized by Senator Marchi in response to comments by Senator Stavisky that his legislation does not benefit other residents of the city. I am calling for exactly what Senator Marchi's bill is calling

for for the rest of the city. So I believe it's perfectly germane.

ACTING PRESIDENT MARCELLINO: I hear what you're saying, Senator. But the bill is specific to the residents of Staten Island. You want to draw an outreach that it possibly could reach out into other boroughs, fine. But what we're talking about, we're changing tolls on the Throgs Necks, the Whitestone and the Triboro and all the other roadways here.

That may be your desire, to go on indefinitely on this particular tack, but the Chair would just suggest that perhaps we could stick to the bill at hand. We have enough bills on the calendar that we could continue this debate and this stall on forever without meandering through.

But you have the floor.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Paterson, why do you rise, sir?

SENATOR PATERSON: Mr. President, once again I have to rise to say that this commentary that Senator Hevesi is offering is

directly related to whether or not we should pass this bill. One of the arguments, whether you agree with the bill or not, might be that if we're not providing the same service for other residents of New York City, that it's very difficult to extend this to those in Staten Island.

If you look at the transcripts from the previous debate on these bills, most of the issues that Senator Hevesi is covering have been covered in those debates before. Never were they ever questioned from the point of view of germaneness.

Now, I don't know that the previous speakers were as articulate as Senator Hevesi, but at the same time he is pointing out what might be the differences in the transportation problems and needs of different residents around New York City, since all New York City residents at some point pay for tolls going from one part of the borough to the other.

So again, I have to insist that there is no question of germaneness at all related to what Senator Hevesi is talking about.

ACTING PRESIDENT MARCELLINO: Senator Hevesi.

SENATOR HEVESI: Thank you.

As I was saying, Mr. President. The problem that we would confront if there was somebody who was traveling from the Bronx or Westchester and desired to go into the city would be that under the plan that I've outlined here, they would be hit twice with a toll -- once by crossing either the Throgs Necks, Whitestone or Triboro, and then by crossing the Queens Midtown Tunnel, were they not to decide to take the 59th Street Bridge also.

But the E-Z Pass technology has allowed us to overcome this obstacle, which at one point would have been insurmountable, simply by having any one of these vehicles pay the toll as they come from the Bronx into Queens and then having a mechanism by which when these vehicles, having just paid one $7 toll, now go through Manhattan, where they have to pay another $7 toll, where instead of being charged the $7 by the E-Z Pass they would not be charged that $7.

And similarly, any cars right now under this plan which desired to go from Manhattan and wanted to go up to the Bronx or Westchester or anywhere else on the Northeast, they under this plan would not pay a toll coming outbound from Manhattan into Queens and they also would not pay a toll going into the Bronx or Westchester.

However, they do have to drive through the toll plaza. So if they drove through the toll plaza, the first time they wouldn't be charged. The second time they drive through the toll plaza, we could set up a computer program whereby within a prescribed period of time -- maybe it's six hours, maybe it's 12 hours, or maybe it's a day -- if you've driven through both of those tolls, you would be charged the second time, so that everybody would pay their fair share.

And so I would suggest that as we consider Senator Marchi's legislation -- which I'm in favor of because I believe it has an impact that outweighs the negative impact that it creates in Manhattan -- that we consider that there is a negative impact by this bill,

and we consider Senator Stavisky's right-on-the-money assertion that to do this is providing a benefit to some of our residents in the city that we do not provide to others. And that as a result, what we really need to do is engage in a comprehensive discussion.

I'm not sure I'd be ready to put what I just spoke about in bill form and go with it. I might want to see a study. There could be all kinds of tangential impacts that I haven't yet considered. But certainly this is worth looking at, particularly as, as time goes on, we are faced with increasing problems with traffic in the city of New York and indeed throughout the state.

And I believe that the Brooklyn-Queens Expressway ranks among one of the top three worst-congested highways in the United States of America, behind perhaps one or two of the freeways out in California. So I have another suggestion, based on an economic model, that we can put forward here.

This is another concept that is made possible by the E-Z Pass technology, and

the concept is called congestion pricing. And congestion pricing is simply an incentive mechanism to encourage behavior by travelers, by people who are traveling to work or to their jobs or to their families or what have you, to travel at times that are off-peak by providing for them a financial incentive to do so.

For example, we could suggest that if somebody travels from -

SENATOR SKELOS: May I just interrupt for a moment.

ACTING PRESIDENT MARCELLINO: Senator Skelos.

SENATOR SKELOS: I know that in the past week there's been a sense of frustration by many. And I would just encourage us, if we could, perhaps -- and I'm not going to ask the Chair for rulings and all that, because there has been a sense of cooperation between the Majority and the Minority this entire year in terms of legislation. And perhaps giving a little bit more leeway than if we strictly interpreted the rules and Robert's Rules of Order and all

that. It's not something that we really want to do.

So perhaps if we can stick a little bit closer to the intent of Senator Marchi's bill. There are a number of other bills that can be debated today. If the Minority wishes to express their sense of frustration on other bills, that's fine. But if we can just perhaps be a little bit more germane in our conversation as to the bill before us, I think it would be more appropriate.

Thank you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Skelos.

Senator Hevesi.

SENATOR HEVESI: I appreciate Senator Skelos's comments. And I can appreciate his sense of frustration, but I think that his comments are little bit out of place in light of the fact that the comments that I'm making are directly germane to the bill that's before us and the fact that, despite what some may believe, were we not engaged in the current situation I would be articulating these positions just as I am

doing right now, because I believe that this is a compelling public policy matter, that it's getting worse, and that we need to address it.

And as we have a piece of legislation that's before us that addresses some of the problem, and has its drawbacks, I think it is absolutely germane that we get into other areas to attempt to alleviate traffic congestion.

And I will point out, Senator Skelos, that that traffic congestion is a negative factor in the lives of your constituents as they travel through the city of New York to get anywhere else in the state.

SENATOR SKELOS: Senator Hevesi, you've obviously been thinking about this issue for quite a while. Have you introduced any legislation on this, or studies, whatever?

SENATOR HEVESI: Senator Paterson -

SENATOR SKELOS: No, I've asked you the question.

SENATOR HEVESI: Oh, I'm sorry.

As I said about five minutes ago,

I'm not sure whether I'm ready to introduce legislation, because there are so many potential impacts of such a comprehensive plan. But I'd like to see a study -

SENATOR SKELOS: I understand it's June 3rd and we have 13 more days to go. So perhaps at some point, maybe next session or whatever, you can show us legislation that would accomplish what you're looking to do.

But I still think, in the spirit that has existed between the Majority and the Minority this entire year, perhaps we can move on to Senator Marchi's bill. And there's a number of other bills that should be debated today.

ACTING PRESIDENT MARCELLINO: Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, I agree with Senator Skelos, we have had a spirit of cooperative exchange here on the floor of the Senate, mostly due to his graciousness and that of the Majority Leader, Senator Bruno, and yourself. And we would hope that that would continue.

But I'm going to have to raise

again that a member of the Senate has now been interrupted on three occasions and been forced to defend what he's talking about when it's very clear that what he's talking about is very germane to the actual legislation.

And so when there was some discussion about the frustrations that might exist on the floor, I guess the frustration must be that Senator Hevesi is exercising his right as a member. He has not violated the time element. He hasn't violated the two-hour time limit for debate. He hasn't done anything other than speak on the bill.

He's talking about issues, as I pointed out before, that are raised every time the one-way toll on Staten Island comes up and are raised by different members at times on both sides of the aisle.

Now, I don't know what the cause is for this discussion to in any way be impinging upon the integrity of this chamber to such a point that the germaneness issue is even challenged, since there is no germaneness issue, or that Senator Hevesi would be encouraged to move any more quickly than he

has, because Senator Hevesi said that these are issues he wanted to discuss.

Then Senator Hevesi got asked about whether or not he offered legislation, which actually that question is not germane, because that does involve other legislation.

So I would just like all of us to recognize that cooperation is something that goes both ways and that cooperation is based on what we feel is a free and open exchange between our two Conferences. And also that when we make representations, that we follow them and that we are honest and that when we offer information or we make arrangements, that we keep them.

So I'm just getting up, Mr. President, to suggest that Senator Hevesi has raised some issues that I think are actually going to persuade me to vote against this bill. And I would like to consider it by having Senator Hevesi address the issue right now, not as his right whether or not he should be addressing the issue.

So I would most respectfully ask all the members in the chamber to please

extend Senator Hevesi the courtesy that you would certainly want accorded to you if legislation were as important to you as this is to him and to myself.

ACTING PRESIDENT MARCELLINO: Senator Paterson, the Chair might remind you that the Chair has not ruled anyone out of order. It has raised certain questions. We've simply asked that the conversation be direct and -- more direct to the bill.

I've been present in this chamber when this legislation has been debated in the past. We have never, never gone off on this length of time on this particular piece of legislation. That does not preclude Senator Hevesi from speaking at length. We know we have a two-hour limitation on the bill. We'll go that route if that's necessary.

We have a lot of bills on the calendar that could be debated and should be debated. But Senator Hevesi still has the floor, and he has not been ruled out of order. Nor have you, sir.

SENATOR PATERSON: Mr. President, I'd just like to bring to your attention that

in 1995, in March, we debated this bill. We used the entire two-hour time limit to debate on this bill.

And what I'd also like to point out is that you are correct, there haven't been any rulings. But certainly I would just like to bring to your attention that if I were speaking on a bill and got interrupted three times, I would feel that that would be more of a distraction, not really a valid questioning of -- I don't even know what we're questioning when we get up and ask Senator Hevesi. He's talking about the traffic congestion around the city of New York and the issues of transportation relative to pollution -

ACTING PRESIDENT MARCELLINO: Senator Skelos, why do you rise?

SENATOR PATERSON: -- to cost -

ACTING PRESIDENT MARCELLINO: Excuse me, Senator.

Senator, why do you rise?

SENATOR SKELOS: I just wanted to point out to Senator Paterson that because he believes in the freedom of speech on this floor, I think there is also a rule of this

house that we are permitted during debate to ask a member to yield. In no way was this just an interruption or something cavalierly done.

Just as you wish to express yourselves at times on bills, I think the Majority has the right to ask another member to yield to ask a question or make a comment. That's all that occurred here.

ACTING PRESIDENT MARCELLINO: Senator Hevesi, you have the floor.

SENATOR HEVESI: Thank you, Mr. President.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: I'm sorry.

ACTING PRESIDENT MARCELLINO: That's the fourth time, Senator Paterson.

SENATOR PATERSON: Just to make sure that the record is -

ACTING PRESIDENT MARCELLINO: But who's counting.

SENATOR PATERSON: -- clear on this point, the Acting Majority Leader got up

to ask that the discussion be truncated. And then, after Senator Hevesi continued in his conversation, he got up to ask him to yield for a question.

I don't have any problem with him getting up and asking him to yield for a question. I'm glad that Senator Hevesi has interested him in the issue. And if he has any questions right now, I would certainly hope that Senator Hevesi, who is quite capable, I think, would be happy to answer them.

ACTING PRESIDENT MARCELLINO: Senator Hevesi, you have the floor.

SENATOR HEVESI: Thank you, Mr. -

ACTING PRESIDENT MARCELLINO: I just want to note, debate started at 1:55.

SENATOR HEVESI: Thank you, Mr. President.

I'd just like to state for the record that I absolutely have no objections to Senator Skelos or anyone else questioning me or any other member on a piece of legislation.

I am, however, a little

disconcerted by the suggestion or insinuation that unless I intend to introduce a piece of legislation at some point in the future about issues which I am currently discussing before the floor, that I am therefore precluded from discussing those issues. I wasn't aware and do not believe that those are the rules of the Senate.

And, Mr. President, I would like to say that I'm almost done with my presentation that is absolutely germane -- and I'll state it again -- absolutely germane to the discussion we're having.

And I believe where we left off, we were discussing congestion pricing. And as we're debating a piece of legislation which harms some people in Manhattan, perhaps it's possible, by the congestion-pricing mechanism that I'm suggesting, that maybe at some point we will not have to use this one-way toll and that maybe that alleviates some of the burden. That's why I'm discussing congestion pricing, because it's directly germane to Senator Marchi's legislation.

So briefly, let me just share with

you what it does. You set up a system whereby somebody traveling at off-peak hours does not pay $3 -- that's the discounted price from the $3.50 -- they pay perhaps $2. And what that does maybe is make some worker who has to get in at 9 o'clock for his shift get in a little bit earlier, and thereby alleviate some of the congestion.

And conversely, or at the same time, what you are doing is you are suggesting to anybody who is traveling during peak hours that they're now going to have to pay a higher price. And so that's a disincentive.

And this plan and this program has worked in other areas of the United States, in other municipalities. It is an economic approach to pricing of congestion which will alleviate some of the burdens that have led to the legislation that is on the floor before us right now.

So we need to take a good look at congestion pricing, because that really is the way to go in the future. This is a problem that is only getting worse. And we now finally have the technology to facilitate it,

as we now finally have the technology to facilitate this comprehensive approach to making sure that Senator Stavisky's concerns are addressed and that other residents of the city of New York are not disenfranchised.

Having said that, I support Senator Marchi's legislation because I do believe that the greater good is served by one-way tolls, and I intend to vote in favor of it.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Hevesi.

Senator Oppenheimer.

SENATOR OPPENHEIMER: So much has been said today -- and some of which I wanted to respond to, but it's been a while since it was said, so I'm not sure I remember it all.

Let me respond first to what you have just brought up now. About four years ago, with Senator Norman Levy, we had studies done of congestion pricing. And it is something that probably will find its way into our transportation system. We were first going to try it out on a particular toll booth on the New York State Thruway, and that led to

the Tappan Zee Bridge. And we have enormous problems with that one bridge.

But it is a wonderful suggestion, and I applaud you for the work that you have already done, even though you haven't gone in depth yet. And I'll be happy to share with you some of the studies that were done. And the DOT has it, and the Thruway Authority.

There was a discussion of the bridge crossing to Staten Island costing $7 being outrageously expensive. I just want it noted that all of the bridge crossings are at $3.50. And so when I leave Westchester and want to go to visit my sister in Long Island, I have to pay $3.50 on either the Throgs Neck Bridge or on the Whitestone Bridge. I think that's a high cost.

And I think many of our residents in the suburban and the city area are looking for some relief on the high cost of our bridges. Because to make a trip, if you're doing it daily -- and we now have a lot of corporate headquarters in Westchester, so we have people coming to Westchester from Nassau, from Suffolk, from the city, from the Bronx.

And it's really an awfully high cost. If you do $7.00 times five, you're dishing out 35 bucks just to go to your job.

I can't remember my other points, because they were from a few -- about an hour ago. But it's a bill I think that I have supported in the past -- I know I have supported your bill in the past. And the reason I have is -- someone earlier -- I know, someone earlier said, and it was counterintuitive, that it was not environmentally effective to have one-way tolls. I disagree completely.

All the studies I have seen have shown that if you are slowing down cars in one direction to pay one toll, that it eliminates the slowing down of cars and the stalling - the reduction in the speed of the motors of the cars, and therefore much less smog is produced by having it stopped just in one direction.

So I think it is a good bill. I support what my colleagues have been saying, that this bill really ought to be one that is done for all bridges entering and leaving New

York City and coming also from the suburbs.

ACTING PRESIDENT MARCELLINO: Senator Waldon.

SENATOR WALDON: Thank you, Mr. President. Would the learned Senator from Richmond County yield to a question or two?

ACTING PRESIDENT MARCELLINO: Senator Marchi, would you yield to Senator Waldon?

SENATOR MARCHI: Yes.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR WALDON: Thank you very much, Mr. President.

Senator, I'm going to be very brief. My concern is, could the federal government come in and change what we do legislatively here today? Is there any danger that if we pass this and if it were to be signed by the Governor, both houses pass it and it becomes law, that they can superimpose their will on us and change it a two-way directional again?

SENATOR MARCHI: No, there's no -- there's no -- I wouldn't want to preempt

the federal government from doing anything. But they had a mandate which expired. And then it was a question of adapting our own public policy with respect to the bridge. But they had a mandate in 1986. And for the life -- in 1991 was the first time I introduced this bill, and so it carried up until then. But then it expired, so we're left to our own devices.

Would they come back? I doubt it very much, but they could. They could, I suppose, if we got into some ridiculous situation where it was reversed or something. But I really doubt it.

SENATOR WALDON: Thank you very much. Thank you very much, Senator. Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

SENATOR PATERSON: Slow roll

call.

ACTING PRESIDENT MARCELLINO: A slow roll call has been requested. If I see at least five Senators standing, we'll do so.

Ring the bells outside. Call the roll slowly.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Balboni.

SENATOR BALBONI: Aye.

THE SECRETARY: Senator Bonacic.

(No response.)

THE SECRETARY: Senator Breslin.

(No response.)

THE SECRETARY: Senator Bruno.

ACTING PRESIDENT MARCELLINO: Excuse me. Are we ringing the bells outside?

The answer is yes, Senator. Thank you.

THE SECRETARY: Senator Bruno.

(Senator Bruno was recorded as voting in the affirmative.)

THE SECRETARY: Senator Connor.

(Senator Connor was recorded as voting in the negative.)

THE SECRETARY: Senator DeFrancisco.

(No response.)

THE SECRETARY: Senator Dollinger.

(No response.)

THE SECRETARY: Senator Duane.

SENATOR DUANE: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: Aye.

THE SECRETARY: Senator Gentile.

SENATOR GENTILE: Yes.

THE SECRETARY: Senator Gonzales.

(No response.)

THE SECRETARY: Senator Goodman.

(No response.)

THE SECRETARY: Senator Hannon.

(No response.)

THE SECRETARY: Senator Hevesi.

SENATOR HEVESI: Yes.

THE SECRETARY: Senator Hoffmann, excused.

Senator Johnson.

SENATOR JOHNSON: Yes.

THE SECRETARY: Senator Kruger.

(No response.)

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lachman.

(No response.)

THE SECRETARY: Senator Lack.

(No response.)

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle.

(No response.)

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Aye.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Yes.

THE SECRETARY: Senator Maltese.

(No response.)

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Aye.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Markowitz.

(No response.)

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator McGee.

SENATOR McGEE: Yes.

THE SECRETARY: Senator Meier.

(No response.)

THE SECRETARY: Senator Mendez.

(No response.)

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: No.

THE SECRETARY: Senator Morahan.

SENATOR MORAHAN: Yes.

THE SECRETARY: Senator Nanula.

(No response.)

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

(No response.)

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Yes.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Rath.

SENATOR RATH: Yes.

THE SECRETARY: Senator Rosado, excused.

Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Sampson.

SENATOR SAMPSON: Aye.

THE SECRETARY: Senator Santiago.

(No response.)

THE SECRETARY: Senator Schneiderman.

SENATOR SCHNEIDERMAN: No.

THE SECRETARY: Senator Seabrook.

(No response.)

THE SECRETARY: Senator Seward.

(No response.)

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Yes.

THE SECRETARY: Senator Smith.

SENATOR SMITH: No.

THE SECRETARY: Senator Spano.

SENATOR SPANO: Yes.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: No.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: No.

THE SECRETARY: Senator Trunzo.

(No response.)

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

(No response.)

THE SECRETARY: Senator Wright.

(No response.)

ACTING PRESIDENT MARCELLINO: Call the absentees, please.

THE SECRETARY: Senator Bonacic.

(No response.)

THE SECRETARY: Senator Breslin.

(No response.)

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Yes.

THE SECRETARY: Senator Gonzalez.

(No response.)

THE SECRETARY: Senator Goodman.

(No response.)

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Kruger.

(No response.)

THE SECRETARY: Senator Lachman.

(No response.)

THE SECRETARY: Senator Lack.

(No response.)

THE SECRETARY: Senator LaValle.

(No response.)

THE SECRETARY: Senator Maltese.

(No response.)

THE SECRETARY: Senator Markowitz.

(No response.)

THE SECRETARY: Senator Meier.

SENATOR MEIER: Yes.

THE SECRETARY: Senator Mendez.

(No response.)

THE SECRETARY: Senator Nanula.

(No response.)

THE SECRETARY: Senator Onorato.

(No response.)

THE SECRETARY: Senator Santiago.

(No response.)

THE SECRETARY: Senator Seabrook.

(No response.)

THE SECRETARY: Senator Seward.

(No response.)

THE SECRETARY: Senator Trunzo.

(No response.)

THE SECRETARY: Senator Waldon.

SENATOR WALDON: Yes.

THE SECRETARY: Senator Wright.

(No response.)

ACTING PRESIDENT MARCELLINO: Announce the results, please.

THE SECRETARY: Ayes, 33. Nays, 9.

ACTING PRESIDENT MARCELLINO: The

bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. Would you please call Calendar Number 1133.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 1133.

THE SECRETARY: Calendar Number 1133, by Senator Balboni, Senate Print 4984, an act authorizing the assessor of the County of Nassau to accept an application.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section -

SENATOR DOLLINGER: Explanation.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Balboni, a number of our colleagues have asked for an explanation.

SENATOR BALBONI: Oh, boy.

ACTING PRESIDENT MARCELLINO: I think they mean a brief explanation, Senator.

SENATOR BALBONI: Mr. President, this is a bill relating to the Shelter Rock Jewish Center, located in Roslyn, New York -

beautiful downtown Roslyn, New York. On January 4, 1995, the Jewish Center obtained the premises known as 73 Capri Drive in Roslyn. The purpose of the acquisition was to be a parsonage for the rabbi.

Thereafter, an application was made for a tax exemption, and a clerical error was made. And instead of listing Lot 33, they listed Lot 3. The exemption therefore had to be renewed and finally granted on July 3, 1997, during which time period, the Nassau County Department of Assessment continued to list on the rolls the property as being taxable.

The synagogue was required to pay the taxes until this error was rectified. This bill before us would seek to allow the synagogue to come back and to have its tax exemption recognized for the time period between January 4, 1995, and July 3, 1997.

ACTING PRESIDENT MARCELLINO: Senator Dollinger.

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

ACTING PRESIDENT MARCELLINO: Senator Balboni, do you yield to Senator Dollinger?

SENATOR BALBONI: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: The Senator yields, Senator.

SENATOR DOLLINGER: Why did it take two full years for the parsonage, or the home of the rabbi, to be found that there was a technical error? Why did it take two years?

SENATOR BALBONI: Senator Dollinger, I would respectfully request that you call Arnold Cohen, the trustee attorney for the synagogue -

SENATOR DOLLINGER: Is this an 800 number?

SENATOR BALBONI: -- who is located -

SENATOR DOLLINGER: Mr. President, I'm not into this -

ACTING PRESIDENT MARCELLINO: Senator Dollinger, please don't interrupt Senator Balboni when he's responding.

SENATOR BALBONI: -- who is

located on Shelter Rock -- at the Shelter Rock Jewish Center. His number is 516-741-4305.

SENATOR DOLLINGER: Through you, Mr. President. Senator Paterson will dial him up right now and put him on speakerphone.

But on a more serious vein, Mr. President, if Senator Balboni will continue to yield.

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

SENATOR BALBONI: Yes.

ACTING PRESIDENT MARCELLINO: He continues to yield, Senator.

SENATOR DOLLINGER: This in fact relates to an entire year that they -- this is not an instance where they're seeking a partial year's reimbursement of the tax exemption. They had the opportunity in May or June or even, for that matter, in January or February of 1995 to be exempt for the whole '95-'96 year. And then, even if they had applied, they missed a second year as well. We're absolving two full years of taxes. Is that correct?

SENATOR BALBONI: That is

correct.

SENATOR DOLLINGER: So -- through you, Mr. President -- this isn't one of those cases which we've dealt with before that involves a partial year's reimbursement where they bought the property and they're seeking to abate one year. This was on the taxable property list for a whole year, and they had plenty of time to apply for the exemption for the 1996-'97 year. They could have done that in the spring of '96, a year after they bought the building.

SENATOR BALBONI: Yes.

SENATOR DOLLINGER: Okay. So I just want to make it clear that this is a mistake that occurs and then it should have been realized at some point in the first year, but it's not until they get around to it after the second year that they seek to have it abated.

SENATOR BALBONI: Is there a question here? There's one coming, isn't there? It's going to get here eventually if I wait long enough.

SENATOR DOLLINGER: Through you,

Mr. President.

Isn't that correct, Senator Balboni?

(Laughter.)

ACTING PRESIDENT MARCELLINO: Senator Dollinger -

SENATOR BALBONI: I didn't hear that last part.

SENATOR DOLLINGER: That is correct, isn't it, Senator Balboni?

SENATOR BALBONI: That is correct.

ACTING PRESIDENT MARCELLINO: Are you asking Senator Balboni to yield, Senator? Hold it, hold it. Are we asking Senator Balboni to yield?

SENATOR DOLLINGER: Yes.

ACTING PRESIDENT MARCELLINO: Senator Balboni, do you yield?

SENATOR BALBONI: Yes, I do.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR DOLLINGER: Is that statement correct?

SENATOR BALBONI: Which

statement?

(Laughter.)

SENATOR DOLLINGER: I should ask that it be read back. I won't do that.

Through you, Mr. President, if Senator Balboni will continue to yield.

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

SENATOR BALBONI: I continue to yield.

ACTING PRESIDENT MARCELLINO: He continues to yield.

SENATOR DOLLINGER: This tax exemption involves one part of the tax year and then a full tax year after that that they -- the claim is that they erroneously paid when they shouldn't have paid; is that correct?

SENATOR BALBONI: That is correct.

SENATOR DOLLINGER: Okay. Through you, Mr. President. Do you know whether -

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

SENATOR BALBONI: Yes, I do.

ACTING PRESIDENT MARCELLINO: He continues to yield.

SENATOR DOLLINGER: Do you know whether they applied for this tax exemption to the Nassau County assessor?

SENATOR BALBONI: They had to.

SENATOR DOLLINGER: And do you know whether -

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

SENATOR BALBONI: Yes, I do.

ACTING PRESIDENT MARCELLINO: He continues to yield.

SENATOR DOLLINGER: Do you know what the opinion was of the assessor with respect to the tax exemption?

SENATOR BALBONI: The opinion?

SENATOR DOLLINGER: Yes. Well, he obviously denied the tax exemption.

SENATOR BALBONI: Now, does - when you speak of an opinion, do you mean a legal document as issued by the assessor's office, or do you mean an opinion by the clerk or the adjuster who looked at the piece of

property -

ACTING PRESIDENT MARCELLINO: Gentlemen. Gentlemen. Excuse me, Senator. I don't mean to be overbearing, but you're supposed to go through the Chair, back and forth.

SENATOR BALBONI: Mr. President, does the gentleman -- in referring to the word "opinion," does he refer to a legal document issued by the assessor's office, or does he refer to an individual clerk or adjuster who has taken a look at the application and the property itself and deemed it to be sufficient?

(Laughter.)

SENATOR BALBONI: Yes, I can repeat that question if you want me to.

ACTING PRESIDENT MARCELLINO: Please don't.

Senator Dollinger, you have the floor.

SENATOR DOLLINGER: Thank you, Mr. President. If Senator Balboni will continue to yield.

ACTING PRESIDENT MARCELLINO:

Senator, do you continue to yield?

SENATOR BALBONI: Mr. President, a point of order. I believe that I have asked the gentleman to respond to a question. I believe the question is still out there. Could we -- for purposes of further debate, could he answer the question? What does he mean by the opinion?

ACTING PRESIDENT MARCELLINO: Senator, would you please clarify for the other Senator?

SENATOR DOLLINGER: I'd be glad to do that, Mr. President. I'll clarify the question.

Is there any written opinion, any written evaluation from the Nassau County assessor with respect to the eligibility of this property for a tax exemption that affects this bill?

SENATOR BALBONI: Contained within my file, Mr. President, is a letter dated July 3, 1998, from the Nassau Department of Assessment, from a Peter DeMicco, Exempt Division, which specifically states that the Shelter Rock Jewish Center is to be used

for -- exclusively for religious purposes, thus setting up the predicate for giving them the religious exemption.

Other than that document, I have no other documents in my possession.

SENATOR DOLLINGER: Again, through you, Mr. President.

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

SENATOR BALBONI: Yes, I do, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR DOLLINGER: Is there any comparable opinion or letter or correspondence from the Nassau County assessor's office that says that this institution, the Shelter Rock Jewish Center, Inc., applied for a tax abatement -- for an exemption from property taxes prior to the date of the July 3, 1998, letter that you reference?

SENATOR BALBONI: Mr. President, I don't have any document detailing when the center applied for the specific exemption, other than the information that I've already

related regarding the initial filing and then the renewal and the change of the clerical error. The correction, I should say.

SENATOR DOLLINGER: Again, through you, Mr. President. If the sponsor will continue to yield.

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

SENATOR BALBONI: Yes, I do, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR DOLLINGER: As I understand the application by the Shelter Rock Jewish Center, Inc., there was a piece of property that was accorded a tax break, Parcel Number 3 instead of 33. And that property was exempt for a period of time; is that correct?

SENATOR BALBONI: No, that is not correct.

SENATOR DOLLINGER: Well, then maybe I don't understand the sponsor's memo.

SENATOR BALBONI: Perhaps.

SENATOR DOLLINGER: It says here that "not having been able to obtain property

tax exemption due to a clerical error. The lot was incorrectly identified as 3 instead of 33."

Which would mean to me -- through you, Mr. President, if Mr. Balboni would continue to yield.

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

SENATOR BALBONI: Yes, I do.

ACTING PRESIDENT MARCELLINO: He continues to yield.

SENATOR DOLLINGER: -- that there was an exemption granted for Parcel Number 3. And my question is, in taking into account the refund that would be due in this case, have you taken into account the fact that there was a parcel granted an exemption, which means that the net taxes paid back would actually be lessened because some property was exempted?

SENATOR BALBONI: Mr. President, I wonder if the gentleman recalls the episode of The Odd Couple where Felix goes to the blackboard and writes down the word "assume" and then breaks it out into its individual components?

The gentleman here is assuming that there was any action taken in regard to Lot 33 in any regard -- or Lot 3. I don't have any information to that extent. I don't believe it was. But I'll tell you what. After the bill is passed, if you want to go down and we can talk to the assessor's office, we can. You can also call the trustee itself.

But that assumption in and of itself raises an issue that is not a part of this bill.

SENATOR DOLLINGER: I'm simply trying to find out if there was a property that was given a tax exemption. They obviously didn't pay taxes on that. I'm simply trying to find out whether this is a net $12,000 to the Nassau County treasury or whether this is some lesser amount. Is that a fair question?

SENATOR BALBONI: Not really.

SENATOR DOLLINGER: I'll accept that as an answer.

SENATOR BALBONI: Mr. President, would the gentleman yield to a question?

SENATOR DOLLINGER: Not at this

time, Mr. President, until I'm done questioning, and then I'll be glad to yield.

SENATOR BALBONI: Aw, you can't do that.

ACTING PRESIDENT MARCELLINO: The gentleman refuses to yield, Senator Balboni.

SENATOR BALBONI: (Inaudible.) Then fine. I'm -

ACTING PRESIDENT MARCELLINO: I'm afraid to ask for a clarification.

SENATOR DOLLINGER: Mr.President, actually I think I'm finished with my questioning. Or, no -

ACTING PRESIDENT MARCELLINO: Read the last section.

SENATOR BALBONI: Thank you.

SENATOR DOLLINGER: No, I believe I have to yield to Senator Balboni.

ACTING PRESIDENT MARCELLINO: No, you don't have to, Senator.

SENATOR BALBONI: Now he yields.

SENATOR DOLLINGER: I'll simply be heard on the bill, then.

ACTING PRESIDENT MARCELLINO: Senator Dollinger, on the bill.

SENATOR DOLLINGER: Mr. President, these bills I have traditionally voted against, and I've made this point on the floor a number of times. I won't repeat it today, although this is a day, I guess, filled with repetition sometimes.

And my point is simply that this is exactly the kind of case that we should not be adjudicating on the floor of the Senate. We have tax status days. There are firm rules in this state, and there are firm rules for a very good reason. And the reason is because not a single community that collects property taxes, not one, could deal with the problem of having to grant partial exemptions all the time for buildings that are bought and sold during the year.

And they're also fast and hard in the law because they can't deal with the problem of the guy who says, "Wait a second, it's the parsonage, it's the home of the rabbi, it's the adjunct to the temple lot, to the temple parking lot," and four years later someone says, "Gee, it should be tax-exempt, they shouldn't be paying taxes on that," and

then someone says, "Well, I want to go back and get the taxes back." That would cause chaos in the operation of municipalities.

And as I've said a number of times before, if they have to be able to depend on the tax revenue, we have to have a definitive eligible tax status date. It's frankly no different than April 15th. If you don't pay your taxes by then, it's going to be big trouble. We have an eligible tax status date in this state. It applies in Nassau County. We seem to run into all these problems in Nassau County. I can't believe it's indigenous to Nassau County.

I think it may have -- the reason why these bills hit the floor may have something to do with the political configuration of Nassau County. And they seem to always come to this house in droves, because -- and rightfully so -- these are Senators doing their jobs for their constituents, standing up and fighting for their tax dollars when it turns out that they missed the eligible tax status day.

And as a consequence, and I agree

with Senator Balboni on this, it's very difficult for the Shelter Rock Jewish Center or any other religious organization to cough up $12,000 in taxes that, had they processed the application properly, they would never have had to pay.

This continues to be a problem. It continues to be a problem which we're waging on the floor of the Senate. It's frankly a waste of time for us to do it. If we're going to do this seriously -- I've talked about this, I know, on the floor before with the Acting President, I've talked about it with other members from Nassau County. If this is what we really want to do, let's pass a bill that gives the Nassau County assessor the ability to make these adjustments himself so that we don't bring them here to the floor of the Senate, so we don't end up 12 days before we're supposed to get out of here for the end of the summer, we're not on the floor debating the merits of whether Lot Number 3 was exempt and it should have been Lot 33 and why didn't the rabbi know that -- suddenly he gets a tax bill one year and he says, "Oh, I think I'll

just pay those taxes," and it never occurs to him that he's not required to pay those taxes, and somehow he waits a year and a half before he does anything. And then he happens to say hello to his friend, Senator Balboni: "You know, I've been paying property taxes on this piece of property, it ought to be exempt." And, lo and behold, Senator Balboni, who's been on the floor of this chamber, says, "We do those all the time on the floor of the Senate. I'll do it for you, abate the taxes." Senator Balboni is rightfully hailed as a hero by the Shelter Rock Jewish Center, Inc., because he's suddenly saved them $12,000, done something for them that either the Nassau County assessor should have done or, quite frankly, their lawyer should have done or someone who was in charge of their property.

It's just -- this continues to be a problem, and I would strongly suggest that we come to a reasonable solution. Let's pass a Nassau County bill. We seem to be able to pass individual Nassau County bills all the time here. Let's pass one big Nassau County bill that will take care of the problem

throughout the county.

I would commend it to everyone's attention, and I hope that sometime before I leave this body, whenever it may be, that we'll do a bill like that, get these problems out of here, get them back to Nassau County where they should be resolved on a case-by-case basis.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Read the last section, please.

SENATOR OPPENHEIMER: No, I have two clarifications.

ACTING PRESIDENT MARCELLINO: I'm sorry. Senator Oppenheimer, why do you rise?

SENATOR OPPENHEIMER: Thank you. I just wanted to make two clarifications. One is -

ACTING PRESIDENT MARCELLINO: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: Thank you. Well, actually, one is a question, if the sponsor would yield.

ACTING PRESIDENT MARCELLINO:

Senator Balboni, will you yield to a question?

SENATOR BALBONI: Yup.

SENATOR OPPENHEIMER: The monies that have been paid by the synagogue over this two-year period I expect will be repaid to the synagogue?

SENATOR BALBONI: Mm-hmm.

SENATOR OPPENHEIMER: Okay. That was the question.

Now, the other thing is just a piece of information. And that -

ACTING PRESIDENT MARCELLINO: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: -- is that the home of a rabbi next to a temple or synagogue is not called a parsonage.

Thank you.

SENATOR DOLLINGER: What's it called?

SENATOR OPPENHEIMER: It's called a home.

ACTING PRESIDENT MARCELLINO: Can we read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO: Announce the results, please.

THE SECRETARY: Ayes, 57. Nays, 1. Senator Dollinger recorded in the negative.

ACTING PRESIDENT MARCELLINO: Senator Morahan -

SENATOR MORAHAN: Mr. President -

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Mr. President, would you please call Calendar Item 372.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 372.

THE SECRETARY: Calendar Number 372, by Senator Saland, Senate Print 2976, an act to amend the Social Services Law, in relation to concurrent kinship adoption.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO:

Senator Saland, an explanation has been requested.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, there are currently approximately 18,000 children in foster care in New York State who are placed with relatives. Those foster-care children are predominantly in the five boroughs of the city of New York, overwhelmingly in the five boroughs of the city of New York.

What this bill proposes to do is to create a new status, a concurrent kinship adoption status. The purpose of that status would be to permanentize the relationship that exists between, for example, a child and his or her grandparent, if that be the case, without permanently severing the rights of the natural parent.

The idea here is to provide permanency, to enable families in effect to remain whole, to not penalize a natural parent, to not subject a natural parent to the type of confrontation with a relative in which a relative, in order to get some type of

permanency planning for a child that is a foster child, must allege that the natural parent -- who may well be their child -- is a bad and neglectful parent.

This bill would provide stability to families. There's also an associated tax savings, the savings being some $2,500, which would be the costs that would be saved per child by placing them permanently with what had previously been a foster kinship situation.

ACTING PRESIDENT MARCELLINO: Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Yes, Mr. President. I wonder if the sponsor would yield for a couple of questions.

ACTING PRESIDENT MARCELLINO: Senator Saland, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR MONTGOMERY: Yeah. Senator Saland, this is a very good bill. My first question is, do you have -- is there an

agreement with the other house on this legislation?

SENATOR SALAND: We're hoping - we passed this bill unanimously last year, as you may recall. In fact, unanimously, and it went on consent. We're hoping to find somebody in the Assembly, and currently are attempting to do that, who might be willing in light of the fact that it passed last time and I reasonably expect it will pass as well today.

SENATOR MONTGOMERY: All right. If you would continue -- if the sponsor would continue to yield, Mr. President.

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

SENATOR SALAND: Yes.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR MONTGOMERY: I note that you specifically designate the grandparents or -- the grandparents who are serving as foster parents. Is that correct, or am I -

SENATOR SALAND: Well, it talks in terms of, I believe, of the third degree of

consanguinity. And while I'm embarrassed to admit this -- I should know, from having done estate work at one time, where that would take me. But it goes beyond grandparents.

But we believe anecdotally that one of the more common examples and prevalent examples would be a grandparent.

SENATOR MONTGOMERY: Yes. Sure, that's certainly true. But, Senator, I note that there are 18,000 children who are currently living with relatives. And I'm just wondering if you have any idea how close those relatives are.

Is the third degree based on - your choice of a third-degree relationship based on the fact that that's where most of them are, or is there any relationship there?

SENATOR SALAND: We believe that we would capture -- let me rephrase that. We believe that this would impact probably the vast majority, if not -- let me say the overall majority, virtually the entire population.

SENATOR MONTGOMERY: Okay. And it's not just grandparents, but it goes even

beyond that?

SENATOR SALAND: It goes beyond grandparents. We could be talking cousins, in some instances. But as I said, both anecdotally and based on information that we have received, we believe one of the most common examples that occurs is with grandparents.

SENATOR MONTGOMERY: Okay. Thank you, Senator Saland.

Mr. President, on the bill, briefly. I just -

ACTING PRESIDENT MARCELLINO: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Yes, I want to support this legislation. I think it's something that is very long overdue. It would help to resolve some of the issues I think both as it relates to the decision that judges very often hesitate to make because of the severance of a parental right.

So this creates an opportunity for us to have it almost both ways, that there is a parent, a biological parent, that can continue to be involved in the child's life

legitimately, but that the ultimate custodial rights for that child rest with someone who is more stable and can provide security.

So I wholeheartedly endorse this, and I certainly hope that we can see this legislation pass both houses this session.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Senator Paterson, excuse me.

SENATOR PATERSON: I just have a quick question for Senator Saland.

ACTING PRESIDENT MARCELLINO: Senator, will you yield to Senator Paterson?

SENATOR SALAND: Always yield to Senator Paterson, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR PATERSON: Thank you.

First of all, Senator Saland, I want to bring to your attention on page 1,

line 20, it talks about the foster child's parent. I think that should be "parents," plural.

And my question, assuming that the that the shared adoptive rights take place, or the shared -- I really should say "guardianship" really take place, at what point, if the biological parent wants to end that -- in other words, let's say the biological parent was ill or maybe had substance-abuse problems or something, and at some point later on they're able or feel that they're able to resume the care for the child. How would the process end?

SENATOR SALAND: This effectively -- the status becomes, on the one hand, as Senator Montgomery alluded to, a situation in which the adoptive parent would become the custodial parent. Not unlike a matrimonial situation, the natural parent would be the noncustodial parent. The natural parent would not have the ability to abrogate the adoption.

SENATOR PATERSON: Excellent. Now I have an understanding. Thank you.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Mr. President, I would ask that we return to reports of special committees -- or standing committees at this time. And I believe there is a Rules Committee report at the desk, and I ask that it be read.

ACTING PRESIDENT MARCELLINO: Thank you, Senator. There is a report of the Rules Committee at the desk.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 733, by Senator

Stafford, an act to amend Chapter 466 of the Laws of 1995;

860, by Senator Balboni, an act to amend the Vehicle and Traffic Law;

1074, by Senator Johnson, an act to amend the Public Authorities Law;

2205B, by Senator Nozzolio, an act to amend the Tax Law;

3260, by Senator Maltese, an act to amend the General Business Law;

3588, by Senator Libous, an act to amend the Highway Law;

3665, by Senator Maziarz, an act to amend the Vehicle and Traffic Law;

4303, by Senator Nozzolio, an act to amend the Village Law;

4427, by Senator Volker, an act to amend the Correction Law;

4471A, by Senator Bonacic, an act in relation to enacting the Christopher Gardner Memorial Act;

4631, by Senator Balboni, an act to amend the Education Law;

4659, by Senator Volker, an act to authorize the Office of General Services;

4661, by Senator Hannon, an act to amend Chapter 483 of the Laws of 1978;

4728, by Senator Saland, an act to amend the Tax Law;

4928, by Senator Skelos, an act to amend the Public Authorities Law;

4952A, by Senator McGee, an act to amend the Vehicle and Traffic Law;

5016, by Senator Trunzo, an act authorizing the Department of Transportation;

5074A, by Senator Skelos, an act to amend the Civil Rights Law;

5139A, by Senator DeFrancisco, an act in relation to adjusting;

5175, by Senator LaValle, an act authorizing the Trustees;

5205, by Senator Kuhl, an act to amend the Education Law;

5258A, by Senator Rath, an act to amend the Public Authorities Law;

5402, by Senator Marcellino, an act to amend the Environmental Conservation Law;

5434, by Senator Skelos, an act to amend the Vehicle and Traffic Law;

5560, by Senator McGee, an act to

amend the Vehicle and Traffic Law;

5567, by Senator Volker, an act to amend the Executive Law;

5573, by Senator DeFrancisco, an act to approve building aid funds;

5583, by Senator Saland, an act to amend the Criminal Procedure Law and the Executive Law;

5588, by Senator Alesi, an act to amend the General Business Law;

5598, by Senator Volker, an act to amend the Civil Practice Law and Rules;

5632, by Senator Maziarz, an act to authorize the Town of Gates;

5637, by Senator Rath, an act to authorize the City of Tonawanda;

5659, by Senator Maziarz, an act to amend Chapter 779 of the Laws of 1986;

5671, by Senator Goodman, an act to amend the Real Property Tax Law and others;

And 5677, by Senator Saland, an act to amend the Criminal Procedure Law and the Family Court Act.

All bills ordered directly for third reading.

SENATOR MORAHAN: Mr. President, I ask that the report be accepted and moved.

ACTING PRESIDENT MARCELLINO: All in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The Rules Committee report is accepted.

Senator Morahan.

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

ACTING PRESIDENT MARCELLINO: Yes, Senator, I believe we do.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Hannon, I wish to call up his bill, Senate Print 2937, which was recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 206, by Senator Hannon, Senate Print 2937, an act to amend the Public Health Law.

SENATOR FARLEY: Mr. President, I now move to reconsider the vote by which this bill passed.

ACTING PRESIDENT MARCELLINO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MARCELLINO: Senator Farley.

SENATOR FARLEY: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MARCELLINO: Amendments accepted.

SENATOR FARLEY: Mr. President, we wish to amend these different bills:

By Senator Skelos, page 6, Calendar 98, Senate Print 587A;

By Senator Skelos, on page 14, Calendar Number 376, Senate Print 902A;

Senator Maltese, page 15, Calendar 416, Senate Print 2188;

By Senator LaValle, page 16,

Calendar Number 458, Senate Print 2990B;

By Senator Leibell, on page 33, Calendar 803, Senate Print 2661;

By Senator Seward, on page 35, Calendar 822, Senate Print 5525;

By Senator Johnson, page 45, 964 - that's the Calendar Number -- Senate Print 2649A;

By Senator Fuschillo, on page 21, Calendar 589, Senate Print 3720;

By Senator Skelos, on page 10, Calendar Number 280, Senate Print 1023.

And, Mr. President, I ask that these bills retain their place on the order of the third reading.

ACTING PRESIDENT MARCELLINO: All amendments accepted, and the bills will retain their place on the Third Reading Calendar.

Senator Morahan.

SENATOR MORAHAN: Yeah. Mr. President, are there any substitutions at the desk?

ACTING PRESIDENT MARCELLINO: Yes, Senator, we do.

The Secretary will read the

substitutions.

THE SECRETARY: On page 12, Senator Lack moves to discharge, from the Committee on Rules, Assembly Bill Number 7265A and substitute it for the identical Third Reading Calendar, 346.

And on page 35, Senator McGee moves to discharge, from the Committee on Rules, Assembly Bill Number 6547A and substitute it for the identical Third Reading Calendar, 824.

ACTING PRESIDENT MARCELLINO: Senator Morahan.

SENATOR MORAHAN: Mr. President, I ask that we return to motions and resolutions.

I believe there is a privilege resolution at the desk from Senator Larkin.

ACTING PRESIDENT MARCELLINO: Do you wish to have it read?

SENATOR MORAHAN: I ask that the title be read and move for its adoption.

ACTING PRESIDENT MARCELLINO: The Secretary will read the title.

THE SECRETARY: By Senator Larkin, Legislative Resolution 1674,

commending Sister Peggy Murphy upon the occasion of her designation as the recipient of the 1999 Dr. Milton Ash McQuade Community Service Award, June 10, 1999.

ACTING PRESIDENT MARCELLINO: All in favor of the resolution signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The resolution is adopted.

Senator Morahan.

SENATOR MORAHAN: Mr. President, I believe there is a privilege resolution at the desk from Senator Hevesi. I ask that it be moved and adopted, unless there's a debate.

It's not there?

ACTING PRESIDENT MARCELLINO: We do not have that at the desk right now, Senator.

SENATOR MORAHAN: Do you have one from Senator Kruger? I believe there is a privilege resolution up there from Senator

Kruger.

ACTING PRESIDENT MARCELLINO: We are just receiving, I believe, Senator Hevesi's resolution. Whichever one you'd like to do first, Senator Hevesi or -

SENATOR MORAHAN: Senator Hevesi, please.

ACTING PRESIDENT MARCELLINO: The Secretary will read the title.

THE SECRETARY: By Senator Hevesi, Legislative Resolution honoring Edward J. Cleary, President Emeritus of the New York State AFL-CIO, upon the occasion of his designation as recipient of the "Humanitarian Award" by the Harry Van Arsdale Jr. Memorial Association.

ACTING PRESIDENT MARCELLINO: All in favor of the resolution signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: All opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The resolution is carried.

SENATOR MORAHAN: Mr. President, I believe you have another privilege resolution, by Senator Kruger. I ask that the title be read and that it be moved and adopted.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

The Secretary will read.

THE SECRETARY: By Senator Kruger, Legislative Resolution Number 1662, honoring Dorothy Turano upon her retirement from Community School Board Number 18.

ACTING PRESIDENT MARCELLINO: All in favor of the resolution signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The resolution is adopted.

Senator Morahan.

SENATOR MORAHAN: Mr. President, there being no further business, I move we adjourn until Monday, June 7th, at 3 o'clock,

3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT MARCELLINO: The Senate will stand adjourned until Monday at 3:00 p.m., intervening days to be legislative days.

Have a good weekend.

(Whereupon, at 3:34 p.m., the Senate adjourned.)