NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 12, 2000

11:09 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

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

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

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

(Whereupon, the assemblage respected a moment of silence.)

THE PRESIDENT: Reading of the Journal.

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Seward, on page 37 I offer the following amendments to Calendar Number 675, Senate Print Number 6820, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR FUSCHILLO: Thank you.

THE PRESIDENT: Thank you, Senator.

Senator Skelos.

SENATOR SKELOS: Madam President, are there any substitutions to be made?

THE PRESIDENT: Yes, there are, Senator.

SENATOR SKELOS: If we could make them at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 36, Senator Nozzolio moves to discharge, from the Committee on Crime Victims, Crime and Correction, Assembly Bill Number 9008A and substitute it for the identical Senate Bill Number 7073, Third Reading Calendar 665.

THE PRESIDENT: The substitutions are ordered.

Senator Paterson.

SENATOR PATERSON: Thank you, Madam President.

On behalf of Senator Gentile, I would like to move that the following bill be discharged from committee and be recommitted with instructions to strike the enacting clause. And the bill number is -- ah, it just came to me -- 2850A.

THE PRESIDENT: Thank you, Senator.

SENATOR PATERSON: Thank you.

THE PRESIDENT: So ordered.

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Finance Committee in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Finance Committee in the Majority Conference Room.

SENATOR SKELOS: Madam President, if we could take up the noncontroversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 461, by Senator LaValle, Senate Print 4944, an act to amend the Education Law, in relation to requiring public hearings.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 497, by Member of the Assembly Grannis, Assembly Print Number 10030, an act to amend the Insurance Law.

SENATOR SKELOS: Lay it aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 507, by Senator Padavan, Senate Print 6964A, an act to authorize the Dormitory Authority or the Commissioner of General Services.

SENATOR PATERSON: Lay that aside, please, Madam President.

THE PRESIDENT: Pardon me, Senator?

SENATOR PATERSON: Lay that aside, please, Madam President.

THE PRESIDENT: Of course. The bill is laid aside, Senator.

THE SECRETARY: Calendar Number 534, by Senator Marcellino, Senate Print 1325, an act to amend the Penal Law, in relation to including the theft of dogs and cats.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 538, by Senator Padavan, Senate Print 1993, an act to amend the Penal Law, in relation to theft from a motor vehicle.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 539, by Senator Velella, Senate Print 2531, an act to amend the Penal Law, in relation to the crime of criminal mischief in the third degree.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 540, by Senator Velella, Senate Print 2678, an act to amend the Penal Law, in relation to the crime of unauthorized use of a motor vehicle.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 544, by Senator Volker, Senate Print 4375A, an act to amend the Penal Law, in relation to trespass upon railroad tracks, bridges,

viaducts, tunnels, or trestles.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 574, by Senator Stafford, Senate Print 3843, an act to amend the Executive Law and the Arts and Cultural Affairs Law, in relation to including the Secretary of State.

THE PRESIDENT: Read the last section.

SENATOR BONACIC: Madam President, we ask that that be laid aside for the day, please.

THE PRESIDENT: The bill is laid aside, Senator.

SENATOR BONACIC: Thank you.

THE SECRETARY: Calendar Number

587, by Senator Hannon, Senate Print 817, an act to amend the Real Property Tax Law, in relation to complaints with respect to assessments.

SENATOR PATERSON: Lay that aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 591, by Senator LaValle, Senate Print 1966, an act to amend the General Municipal Law, in relation to point systems.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 599, by Senator Morahan, Senate Print 6161, an act to amend the Highway Law, in relation to increasing the amount of monies for the

purchase and repair.

THE PRESIDENT: There is a home rule -

SENATOR DUANE: Lay it aside.

THE PRESIDENT: The bill is laid aside.

Senator Bonacic, that completes the noncontroversial reading of the calendar.

SENATOR BONACIC: Thank you, Madam President. May we now have the controversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 507, by Senator Padavan, Senate Print 6964A, an act to authorize the Dormitory Authority.

SENATOR PATERSON: Explanation.

THE PRESIDENT: Senator Bonacic, an explanation has been requested.

SENATOR BONACIC: We ask that that be laid aside temporarily, Madam President.

THE PRESIDENT: The bill is laid aside temporarily.

SENATOR BONACIC: Thank you.

THE SECRETARY: Calendar Number 538, by Senator Padavan, Senate Print 1993, an act to amend the Penal Law, in relation to theft from a motor vehicle.

SENATOR BONACIC: We ask that that be laid aside temporarily.

THE PRESIDENT: The bill is laid aside temporarily.

SENATOR BONACIC: The sponsor is in the Finance Committee. He'll be out shortly.

In fact, as I'm speaking, he is appearing.

Madam President, we would like to take up Calendar 507, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 507, by Senator Padavan, Senate Print 6964A, an act to authorize the Dormitory Authority or the Commissioner of General Services.

THE PRESIDENT: Senator Padavan, an explanation has been requested.

SENATOR PADAVAN: Yes. Senator Smith, you recall a week ago we passed a bill

authorizing the purchase by the City of New York, the Board of Education, of 32.69 acres of surplus land on the grounds of Creedmoor to build a high school, an elementary school, and a middle school.

That bill went over to the Assembly. And as I told you when I introduced the amendment, they asked for a reverter clause to be put in there, meaning that if it's not used by the city -- which is an improbable assumption -- for the purpose for which it's intended, then the land will revert back.

And that's what this amendment - it's exactly the same bill, with that amendment.

SENATOR MALCOLM SMITH: Madam President, will Senator Padavan yield for a question?

THE PRESIDENT: Senator Smith.

SENATOR MALCOLM SMITH: Yes, Madam President. Through you, will Senator Padavan yield for a question?

SENATOR PADAVAN: Yes.

THE PRESIDENT: Senator, do you

yield for a question?

SENATOR PADAVAN: Yes.

THE PRESIDENT: Go ahead, Senator Smith.

SENATOR MALCOLM SMITH: Just one other concern. That is the actual lease itself. Will the Senator please provide some information as to the cost as it relates to that?

SENATOR PADAVAN: I'm sorry, I can't hear -- I did not hear Senator Smith, Madam President.

THE PRESIDENT: Could you repeat the question, please, Senator?

SENATOR MALCOLM SMITH: Sure. The question relates to the lease and the terms of the lease. If Senator Padavan could please provide some explanation as to what those terms will be.

SENATOR PADAVAN: This will be a purchase, Senator. Outright purchase.

SENATOR MALCOLM SMITH: Madam President, through you.

THE PRESIDENT: Go ahead, Senator Smith. You have the floor.

SENATOR MALCOLM SMITH: In terms of the outright purchase, does the Senator have any idea on the cost for that particular lease itself, with regards to whether or not -- whether or not, given the -- whether there's a special cost to that particular lease, would there be any need for the entire Senate to have a two-thirds vote on that?

SENATOR PADAVAN: I didn't hear the last part of it. But the actual cost or purchase price is being negotiated. It will be, and it is already, substantially below assessed value. And we're working to lower that even further.

However, this bill, one of the reasons for the bill is to reduce the acquisition cost by placing its purchase in a proprietary configuration, meaning only the Board of Education can now purchase or will be the only one who can purchase this land if this bill becomes law.

SENATOR MALCOLM SMITH: Madam President, through you.

THE PRESIDENT: Does the sponsor continue to yield?

SENATOR PADAVAN: Yes.

THE PRESIDENT: Go ahead, Senator.

SENATOR MALCOLM SMITH: That special cost that's associated with it, will that require a two-thirds vote of the Senate? Or is that one that can be done strictly through the agency?

SENATOR PADAVAN: I think you asked me whether or not the Senate would have to approve the purchase. Is that what the question was? If I heard you correctly.

THE PRESIDENT: Could you repeat your question, Senator?

SENATOR MALCOLM SMITH: The question, Madam President, is -

SENATOR PADAVAN: No. No, it requires -- the acquisition, Senator, of all state property, whether it's on the grounds of a psychiatric center or whatever, is negotiated through the appropriate state agency and the local government -- in this case, the City of New York -- for its purchase.

SENATOR MALCOLM SMITH: Madam

President, one more question, through you.

I understand the Senator's explanation. While I do understand that it will be the agency, the appropriate agency, my question relates to the authority thereof, to whether or not it would be negotiated directly through that agency. Or will it require a two-thirds vote of the Senate, given that there will be special conditions to the cost?

SENATOR PADAVAN: This is a - the bill before us requires a three-fifth. After that, then the mechanism that's contained within the bill becomes operative: Namely, the authorization to sell this land to the Board of Education of the City of New York for the specific purpose intended.

SENATOR MALCOLM SMITH: Okay, Madam President. I'm going to support the bill, but I just wanted to be very clear as it relates to the cost for said property.

I am happy to hear there is a reverter clause in that, because clearly, given the bureaucracy of the City, sometimes they don't move as well, as quickly, as we in the State do from time to time. And I'm just

happy to know that there was some consideration given to that.

Thank you.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 538, by Senator Padavan, Senate Print 1993, an act to amend the Penal Law, in relation to theft from a motor vehicle.

SENATOR DUANE: Explanation, please.

THE PRESIDENT: Senator Padavan, an explanation has been requested by Senator Duane, I believe.

SENATOR PADAVAN: The purpose of this bill is to raise the category in the Penal Law under which someone could be prosecuted to a Class E felony when someone

breaks into a car and steals property from it. That's what the bill does.

SENATOR DUANE: Thank you, Madam President.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Would the sponsor yield to a question?

THE PRESIDENT: Does the sponsor yield?

SENATOR PADAVAN: Yes.

THE PRESIDENT: Go ahead, Senator Duane.

SENATOR DUANE: Thank you.

Under this legislation, if a person stole an air bag for a car, would that be -

SENATOR PADAVAN: Yes.

SENATOR DUANE: What if someone stole a stereo system or a radio?

SENATOR PADAVAN: Yes.

SENATOR DUANE: What if someone stole a purse from the car?

SENATOR PADAVAN: A what?

SENATOR DUANE: A purse.

SENATOR PADAVAN: Yes.

SENATOR DUANE: What if someone

stole a comb?

SENATOR PADAVAN: A comb?

SENATOR DUANE: A comb.

SENATOR PADAVAN: Yes.

SENATOR DUANE: What if someone stole a stick of gum?

SENATOR PADAVAN: Yes. Or a lottery ticket. Or anything else, Senator.

Senator, I don't know if you read a the copy of the report I sent to every member of this house, dated December '99, on auto theft. It's entitled "The Perfect Crime."

There are many, many aspects of our analysis of auto theft in this state, particularly in New York City. One of the problems we have is someone who breaks into your car, he may virtually have nothing in his hand. He's obviously up to no good, either to steal your car or to strip it or to take whatever he can. And the moment the police arrest him, he doesn't have very much in his hand. Maybe a comb, as you I think somewhat obliquely suggested could be the item.

And under current law, that person will be arrested, he'll be back out on the

street in no time at all. Which is why when -- the police department, one of the many people who came and spoke to us during the course of this hearing, suggested that we deal with this issue.

The arrest rate that results in imprisonment for auto theft is less than 2 percent, 2 percent, of those who are arrested who actually go to jail. Which is why auto theft -- which has come down, due to a variety of reasons, in the City of New York, but is still -- we still have some 60-odd-thousand cars stolen, broken into, stripped due to auto theft.

And when someone breaks into your car today, he's not out of business. He'll be breaking into cars until he's caught and put away. And that's the purpose of raising the conviction to an E felony.

SENATOR DUANE: Through you, Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor continue to yield?

SENATOR PADAVAN: Yes.

THE PRESIDENT: Go ahead, Senator.

SENATOR DUANE: In a situation where the car window of a car is open and no glass is broken and the perpetrator reaches in and takes a comb or a stick of gum, is it the legislation's -- the result of this legislation that that person could then spend an awful lot of time in Sing Sing?

SENATOR PADAVAN: I'm sorry, I don't understand your question.

SENATOR DUANE: Well, I'll repeat my question. Through you, Madam President -

SENATOR PADAVAN: Maybe you could rephrase it.

SENATOR DUANE: If a perpetrator reaches in through an open window of a parked car -- doesn't have to break through the glass of the window or anything like that -- and takes a stick of gum, is it the sponsor's intention through this legislation that that perpetrator of a stick of gum -- of stealing a stick of gum would spend an awful lot of time in Sing Sing?

SENATOR PADAVAN: If you read the

bill, Senator, it says that property, regardless of its nature and value, is taken from another person's motor vehicle. Taken. So that answers your question.

SENATOR DUANE: So through -

SENATOR PADAVAN: You know, Senator, I view my automobile the way I view my house. If someone reached into the front window of my house and stole I don't care what it is, I would want that person prosecuted. And my car is no different. Nor should yours be.

The answer to your question is yes.

SENATOR DUANE: Well, on the bill, Madam President.

I just think it's important for people to know that we're voting on a bill which, if you took a stick of gum through an open window of a car, or a comb, for those of us who are fortunate enough to have enough hair to actually need a comb to use, that that person could potentially spend an awful lot of time in our state correctional facilities.

And I think that while the bill is well-intentioned, it needs to be more finely

crafted so that property damage or stolen property is raised to a higher level before we send people away for a long time.

And I would encourage my colleagues to vote no until we see a more appropriately crafted bill.

Thank you, Madam President.

THE PRESIDENT: Read the last - Senator Paterson.

SENATOR PATERSON: Madam President, I just have one question for Senator Padavan, if he is willing to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR PADAVAN: Yes. Yes.

SENATOR PATERSON: Senator, what Senator Duane raised interests me, and it has to do with the delineation between what would really be auto theft and perhaps the same kind of act that would have a lesser charge, if you took something off of a park bench or just something in the street.

What about taking items off of a car? I mean, in other words, you have these high-priced SUVs, and a lot of times what's

happening is that very highly organized, apparently criminal activity exists where they drive up -- they can actually take the wheels off of the vans. And these are real professional thieves who are there to steal an automobile or to take parts from it.

As opposed to what Senator Duane is talking about, some desperate person that just reaches through a window or punches open a window and reaches in to see if anything is there. Which still should be punished.

But I think what Senator Duane is trying to say is that -- and I think he said it very well -- is that I don't know that those are equivalent offenses, even though they're both wrong.

And don't you think it might be better to delineate, as we do under the law, based on the severity of the crime what would be the severity of the charge?

SENATOR PADAVAN: Madam President, in answer to Senator Paterson's question, we have several other bills that we have proposed that would increase penalties for auto stripping, for stealing of auto

parts, for regulating scrap dealers.

There's a whole industry out there, Senator, as you're aware of, that is fed into by thieves who will take anything off of your car of value or take anything out of your car of value.

So we have initiatives in all of these areas.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Paterson, to explain your vote.

SENATOR PATERSON: Madam President, to explain my vote.

One of the reasons that we have the charge of grand larceny relates to the actual dollar amount of the item that's stolen. And in that case, I'm really persuaded by Senator Duane that what Senator Padavan may be doing is fine, but we're doing it almost in pieces.

And until we can take a look at the entire package, I'm persuaded that Senator Duane has raised a valid issue today.

THE PRESIDENT: Senator Duane, to explain your vote.

SENATOR DUANE: Thank you, Madam President.

Notwithstanding the small bit of levity that I injected at the end of the discussion of this bill, in fact in Texas, with similar legislation, someone was just sentenced to 16 years for stealing a Snickers bar.

And I think it would be a tragedy if our state embarked on the same kind of criminal justice path. And I vote no.

Thank you.

THE PRESIDENT: Senators, you will both be recorded as voting in the negative on this bill.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I would like unanimous consent to be recorded in the negative on calendars -

THE PRESIDENT: Senator, please

wait until we finish the roll call.

SENATOR MONTGOMERY: Oh, I'm sorry.

THE PRESIDENT: That's all right. No need to apologize.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 538 are Senators Duane, Montgomery, Paterson, Schneiderman, Senator A. Smith, Senator M. Smith. Ayes, 50. Nays, 6.

THE PRESIDENT: The bill is passed.

Senator Montgomery.

SENATOR MONTGOMERY: Madam President, I would like unanimous consent to be recorded in the negative on Calendar Numbers 539, 540, and 544.

THE PRESIDENT: Without objection, Senator, you are so recorded as voting in the negative on Calendars 539, 540, and 544.

SENATOR MONTGOMERY: Yes, thank you.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 587, by Senator Hannon, Senate Print 817, an act to amend the Real Property Tax Law, in relation to complaints.

SENATOR DUANE: Explanation, please.

THE PRESIDENT: Senator Hannon, an explanation has been requested by Senator Duane.

SENATOR HANNON: Yes, Madam President.

Under the current law, when someone wants to challenge their assessment, they have to authorize that challenge, the property owner. And the current law says they have to date it within the same calendar year.

There have been some municipalities, mine included, that have really now started to do their certiorari challenge on the first of January, which means that it's -- the property owner, especially the small homeowner who wants to do the challenging, has only a two-or-three-week

period to sign their authorization.

This would simply -- and so, in other words, we're dealing with a January 1 time, and they have two or three weeks after January 1.

This would simply give them the ability to do the signing within six months. Because it used to be when it came up in May, there was no problem. Now that it's on January 1, they're just very inconvenienced.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: If the sponsor would yield to a question on this.

THE PRESIDENT: Does the sponsor yield?

SENATOR HANNON: I yield.

THE PRESIDENT: Go ahead, Senator.

SENATOR DUANE: I'm just wondering if any municipalities have objected to this change, or if there's unanimous consent as far as the sponsor knows.

SENATOR HANNON: The answer is there's been no objection filed by any municipality.

SENATOR DUANE: Thank you, Madam President.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 599, by Senator Morahan, Senate Print 6161, an act to amend the Highway Law, in relation to increasing the amount of monies.

SENATOR DUANE: Explanation, please.

THE SECRETARY: Senator Morahan, an explanation has been requested.

SENATOR MORAHAN: Yes, Madam President. I'd be delighted to explain the bill.

It's a home rule request from the Town of Orangetown in the County of Rockland, wherein they're asking us for relief from the

current Highway Law that limits what they can spend on either new equipment or repairs of other highway equipment to $200,000.

They would now like to have that moved up to 650. We have a home rule request that I am going to honor. And therefore, that's the explanation.

Senator?

SENATOR DUANE: Would the sponsor yield to -

THE PRESIDENT: Does the sponsor yield?

SENATOR MORAHAN: Yes, I do.

THE PRESIDENT: Go ahead, Senator.

SENATOR DUANE: I'm wondering if the Senator could tell me, how did we reach the $650,000 amount?

SENATOR MORAHAN: Well, back in 1980 I passed a bill that raised it up to $200,000, when I was a member of the Assembly. And at that time -- before that, it was $60,000. It was about a three-times upward movement, a little bit better, which this also represents.

The town has grown. The town of Orangetown has grown over the years, with more highways, more public roads that have to be taken care of, more demands for services, for pick-ups, vacuum leaves, all those sorts of things.

So this is a decision reached by the town board to avoid them having to go for special elections or biannual special elections, if you will, to get approval from the voters.

SENATOR DUANE: Through you, Madam President, if the sponsor would continue to yield.

SENATOR MORAHAN: Yes, ma'am. Yes, I do.

SENATOR DUANE: Why just this town? If this is an important issue, why shouldn't we do an omnibus bill for all highway departments?

SENATOR MORAHAN: Well, that's a good point, Senator. I would have no problem doing something like that eventually. And I fully suspect that we'll have other towns asking for relief in the County of Rockland.

But this is the town at this particular time who has asked for it. The other towns have not submitted a home rule, nor have they asked for it at this time.

I would not be surprised, however, after we pass this bill today, to have some more come in.

SENATOR DUANE: And a final question, through you, Madam President.

If this bill became law, is it possible that taxes could rise in Orangetown?

SENATOR MORAHAN: Sure.

SENATOR DUANE: Thank you, Madam President.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Madam President, will the sponsor yield just to one question? And I apologize if this dovetails with the question asked by -

THE PRESIDENT: Does the sponsor yield?

SENATOR MORAHAN: Yes, I do, Madam President.

THE PRESIDENT: Go ahead,

Senator.

SENATOR DOLLINGER: Was there originally a referendum, if you know, on the question of the taxing authority for repair and equipment in this town?

SENATOR MORAHAN: Excuse me? I didn't hear the question.

THE PRESIDENT: Could you repeat the question, Senator?

SENATOR DOLLINGER: Yes, Madam President.

Was there originally a referendum, a voter referendum to establish this tax ceiling in this town for purposes of repair and maintenance?

SENATOR MORAHAN: You mean to raise them from 200,000 to 650,000?

SENATOR DOLLINGER: No, originally to set it at 200,000. Was there voter approval for that?

SENATOR MORAHAN: No, that was another home rule bill back in 1981, 1982.

SENATOR DOLLINGER: Again through you, Madam President, if Senator Morahan will continue to yield.

SENATOR MORAHAN: Yes, I do.

SENATOR DOLLINGER: Do you know whether there was ever a referendum where the public had the power to approve the original 200,000 extension?

SENATOR MORAHAN: No, I don't believe there was, number one.

Number two, the duly elected representatives of the people of the town who are elected put this in a resolution, and they stand responsible for that. So if there were to be a referendum, I would consider their unelection or reelection to be the referendum.

It goes back to Senator Duane's comment on would there be a rise in taxes. There would be a rise in taxes if they were to spend their money without some other additional revenue. I don't know how they plan to do that, nor is that my business.

SENATOR DOLLINGER: Through you, Madam President, just briefly on the bill.

I accept Senator Morahan's explanation. I've been reluctant to vote for local tax rate measures, tax increase measures. But I think in this instance, since

the taxing authority doesn't come directly from us but instead it's an authorization for them to raise the tax themselves, I would draw a distinction on that basis.

I'll vote in favor of this bill. But I'll continue my practice of voting against local sales tax and other taxes that are directly traceable to the action of this body.

THE PRESIDENT: There's a home rule message at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

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

SENATOR SKELOS: Madam President, if we could return to motions and resolutions.

There's a privileged resolution at the desk, 3733, by Senator DeFrancisco. May

we please have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution Number 3733, honoring Frazer School, Syracuse, New York, for their participation in the 49th Senate District "Good News! Good Kids!" Youth Responsibility Program for the Year 2000.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Madam President.

I'm proud to rise and greet the students of Frazer Elementary School who are here today. And we're honoring them for their participation in the "Good News! Good Kids!" program.

When I first got into the Senate, I realized there was a lot of negative news about bad things that kids do, and good kids were not being recognized appropriately. So each year we recognize an elementary school that's done special work in our community.

And all the students -- 898 of them -- at Frazer participated in various community-related activities to improve the community, also being tied in with their education.

I can't go through all the projects because there's so many of them. But each one of them assisted the community, whether it be providing food and help at the Meals On Wheels or providing other things to the community, planting trees in their area, and doing everything that should be recognized by a body such as this.

So I urge all of my colleagues to join in congratulating the Frazer Elementary School and showing that they are good kids and they should be recognized, and it is good news.

Thank you.

THE PRESIDENT: On the resolution, all in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

And congratulations to all of our visitors here this morning. We hope you have a good day.

(Applause.)

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing committees, I believe there's a report of the Finance Committee at the desk. I ask that it be read.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nominations. As a member of the State Board of Parole, Roslyn W. Block, of Commack.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Thank you, Madam President.

The nominee appeared before the Senate Finance Committee today, did very well.

And it's a pleasure to yield to Senator Lack.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam Chairman.

It's my pleasure to second the nomination of Roslyn W. Block, of Commack, as a member of the State Board of Parole.

I'm joined by my colleague, Assemblyman Bob Wertz, because we both wanted to be here for what, for us, is a very good and joyous occasion and a wonderful appointment by the Governor.

Ros Block is somebody that Bob and I have known for, well, longer than probably any of us want to talk about. She and her late husband have been good friends of ours.

Her late husband, Ira Block, was a councilman in the town of Smithtown, later a judge of the Suffolk County District Court, the founder of the Suffolk County Drug Court. Ira, Bob, and I served in public office together, and Ros was always there for Ira, and somewhat quietly in the background, but has had a career of her own -- a very well

known career, for those of us who are in elected office.

For the last 26 years, she has been in the Suffolk County Probation Department, starting as a probation officer, and is now the Deputy Director of the County Probation Department. She's a graduate of Barnard College, has a master's degree in social welfare from Adelphi University.

She is one of the most respected people in her profession in Suffolk County. And the Block family has been among the most active in the community in Commack and the Town of Smithtown.

And it is a real pleasure for the Governor to have made this appointment to the State Board of Parole, a person who will serve in a very vigorous and active capacity.

And I once again congratulate the Governor and thank him for this very good and this very wonderful appointment.

THE PRESIDENT: The question is on the confirmation of Roslyn W. Block as a member of the State Board of Parole. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations to Roslyn Block on your appointment, and we wish you all the best in your new position.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As a member of the State Board of Parole, George C. Johnson, of Buffalo.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Thank you, Madam President.

Again, the nominee appeared before the Finance Committee, also did well.

And I certainly now yield to Senator Nozzolio.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President. Thank you, Senator Stafford.

George C. Johnson came before the

Crime and Corrections Committee this week, and is extremely well qualified and has the endorsement of not just Governor Pataki - which we're very pleased the Governor would send up this nominee -- but also Senator Volker, who has known George Johnson for a number of years.

George Johnson's background is so diverse in the criminal justice system, as one who has been trained in education. A good background for criminal justice service, he was a police officer, a narcotics officer, had served as a corrections officer, and served in a variety of other capacities through the criminal justice system. And most recently he served as New York State Department -- as a public safety officer of the New York State Department of the Office of Mental Health. And he is from Erie County.

And this broad background in criminal justice service will certainly provide him the unique qualifications and background to be an excellent member of the New York State Board of Parole.

The Governor is to be complimented

on seeking out Mr. Johnson and placing him before this body for nomination. The committee unanimously endorsed his qualifications and certainly recommends to the full Senate that Mr. Johnson be confirmed.

We look forward to his service on the Parole Board. And I know Senator Volker, who has no peer in this house in his expertise in criminal justice, will certainly vouch for his qualifications and I know wishes also to speak on his behalf.

Thank you, Madam President.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Madam President, I've known George Johnson for a great many years.

In fact, yesterday when he was moved out of Crime and Corrections, Senator Nozzolio's committee, I said that I believed that I had known George Johnson since his days as a NACC officer, which maybe some of the younger people wouldn't know what NACC was. That was the Narcotics Addiction Control Commission, which was the predecessor of DACC, and I think something else, and now eventually

became -- eventually became, I believe, OASIS.

But in any case, he also served at Attica. He was an honorably discharged veteran from Vietnam. A fine gentleman, he most recently has been public safety officer at OMRDD in Buffalo, at the Mental Health.

He's been a vital member of the community for many, many years and I think probably is one of the best-qualified parole commissioners that we've confirmed in a number of years. I think it's a great choice by the Governor.

I wish him the very best of luck, and I know that he'll do very, very well.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President.

I rise to join my colleagues in complimenting the Governor for what appears to be two outstanding appointments vis-a-vis the professional experience of the two nominees that we are going to vote on.

I want to say to you and, through you, to them that obviously the Parole Board

in the State of New York is an extremely important board to many of us, especially those of us who represent the areas where the majority of the inmates originate from, I being one of them.

We view the Parole Board and their actions as one in a continuum of alternatives to incarceration. And I would hope that these people who -- especially the new people that we are doing the -- that we are voting for today are going to bring to that Parole Board some sense of enlightenment in how we view inmates and their potential for becoming reintegrated into those communities that they come from.

So I'm very happy that both Mr. Johnson and Ms. Block are experienced in the area. They know how to look at people and how to make judgments about what their potentials might be.

And I hope that they can share some of their expertise with other members of that board, and the Governor, to help them understand that those people who are going to be returning, we need to look at them

carefully, but we also need to look at this Parole Board as an opportunity for those inmates to feel a sense of hopefulness as they return to our communities.

So again, I congratulate the Governor and I certainly congratulate the two people that we are voting on today.

Thank you.

THE PRESIDENT: The question is on the confirmation of George C. Johnson as a member of the State Board of Parole. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And on behalf of the Senate, I extend to you our congratulations and best wishes.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As a member of the Industrial Board of Appeals, James K.

Walsh, of the Bronx.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Thank you, Madam President.

The nominee was the third nominee to appear before the committee. He also did very well.

And I would yield to Senator Velella.

THE PRESIDENT: Senator Velella.

SENATOR VELELLA: Madam President, it's a privilege to rise and second the nomination of James Walsh to the Industrial Appeals Board.

Mr. Walsh has had a distinguished career as a teacher in the high schools in New York City, in the Washington Heights area. And after that career, at the age of 53 he decided to go to law school and begin a new career.

He went to CUNY Law School, passed the bar exam, worked on both sides of the aisle in terms of the criminal justice system, both with the Legal Aid Society and for the district attorney's office.

He's a well-respected attorney in Bronx County, and I am sure he will do an excellent job as a member of the Industrial Appeals Board.

Nothing to sneeze at.

THE PRESIDENT: Pardon me, Senator?

SENATOR VELELLA: I say that was nothing to sneeze at.

THE PRESIDENT: The question is on the nomination of James K. Walsh as a member of the Industrial Board of Appeals. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And, Mr. Walsh, we congratulate you and wish you the very best in your really important responsibility.

(Applause.)

THE PRESIDENT: The Secretary will read. And it is nothing to sneeze about.

THE SECRETARY: As a member of

the Capital District Transportation Authority, Donald C. MacElroy, of Clifton Park.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Donald C. MacElroy as a member of the Capital District Transportation Authority. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Niagara Frontier Transportation Authority, Mary S. Martino, of Buffalo.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on -- Senator Stachowski.

SENATOR STACHOWSKI: Madam

President, just briefly.

In committee I voted against Mary Martino, not because I have any problem with Mary Martino but because the NFTA now for years has not had any labor presence in its membership. For years it was a tradition to have one representative of labor as part of the NFTA board. They refused to do that.

Since Mary Martino is a reappointment, and I happen to know her very well and think she does a good job, I will just leave it with a no vote in committee. And instead, I'll -- normally as I vote no on all these appointments on the floor, in her case I'll vote yes.

But I wanted to make sure and the record will show that I still have a great deal of displeasure with the board in not having any labor member when it was a tradition that they did.

I vote yes.

THE PRESIDENT: The question is on the -- Senator Coppola.

SENATOR COPPOLA: Madam President, I also want to comment on Mary

Martino.

I think this is an excellent choice. She's a wonderful person and diligent in all of her works and her work in the community. Buffalo will do well with Mary Martino on the NFTA.

THE PRESIDENT: The question is on the confirmation of Mary S. Martino as a member of the Niagara Frontier Transportation Authority. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As members of the board of directors of the Roosevelt Island Operating Corporation, Kevin Fullington, of New York City; Leo Kayser III, of New York City; and John B. Mannix, of New York City.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Kevin Fullington, Leo Kayser III, and John B. Mannix as members of the board of directors of the Roosevelt Island Operating Corporation. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the State Park, Recreation and Historic Preservation Commission for the City of New York, Myra E. Mahon, of New York City.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Myra E. Mahon as a member of the State Park, Recreation and Historic Preservation Commission for the City of New York. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a commissioner of the Interstate Sanitation Commission, Judith Baron, of Brooklyn.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Judith Baron -

Senator Markowitz, excuse me.

SENATOR MARKOWITZ: Thank you. Thank you very, very much.

I couldn't let this go without commending the reappointment of Judith Baron. She has become certainly respected all these years, one of the most active Brooklynites, and has been very, very much involved in the preservation of Sheepshead Bay and Brighton Beach.

And we all very much respect her in

the Borough of Brooklyn, and this is a superb reappointment. I'm pleased to vote yes.

THE PRESIDENT: Thank you, Senator.

Senator Lachman.

SENATOR LACHMAN: Very briefly, on the reappointment of Judith Baron.

I echo whatever Senator Markowitz said about her. Her name is known throughout Brooklyn, not just in the shorefront area. And I'm delighted to vote for her reappointment.

THE PRESIDENT: The question is on the reappointment of Judith Baron as a member of the Interstate Sanitation Commission. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As members of the State Council on the Arts, Lawrence Herbert,

of New York City, and Oscar L. Tang, of New York City.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Lawrence Herbert and Oscar L. Tang as members of the State Council on the Arts. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following bills:

Senate Print 7394, by the Senate Committee on Rules, an act making appropriations for the support of government;

And Senate Print 7395, by the Senate Committee on Rules, an act to amend Chapter 1 of the Laws of 1999.

Both bills ordered direct to third reading.

THE PRESIDENT: Without objection, both bills are ordered direct to third reading.

Senator Skelos.

SENATOR SKELOS: Madam President, may we please take up Calendar 682, Senate 7394.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 682, by the Senate Committee on Rules, Senate Print 7394, an act making appropriations for the support of government.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, are there messages of necessity and appropriation at the desk?

THE PRESIDENT: Yes, there are, Senator.

SENATOR SKELOS: Move to accept.

THE PRESIDENT: The motion is to accept the messages of necessity and appropriation. All in favor signify by saying

aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The messages are accepted.

Read the last section.

THE SECRETARY: Section 35. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator Dollinger recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up Calendar Number 683, Senate 7395.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 683, by the Senate Committee on Rules, Senate Print 7395, an act to amend Chapter 1 of the

Laws of 1999, relating to the New York Health Care Reform Act of 2000.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, is there a message of necessity at the desk?

THE PRESIDENT: Yes, there is, Senator.

SENATOR SKELOS: Move to accept.

THE PRESIDENT: The motion is to accept the message of necessity. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The motion is carried.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

SENATOR SKELOS: Madam President,

is there any housekeeping at the desk?

THE PRESIDENT: Yes, there is, Senator.

Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, please place a sponsor star on Calendar Number 665.

THE PRESIDENT: That bill is starred, Senator.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Velella, on page 9 I offer the following amendments to Calendar 211, Senate Print 3597A, and I ask that that bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Madam President, there will be a conference of the Majority at 2:30 in the Majority Conference Room.

THE PRESIDENT: There will be a

conference of the Majority at 2:30 in the Majority Conference Room.

SENATOR SKELOS: And there being no further business to come before the Senate, I move we adjourn until Monday, April 17th, at 3:00 p.m., intervening days being legislative days.

THE PRESIDENT: On motion, the Senate now stands adjourned until Monday, April 17th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 12:00 p.m., the Senate adjourned.)