NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 7, 2001

11:14 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 all bow our heads in a moment of silence, please.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, March 6th, the Senate met pursuant to adjournment. The Journal of Monday, March 5th, 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 Libous, please place a sponsor's star on Calendar Number 181.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Thank you.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time have the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 44, by Senator Balboni, Senate Print 859A, an act in relation to authorizing the Chabad Lubavitch of Old Westbury.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid

aside for the day.

THE SECRETARY: Calendar Number 90, by Senator Goodman, Senate Print 687, an act to amend the Transportation Law, in relation to disclosure.

THE PRESIDENT: Read the last section.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 113, by Senator Lack, Senate Print 2015, an act to amend the Penal Law, in relation to definitions of criminal enterprise.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 115, by Senator Marcellino, Senate Print 106, an act to amend the Vehicle and Traffic Law, in relation to the enforcement of the offense of operating a motor vehicle.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid

aside.

THE SECRETARY: Calendar Number 118, by Senator Maltese, Senate Print 1854, an act to amend the Vehicle and Traffic Law, in relation to increasing the penalty for obstructing access.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 119, by Senator Kuhl, Senate Print 2101, an act to amend the Highway Law, in relation to the temporary discontinuance.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 122, by Senator Velella, Senate Print 1360, an act to amend the Administrative Code of the City of New York, in relation to the investment powers.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

125, by Senator Maltese, Senate Print 2089, an act to amend Chapter 164 of the Laws of 1907.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 129, by Senator Stafford, Senate Print 1054, an act to amend the Environmental Conservation Law, in relation to nonhazardous municipal landfill closure.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 139, by Senator Volker, Senate Print 1533, an act authorizing and empowering the village board of the Village of Farnham, County of Erie.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 140, by Senator Libous, Senate Print 1934, an act to establish certain boundaries in the

counties of Broome and Chenango.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 159, by Senator Morahan, Senate Print 199, an act to amend the Social Services Law, in relation to county responsibility.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

SENATOR BRUNO: Thank you, Madam President.

Can we at this time take up the controversial calendar and call up bill - Calendar Number 122.

And might I just add, while I'm on my feet, that I see that the chairs in the chamber are empty. And I want to remind members that they are elected to be representatives, and that our lives are one of priorities. And the priority, while we're in session, is to be in the chamber doing the

work that we're paid to do and elected to do.

And we have a calendar that we did not finish yesterday, and we are going to finish that calendar today.

And we have a calendar for today, and we are going to finish that calendar today. And if we have to be here until later in the evening to do that, we will be here until later.

And if we can't finish our calendar today, we will finish it tomorrow. And if we can't finish it Thursday, we'll finish it Friday.

And I see that we have some youngsters here, and we welcome them to the chamber. And what we're talking about is some people who are supposed to be in school who aren't in school.

(Laughter, applause.)

SENATOR BRUNO: Thank you, Madam President.

THE PRESIDENT: Thank you, Senator Bruno, for those pearls of wisdom.

The Secretary will read Calendar 122.

THE SECRETARY: Calendar Number 122, by Senator Velella, Senate Print 1360, an act to amend the Administrative Code of the City of New York, in relation to the investment powers.

SENATOR PATERSON: Explanation.

THE PRESIDENT: Senator Velella.

SENATOR VELELLA: Senator, this is the same explanation that I gave to you yesterday, but -

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: I did hear your explanation. If you'd like, I would just ask you to yield for some questions.

SENATOR VELELLA: Sure.

THE PRESIDENT: Senator, do you yield?

SENATOR VELELLA: Yes.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: My question was, how would the economic state of affairs be enhanced by the ability to use pension money, as you said yesterday?

SENATOR VELELLA: Senator, I

think possibly my explanation was not adequate to you. I didn't say that they were going to be using pension money to invest in the life insurance proceeds that the members of the fire department are entitled to.

What it is is it will allow the trustees of the life insurance company to invest in same type of equities that the trustees of the pension fund invest in.

Right now the life insurance part of the package is limited to investing in fixed-income items like a bond or some CD. The pension funds can invest in equities, and they have gotten a much larger return for their money, similar to what other life insurance companies do.

So we're just trying to make this equal and give the fund the opportunity to let it grow itself rather than become a burden on the city or on the taxpayers.

SENATOR PATERSON: Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: I apologize. That is exactly what Senator Velella said

yesterday. His legislation was exactly that.

If Senator Velella would yield for a question.

THE PRESIDENT: Senator, do you yield?

SENATOR VELELLA: Yes.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Madam President, how does this vary from the practices of other life insurance companies of the same kind? In other words, is this a practice that is pretty straightforward and one that is utilized throughout the industry?

SENATOR VELELLA: In substance, it doesn't, Senator.

SENATOR PATERSON: It does?

SENATOR VELELLA: It does not.

SENATOR PATERSON: Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Again, it's probably my confusion. I'm saying that - you're saying it does not in the sense that it does not conflict with the same policies and

the same investment powers of other life insurance companies?

SENATOR VELELLA: Yes, that's what I'm saying, in substance. There may be some minor variation. But other life companies are entitled to invest in these equities, and they have to get legislative approval.

So therefore, we're seeking to allow the Senate and the State to give approval to this firemen's fund.

SENATOR PATERSON: Madam President -

SENATOR VELELLA: Not the fund, the company, the Firemen's Insurance Fund for the City of New York.

SENATOR PATERSON: Madam President, if Senator Velella would yield for another question.

SENATOR VELELLA: Yes.

THE PRESIDENT: You may proceed.

SENATOR PATERSON: Senator, I'm curious as to the apprehension that people might have, since we're investing in an area where there's greater flux. As you reported,

there's been a greater return over the past few years -- well, there was a greater return really over the past ten years, when the Dow Jones average quadrupled from October 1990 to March 2000, as opposed to what's gone on since then.

So is the option perhaps an incentive that could seduce some of these life insurance companies to invest in a way that could actually inure to the detriment of the funds?

SENATOR VELELLA: Madam President, if I might, through the chair, that was rather a long, lengthy -- I'm not sure what the question is. If we could get it down to the point where there's a question mark at the end, I'd be happy to respond. But I don't know how to respond to the general statement.

THE PRESIDENT: Senator Paterson, could you repeat and/or rephrase your question.

SENATOR PATERSON: Thank you, Madam President. I think Senator Velella wants me to repeat, rephrase, and restrict my question. So let me reduce it to just this.

The stock market is currently in flux. If you have investments in areas where you have the possibility of a wider return, you also have the possibility of wider losses. That might have been the reason that the fixed investments were used previously.

And I'm just asking you, do you have an apprehension that what would look like a boondoggle in the mid-'90s is something we're adopting as law and could actually be detrimental in this decade?

SENATOR VELELLA: Thank you, Senator. Madam President, I thank the Senator for refining the question.

The answer to that is no, I do not have an apprehension.

The members of that board for the insurance company are the same identical members that sit on the pension board. Their investment policy has been very prudent and very profitable for the pension fund. We simply want to give the same opportunity for the insurance part of the package that goes to firemen to grow as well as the pension fund has. And it is the same powers that other

life insurer companies have to invest in these equities.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Very good, Madam President. If Senator Velella would yield for another question.

THE PRESIDENT: Senator, do you yield?

SENATOR VELELLA: Yes. But we're getting to the end of the yielding, Madam President. Let's marshal the questions.

THE PRESIDENT: Senator, you may proceed with a question.

SENATOR PATERSON: Then, Senator -- what I'll do, Madam President, I'll take my last two questions and I will condense them for Senator Velella.

THE PRESIDENT: Senator, do you have an additional question? That's what you're authorized to ask.

SENATOR PATERSON: Yes, I do, if the Senator would yield.

THE PRESIDENT: Please proceed with an additional question. The Senator has yielded for an additional question.

SENATOR PATERSON: This is a compound question, Madam President.

Number one, are the officials of the fire department comfortable with this? And, secondly, because of the presumption of the investors, have they limited the amounts of funds that could actually be invested in this way?

SENATOR VELELLA: Yes, Madam President. That is a good question.

Yes, the leadership of the fire department and the city and the union officials are all in support of this, and they have limited it.

And it's a good question, because we have built safeguards in, and I will tell you what they are. No more than 50 percent of the fund may be invested in securities. No more than 5 percent of the fund may be invested in any one corporation or its subsidiaries. And no more than 2 percent of the fund may be invested in a self-owned corporation. These are the standards in the industry. So these safeguards are there, Senator.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Madam President, would the Senator yield for a question from me.

THE PRESIDENT: Senator, do you yield?

SENATOR VELELLA: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR ONORATO: Senator, when we're dealing with the fire department's basically pension funds, if there is a sustained loss because of these investments, how will that affect the pensions of those who are currently receiving it if we diminish the funds because of loss of investments?

SENATOR VELELLA: Madam President, I would just respond to say that this bill has nothing to do with the pension funds. Pension funds were mentioned as a comparison as to the structure of the board. The bill would not affect anyone's pension.

THE PRESIDENT: Read the last section.

SENATOR DOLLINGER: Madam

President.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Will Senator Velella yield to a couple of questions.

THE PRESIDENT: Senator, will you yield for a few questions?

SENATOR VELELLA: I'll yield to them one at a time, Madam President.

THE PRESIDENT: All right.

SENATOR DOLLINGER: That's fine, I'll deal with them one at a time.

THE PRESIDENT: Senator, you may proceed with a question.

SENATOR DOLLINGER: Senator Velella -- through you, Madam President -- are there currently bonding requirements for the members of this board? And if so, by expanding their power to invest, is there any intention to alter, change or modify the bonding requirements for members of the board of trustees?

SENATOR VELELLA: Senator, I would respond yes, there is bonding requirements as trustees and as officials of

the fund. And no, there's no provision in here to extend it. If there were, it would be in the language of the bill.

SENATOR DOLLINGER: Through you, Madam President, if Senator Velella will continue to yield.

THE PRESIDENT: Senator, do you yield?

SENATOR VELELLA: Yes.

THE PRESIDENT: Go ahead, Senator Dollinger.

SENATOR DOLLINGER: Are there other parts of statute which prescribe those bonding limits? Because we're giving them additional authority to participate in investments that they haven't been previously enabled to do, which does carry a bigger risk factor.

My question is whether there's a statutory need to alter the bonding requirements because of the greater risk to raise the bonding requirements.

SENATOR VELELLA: Senator, you were out of the room when I mentioned that the same individuals who sit on the pension funds

board are the same individuals who sit on this insurance company board. They are getting a tremendous return on the pension funds, they are getting a much smaller return on the insurance funds because of the limit in their availability to make prudent investments, subject to the restrictions that I read a moment ago.

We have not increased the bonding because we felt that it was never an issue. They are bonded by both the pension funds and by the insurance company. And we have done this many times for private insurers, allowing the insurance companies to invest in broader and more exotic financial instruments without increasing the bonding.

SENATOR DOLLINGER: Through you, Madam President, I agree with Senator Velella that we have done that in the past where we've increased their ability to place investments in riskier funds, which of course can have the upside potential of increasing return and have the downside potential of lower return as well.

The reason why I asked the question

is because -

THE PRESIDENT: Senator, are you speaking on the bill?

SENATOR DOLLINGER: I am. I have one other question that I want to ask, but let me ask that one other -

THE PRESIDENT: Senator Velella, do you yield?

SENATOR VELELLA: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: Through you, Madam President. Do we statutorily set the amount that they're insured for errors and omissions for trustees? And if so, because this bill does create greater risk, is there any intention to alter that requirement as well, that the errors and omissions policy that covers the trustees in their administration of the fund, that we would statutorily increase that as well?

SENATOR VELELLA: Senator, the response to that is there is no intention to increase those provisions under this bill. If

there were, it would be within the bill. It might be a subject that you'd like to take a look at for other possible legislation.

And I think we ought to be mindful of the fact that the bonding and the security factor is not to secure and to make sure that the investment is profitable. We use a prudent man test there. We have people who are members of the fire department, officials of the union sitting on these boards. Bonding is there to make sure they don't steal the money. I don't think that we have to really worry about that. I don't think they're going to steal the money.

It's not a guarantee. Just like your pension and my pension, there's no guarantee that the Comptroller of the State of New York is going to invest and make a profit. We have a guarantee that he's not going to steal the money. And I'm pretty sure he's not going to do that. And I'm pretty sure that the people who sit on these boards are not going to steal the money.

So I feel that the bonding and the errors and omission policy questions all are

something you may want to take a look at. But I'm comfortable that we have people of integrity sitting on those boards that are going to make the prudent investments that should be made.

SENATOR DOLLINGER: On the bill, Madam President. I appreciate Senator Velella. He's absolutely right about the reasonable man test. He's absolutely right about the difference between the E&O policy coverage and the bonding coverage.

Madam President, the only point I'm concerned about is that we have a history - Senator Velella properly points it out -- of allowing trustees of these funds to have greater latitude in their investment measures. That carries two risks with it, one of which -- neither of which is actually covered by bonding or by errors and omissions. And that is the risk to the fund that it won't produce a return or that the return will go down. That, I agree with Senator Velella, is all decided by a reasonable or prudent man test.

But the bonding requirement is

designed to prevent defalcation from the fund or theft from the fund or embezzlement from the fund, and errors and omissions is designed to protect the trustees themselves and open up a fund of money so that if the beneficiaries of the fund find that those investments were improvidently made or that there was negligence in the administration of the fund, that those funds -- the beneficiaries of that fund would have access to a pool of insurance funds.

I agree with Senator Velella. I would presume that these representatives from the fire department have the best interests of their members at heart. I would point out, however, that there is a legion of case law all over this country where union members have put their faith in their administrations of trust pension funds where that trust has been in some cases misplaced.

I'm not going to assume it here. I simply want to make sure that the guy on the street who's putting his money into this fund has both errors and omissions coverage statutorily created and a bonding requirement

so that the individuals in the fund are prevented from any malfeasance, whether intended or otherwise, by the trustees of the fund.

I don't mean to imply anything, that anyone here has done anything wrong. But generally when we do give greater flexibility in investment decisions, we should as a matter of statute require that the people who we give that greater latitude with to play with other people's monies, to invest other people's money, that we simply require them to post bonds of adequate measure and that we require them to carry errors and omissions coverage for the trustees, so that the beneficiaries of those funds across the board are protected. It's that simple.

I'm going to vote in favor of Senator Velella's bill, but I would hope that not only I would take a closer look at it but certainly Senator Velella, who's been a member and was certainly the chairman of the Insurance Committee for a long period of time, who knows these issues, knows them cold, would look at this question of as we expand

investment discretion in all of these funds, that we statutorily require them to look at - that we post additional bonds and that they make sure that there's errors and omissions coverage for the trustees in the administration of the funds.

Thank you, Madam President.

SENATOR VELELLA: Madam President, on the bill to close. Unless there's other questions.

THE PRESIDENT: Senator Velella, on the bill.

SENATOR VELELLA: On the bill, Madam President.

I think this is something that's time has come. We have to give the opportunity to this insurance factor in the firemen's package of benefits the opportunity to grow on its own, so it doesn't become a burden to the members in higher premiums.

And I very honestly have taken a look at the safety provisions. I would be negligent in my duties if I didn't take a look at the security of the fund and of the people that are running the fund.

And, Senator Dollinger, I have 100 percent confidence in the members of that board. I don't think we have to raise the bonding provisions. I don't think we have to look at errors and omissions. I think they've been doing a darn good job protecting the firemen of the City of New York in their pension funds, in their insurance package. I have faith in the leadership of that group. And I say that we have enough.

If you want to put in the bill to increase the security factors because you don't have the faith in them, fine. I'll vote against that bill and I'll vote for this bill.

I move the bill, 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 PRESIDENT: Senator Dollinger, to explain your vote.

SENATOR DOLLINGER: To explain my vote, Madam President.

After the closing comments from Senator Velella, which I appreciate -- and I understand that he has extraordinary faith in the representatives of the New York City life insurance fund. I respect that. I respect the individuals who are there. I think I have no basis for doubting or, for that matter, even suspecting that that wouldn't be the case.

But I would just point out that the faith placed in those who are there today can change tomorrow when there are new trustees of the fund. That faith -- circumstances change, and that faith changes.

I would just point out, as I did before, and reiterate, when we give broader investment discretion to people involved in these funds, there's legions of evidence -- my gosh, the treasurer of Orange County in California was a good guy who was trying to do the right thing. He ended up, of course, buying derivatives and costing the county about $2.5 billion.

I'm just suggesting that to benefit those who this fund was designed to protect,

to make sure that their investments are personality-proof, that they don't depend on the particular individual in there, that instead we set up a system in which we protect their investment in the fund. The way to do it is to increase the bonding requirement and increase and provide for errors and omissions policies. Just to add that extra level of protection and make sure that no person is going to be able to engage in nefarious activities with these funds at any time in the future.

I trust the people today. I'm not sure they'll be there tomorrow. And that's what we have to plan for, Madam President.

I vote aye.

THE PRESIDENT: Senator Dollinger will be recorded as voting in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number

90, by Senator Goodman, Senate Print 687, an act to amend the Transportation Law, in relation to disclosure by common carriers.

THE PRESIDENT: Read the last section.

SENATOR DUANE: Explanation, please.

SENATOR DOLLINGER: Explanation.

THE PRESIDENT: Senator Goodman, Senator Duane and others have requested an explanation.

SENATOR GOODMAN: Madam President, this bill has as its purpose the protection of a group of consumers who require the services of moving companies. It's a bill which was prepared pursuant to the preparation of an extensive report on this matter called "Abuses in the Moving Industry: Reforming a Troubled Business," which was prepared in December 1992 by the Committee on Investigations, of which I happen to be the chairman.

The purpose of this bill is to provide protection in the area of insurance of personal goods when a mover transports them

from one location to another. The legislation will require the common carrier of household goods to provide the consumer with a written statement which explains the extent of the liability for loss and protection extended to the goods which are being moved.

Additionally, the common carrier will be required to disclose all protections available under the law, and pursuant to any insurance coverage carried by the common carrier. Moreover, the common carrier would be required to disclose options available to the shipper for making other arrangements for insurance coverage in excess of the minimum liability offered by the carrier.

The carrier is required to present this disclosure to the consumer at least one day before the move, and must also obtain the consumer's signature acknowledging the receipt of the disclosure statement.

If the carrier fails to provide the required disclosure and obtain the consumer's signature, then it's subject to full liability in the event of loss, notwithstanding any limitations contained in the contract or law.

The common carrier could avoid liability only if it could prove that it presented the required disclosure to the consumer and the consumer refused to sign the statement.

Finally, the Commissioner of Transportation is charged with providing guidelines for the form and content of the disclosure statement.

This bill has passed in the Senate every year for the last six years but has failed in the Assembly for reasons that are obscure. When requesting an explanation from their house, they informed us last year that it was caught up in a traffic problem, and that there'd been no substantive objections raised to the bill in the Assembly, to my knowledge.

At this point I think I've given you a fairly full statement. I just would like to find out whether the questioner, whoever he may be, has had a chance to read this report, which fully discusses this question.

Is it you, Senator Duane? Have you had an opportunity to read this report? May I

ask you to yield for just a moment?

Madam President, may I ask Senator Duane if he would be good enough to yield for a moment.

THE PRESIDENT: Senator Goodman, could you repeat -

SENATOR GOODMAN: Would Senator Duane please yield for a moment, Madam President.

SENATOR DUANE: Madam President, I don't have the floor.

THE PRESIDENT: Senator Duane does not have the floor, Senator Goodman. You do.

SENATOR GOODMAN: I'm aware of that. But -

THE PRESIDENT: You have the floor.

SENATOR GOODMAN: -- I wonder, is it necessary for him to have the floor in order to yield at this point?

THE PRESIDENT: Senator Duane has not spoken on this issue.

SENATOR GOODMAN: Senator Duane took the floor to ask me to make my

explanation, Madam President, if I'm not mistaken. Is that correct? I was informed that Senator Duane was the one who raised the question. Therefore, he could have the floor.

THE PRESIDENT: You would like him to yield at this time, Senator.

SENATOR GOODMAN: Yes, I would, if he'd consent to do so.

THE PRESIDENT: Senator Duane, will you yield? Can we move along here?

SENATOR DUANE: Yes.

THE PRESIDENT: Thank you, Senator Duane, for your cooperation.

Senator Goodman.

SENATOR GOODMAN: When you raised the question -- was it you who raised the question regarding this bill?

SENATOR DUANE: Through you, Madam President.

THE PRESIDENT: Senator, he asked for an explanation. As I said, Senator Duane and others asked for an explanation.

SENATOR GOODMAN: Yes, I understand.

Senator Duane, I would ask you as a

matter of courtesy whether you've had the opportunity to read the report which covers this matter which was issued by the Investigations Committee. If not, I'd commend it to you, because I think you will find it most revealing.

THE PRESIDENT: Senator, no response is necessary if you don't think it's appropriate.

SENATOR DUANE: I just -- Madam President, could the author of the report tell me what year the report is from.

SENATOR GOODMAN: I've already said that, Madam President. 1992.

SENATOR DUANE: Through you, Madam President. Well, I don't really know what I'm doing, because I don't feel like I have the floor.

THE PRESIDENT: Do you have a question, Senator Duane?

SENATOR DUANE: I just -- I wasn't here in 1992. I know the years traveling quickly, but -

THE PRESIDENT: Senator, you're either speaking on the bill or you have a

question.

SENATOR DUANE: I do have some questions, if the sponsor will yield.

THE PRESIDENT: Senator Goodman, will you yield to a question?

SENATOR GOODMAN: Yes, I will.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Thank you, Madam President. I'm wondering why this bill is limited only to household moves and not for business moves.

SENATOR GOODMAN: If you'd read our report, sir, you would have noted that it points out there have been substantial abuses recorded in the City of New York which our committee analyzed in detail. And amongst these is related to the shipping of personal -

SENATOR DUANE: Madam President, I just -- I can't hear, I'm sorry.

THE PRESIDENT: Senator, we're having difficulty hearing you.

SENATOR GOODMAN: May I ask for a little order in the house, then, Madam

President. Perhaps it will be easier.

This relates to the report of 1992 to which I referred a moment ago which indicated there were substantial abuses relating to the moving of consumer goods. Thus the bill deals with that area specifically.

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

THE PRESIDENT: Senator Goodman, do you continue to yield?

SENATOR GOODMAN: Yes, I do.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: I'm assuming that the legislation pertains to intrastate moves. Does it also apply to moves that are interstate where the moving company is incorporated outside New York State?

SENATOR GOODMAN: It applies to amy move that occurs within the State of New York, Senator Duane, regardless of its ultimate origin.

SENATOR DUANE: Through you,

Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Senator Goodman, do you yield?

SENATOR GOODMAN: Yes, I do.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: And conversely, does the legislation apply to moves by companies which are incorporated in New York State but which move to -- carry out a move to another state?

SENATOR GOODMAN: Could you repeat the question? I couldn't hear you, Senator Duane.

SENATOR DUANE: Does this legislation also pertain to moving companies which are incorporated in New York State but where the move occurs from New York State to another state?

SENATOR GOODMAN: I just answered that question in the affirmative, Senator.

SENATOR DUANE: Thank you. I apologize. I'm having trouble hearing, and I don't always like to acknowledge that. But

I'll just be more forthright if I don't hear in the future.

I'm wondering if the sponsor would continue to yield.

THE PRESIDENT: Senator, do you continue to yield?

SENATOR GOODMAN: Yes, I will, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Through the last ten years I'm wondering if the sponsor has updated the information.

SENATOR GOODMAN: The question is in the last ten years have we updated the information? Yes, that information is current, Senator.

SENATOR DUANE: Through you, Madam President, then the version that the Senator was holding up is the revised edition of the '92 report?

SENATOR GOODMAN: The '92 report is still applicable to the current circumstances, Senator. There's been no need no revise its fundamental thrust. It would be

an unnecessary expenditure of printing costs to the taxpayer.

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

THE PRESIDENT: Senator, do you continue to yield?

SENATOR GOODMAN: Yes, I will.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: So the sponsor is saying that the information is exactly the same or without any substantial changes from ten years ago?

SENATOR GOODMAN: Do you want to let your friend clarify the question for you? Because I'm not clear what it is you're driving at, Senator. Maybe he can help you.

THE PRESIDENT: Senator, could you clarify your question, please.

SENATOR DUANE: I'm still trying to clarify whether or not the sponsor is saying that nothing has changed in the last ten years in the industry.

SENATOR GOODMAN: I did not make

that statement, Senator. You apparently did not hear my statement. That's not the statement I made.

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

SENATOR GOODMAN: I'll yield to two more questions, Madam President, and I think that should suffice.

THE PRESIDENT: Senator Duane, you may proceed with one or two questions.

SENATOR DUANE: I'm wondering if the sponsor could tell me whether the New York City administration supports this legislation.

SENATOR GOODMAN: The New York City administration has previously indicated full support, and their consumer affairs department realizes that there have been substantial abuses in the moving industry.

SENATOR DUANE: Thank you, Madam President.

THE PRESIDENT: Read the last section.

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

SENATOR PATERSON: Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: I believe Senator Dollinger had a couple of questions. I'm not sure.

SENATOR DOLLINGER: Yes, I do, Madam President.

THE PRESIDENT: Senator Dollinger, do you wish to have the floor?

SENATOR DOLLINGER: Yes, Madam President, if I could.

THE PRESIDENT: Senator Goodman, do you yield?

SENATOR GOODMAN: Yes, Senator. What is your question?

SENATOR DOLLINGER: Through you, Madam President, my question is relatively simple.

Does this provision apply to claims for breach of contract? I know that the statute talks about the carrier's liability created by statute. And I assume it applies to negligence claims. But my question is, does it apply to a contract claim, a straight

contract claim?

I give you $10,000 worth of goods under a contract that you're going to deliver them. For some reason, they aren't delivered. Can I limit my breach of contract damages by that -

SENATOR GOODMAN: This has nothing to do with that particular problem, Senator.

What this says is anytime a move is made and there's a question involving insurance of the contents of the move, that this insurance will be fully explained to the consumer and that the consumer will have to sign a statement stating that the consumer has received that explanation, wherein failure to do this will provide certain penalties to the carrier.

And we're trying to avoid a situation, of which countless examples have been contained in our report, which indicate that when an individual takes insurance out on goods that are being moved and that an insurance claim is ultimately made due to damage to those goods, that they then discover

various defects in the insurance which they never knew existed.

SENATOR DOLLINGER: Perfectly explained, Madam President.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane, to explain your vote.

SENATOR DUANE: Thank you, Madam President.

I'm going to vote yes on this legislation, even though I'm disturbed, and I'm glad that I found out as a result of the debate, how old the information was in the report.

Surely a body like the New York State Senate would be able to update its information from nearly ten years ago. Nearly ten years ago, Curt Kobain was still alive and there hasn't been a war in Yugoslavia. So much has changed since 1992. And I just think

it defies reason that things have not changed in the moving business since then.

In fact, I moved shortly after 1992 myself, and I can tell you that the cost of moving has dramatically increased to the amount that I paid just last month to move my household goods.

So I am going to vote yes, but I do want to caution everybody here that times and circumstances do change.

Thank you, Madam President.

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

Senator Skelos.

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

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

The Secretary will read.

THE SECRETARY: Calendar Number 113, by Senator Lack, Senate Print 2015, an act to amend the Penal Law, in relation to definitions of criminal enterprise.

SENATOR PATERSON: Explanation, please.

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

SENATOR LACK: Gentlemen, could you excuse me, please.

Who requested the explanation, Madam President?

THE PRESIDENT: Senator Paterson did, Senator Lack.

SENATOR LACK: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR LACK: This bill seeks to overturn a decision in the case of People v. Nappo with respect to the state's Enterprise Corruption Act, wherein the court held that the structure of the enterprise is not distinct from the alleged criminal activity, and therefore it didn't come under the Enterprise Corruption Act.

And this bill was introduced by me in 1998 and subsequently passed the Senate three times unanimously, and this year was reported out of the Codes Committee by a vote of 19 to zero.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Thank you, Madam President. If Senator Lack would yield for a few questions.

SENATOR LACK: Yes, Senator.

THE PRESIDENT: Do you yield?

You may proceed, Senator Paterson.

SENATOR PATERSON: Senator, it appears that in the People versus Nappo case from April 14th of 1998 that what the court did was that it over -- it limited the interpretation of what would be the enterprise corruption standard here in the state.

So I think it's a good idea to rewrite the law, because in that particular case it appeared that the 13 men involved, I think they were illegally bringing fuel into the state -- I think that's what they were doing. But in that particular situation, the court held that though they were a criminal

structure, there wasn't a pattern of conduct.

So in other words, it's just that they did it once. And that certainly is not what we would want to have, and not what the federal RICO law provides.

If the Senator would yield for a question, the question is, what does an "ascertainable structure of criminal activity" mean under the legislation?

SENATOR LACK: Madam President, we don't change the definition of the structure in this bill, mainly because the court in People v. Nappo found that the appropriate structure to utilize the Enterprise Corruption Act was present in the pattern of alleged activity of the defendants in the case.

SENATOR PATERSON: Madam President, if the Senator would yield for another question.

THE PRESIDENT: Senator Lack, do you yield?

SENATOR LACK: Yes, Madam President.

THE PRESIDENT: You may proceed,

Senator Paterson.

SENATOR PATERSON: Then, Senator, if we're not changing the definition, is it the definition of pattern of conduct that we're changing? In other words, how are we structuring this subsection 4 in the Penal Law 460-10? How are we changing that to accommodate what we want to achieve in your legislation?

SENATOR LACK: Madam President, you know, the manner by which we write bills in the State of New York doesn't allow the original pattern of activity definition to be included in the bill.

But, Madam President, Senator Paterson is correct, we are changing the definition of pattern of activity as contained in the Enterprise Corruption Act to allow for the fact pattern in People v. Nappo, that it would be part of the Enterprise Corruption Act, by in effect saying that the single - what the court alluded to as a single pattern of activity in effect would qualify under the Enterprise Corruption Act. And then we have, as I said, unanimously passed that bill in

this house three times.

SENATOR PATERSON: That's perfect, Madam President. If the Senator would yield for one final question.

THE PRESIDENT: Senator Lack, do you yield?

SENATOR LACK: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Senator, you've pretty much covered what that subsection would do regarding that particular case. Do you anticipate that there's anything in our enterprise corruption statute that you would further like to correct in future legislation?

SENATOR LACK: Well, Madam President, not at this moment. The Enterprise Corruption Act, because of the complexity of the statute and the cases normally brought under it, rarely have opinions such as what happened in People v. Nappo. And as a result, we have structured this particular bill very narrowly to handle the People v. Nappo

situation and have no further problems with the Enterprise Corruption Act.

Unless sometime in the future some judge someplace in the State of New York makes a ruling like in People v. Nappo in which that judge assumes something with respect to the Enterprise Corruption Act that, in my opinion -- and I would assume the opinion of this body collectively, as shown in the unanimous vote the last three times -- is not what was contemplated by the Legislature in the original 1986 passage of the Enterprise Corruption Act.

SENATOR PATERSON: Thank you very much, Senator.

Madam President, on the bill.

When I first took at a look at People v. Nappo, I was pretty shocked that the interpretation of the court in that case really was so narrow and really didn't favor the value of the public interest, in my opinion. Because this was clearly a criminal structure operating, such as the feds prosecuted under RICO. And it was obvious that this was, you know, what I would call

racketeering.

But interestingly enough, the way the statute is written, the court's interpretation was probably right. So we did need a correction to Section 460-10 and also to the subsection 4 of the aforementioned statute, and we've received that from Senator Lack, and I thank him for his effort.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 115, by Senator Marcellino, Senate Print 106, an act to amend the Vehicle and Traffic Law, in relation to the enforcement of the offense of operating a motor vehicle with a suspended license.

SENATOR PATERSON: Explanation.

THE PRESIDENT: Senator Rath.

SENATOR RATH: Madam President, I'd like to announce an immediate meeting of the Higher Education Committee in Room 324 - 332.

THE PRESIDENT: There will be an immediate meeting of the Higher Education Committee in Room 334.

Senator Marcellino, an explanation has been requested.

SENATOR MARCELLINO: Thank you, Madam President.

This bill amends Section 511 of the Vehicle and Traffic Law by striking the stipulation "upon a public highway" from paragraph A of subdivision 1.

The bill also adds a new subdivision 8 which makes operation of a motor vehicle while a license is suspended or revoked an enforceable offense when such motor vehicle operation takes place on private roads open to motor vehicle traffic, or a parking lot.

SENATOR PATERSON: Madam President, would Senator Marcellino yield

for -

THE PRESIDENT: Just a correction. The room number for the Higher Ed Committee is Room 332.

Go ahead, Senator Paterson.

SENATOR PATERSON: Madam President, would Senator Marcellino yield for a question.

THE PRESIDENT: Senator, do you yield?

SENATOR MARCELLINO: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Senator, in this particular bill obviously the public policy is that whether the offense takes place on public or private property really doesn't make a difference, because the absence of a valid license can cause problems in either jurisdiction. Is that not correct?

SENATOR MARCELLINO: No, it's not, Madam President. Through you. Apparently there are judges who are saying that since the law has the omission or the

loophole in it that it doesn't mention parking lots or private roads, that you cannot ride a motor vehicle in this area without having been subjected to the offense of operating a motor vehicle without a license as long as you're driving on those roads.

So that if you get into an accident in a mall, for example, and you're driving through and someone backs up and you hit them and whatever, and there are injuries, you could suffer the insurance damage. And if someone is injured seriously, you might get involved with a vehicular homicide situation. But they can't fine you or they can't give you the charge of driving without a license once you're on that. The cases have been suspended on that, or at least those charges have been dropped.

We are hearing that police are no longer even issuing the summons because of such a loophole. So we're just trying to plug the loophole.

SENATOR PATERSON: Madam President, if the Senator would yield for -

THE PRESIDENT: Senator, do you

yield?

SENATOR PATERSON: This is perhaps a restatement of my question, but he's actually answered it. That was actually my question, Senator, that the fact that the policy behind the intent of your legislation is that the same types of problems that can accrue from a person operating a vehicle without a license are just as damaging on a private property as they would be in a public place.

SENATOR MARCELLINO: That's true, Senator.

SENATOR PATERSON: Right. That was my original question. The reason I asked it was, does it -

THE PRESIDENT: Senator, do you have an additional question?

SENATOR PATERSON: Yes, I do. I'm sorry, Madam President. If the Senator yields.

SENATOR MARCELLINO: Yes, I do.

THE PRESIDENT: You have the floor for an additional question. The Senator has yielded.

SENATOR PATERSON: Thank you, Madam President.

Then, Senator, my question is while we have plugged the loophole in this obvious situation, have we not perhaps opened the door where there is a distinction between what would be private property as opposed to a public place?

In other words, in your legislation, absolutely. I'm going to vote for this legislation. But what I'm saying is in plugging that loophole, do we open up another one when we include public and private places under the Vehicle and Traffic Law?

SENATOR MARCELLINO: Senator, we tried not to, because we've exempted private residences where the driveway, for example, the private road might be a driveway leading up to a one-or-two-family house. So we tried to maintain an individual's right to privacy and their private property rights in that situation.

We are aiming at these roads that may lead into cul-de-sacs where there are many homes, where someone could, you know,

rightfully say, if they got into an accident on the road leading into it, might be a private road leading into it and which exits onto a main thoroughfare or a main street, and the accident occurs and the police simply cannot deal with them.

What they can deal with on these private roads is a driving while intoxicated. The DWI laws do come under that. They are mentioned specifically in that section of the law, but not the driving without a license section. So we're just trying to close a loophole.

But we did recognize your comment about privacy and think it's well taken.

SENATOR PATERSON: Thank you, Senator.

On the bill, Madam President.

I think that this legislation is so specific that it will not in any way touch on the slight anxiety I have about the privacy issue, and I think that Senator Marcellino explained it.

Certainly the reason the loophole had to be closed is we do not want to reward

anyone through their own malfeasance of duty for an accident or something, some other situation caused by someone who was already not abiding by the law, that they in that respect are -- receive a protection that someone who did abide by the law did not.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: I'll yield to either Senator Duane or Senator Hassell-Thompson, Madam President.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President. If the sponsor would yield.

THE PRESIDENT: Senator Marcellino, do you yield?

SENATOR MARCELLINO: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Thank you. I'm wondering if the sponsor knows if one needs a driver's license to drive on private property.

SENATOR MARCELLINO: To my knowledge, you do not need a driver's license

to drive on private property.

SENATOR DUANE: If the sponsor would continue to yield.

THE PRESIDENT: Senator, do you yield?

SENATOR MARCELLINO: Yes, I do.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Does this legislation involve farms?

SENATOR MARCELLINO: I don't believe so, Senator. But I do believe that if you're driving on a road leading into a farm that exits onto a subdivision or another road -- a public street, for example -- then the law would apply to that road.

If you're driving on the fields, in and around the field, or you have a track on the farm that you use to run a vehicle on or whatever, no, it would not apply there.

But it would apply to the roads that lead into, an entrance onto the -- I believe that's the way the law was written.

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

to yield.

THE PRESIDENT: Senator, do you yield?

SENATOR MARCELLINO: My aide just reminds me, and I'm to correct the statement that I made to you just a few seconds ago, that if the farmhouse has a one-family house on it, under this bill it would be exempted.

I'll yield to another question.

THE PRESIDENT: Senator Duane, you may proceed.

SENATOR DUANE: Why weren't farms included in the legislation?

SENATOR MARCELLINO: I'm sorry?

SENATOR DUANE: Why were farms not included in the legislation?

SENATOR MARCELLINO: I don't think they were excluded, other than the exception that if there is a one-family house, a dwelling, we try to recognize private property on a one-family situation. So if the farm is on how many acres, but it's one family, it wouldn't be included by this bill.

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

to yield.

THE PRESIDENT: Senator, do you yield?

SENATOR MARCELLINO: Yes.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: What if it's a rural property but -- with lots of acres but without a working farm on it? Is that included?

SENATOR MARCELLINO: Madam President, it may well be excluded; it may be included. We'd have to go into that. It's something that -- we're talking about an area here, we're trying to close a loophole for areas where traffic normally occurs.

I don't expect to see traffic occurring on that farm in that rural area that you're talking about, Senator. I think we're carrying it to an extreme on this situation that probably would not include anybody. The likelihood of multiple vehicles being on that farm is next to nil.

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

to yield.

THE PRESIDENT: Senator, do you yield?

SENATOR MARCELLINO: It will be my pleasure.

SENATOR DUANE: Thank you. I'm wondering if the sponsor could help me define, then, what a loophole is if it's not a place where something is presently permitted but which a law seeks to no longer permit.

SENATOR MARCELLINO: Madam President, if I could define "loophole," I'd be in your chair and you'd be down here. Thank you.

SENATOR DUANE: Through you, Madam President, if that's all it takes, I'll come right on up.

THE PRESIDENT: Senator, do you have a question?

SENATOR DUANE: Yes, Madam President.

THE PRESIDENT: Senator Marcellino, do you continue to yield?

SENATOR MARCELLINO: Yes, I'll yield.

THE PRESIDENT: Go ahead, Senator Duane, with a question.

SENATOR DUANE: Is there an emergency provision in the legislation -- for instance, if someone for, you know, an emergency situation has to drive a car, is there a way out?

SENATOR MARCELLINO: You're not allowed to drive if you haven't got a license.

SENATOR DUANE: Through you, Madam President. Not even in an emergency?

SENATOR MARCELLINO: Call a cab. Call a cab. That's my response.

SENATOR DUANE: Thank you, Madam President. On the bill.

I guess the calling a cab comment is what clarifies why farms were excluded, because the cab service to farms isn't generally that good.

I just think that if the -

SENATOR MARCELLINO: Pardon me, I couldn't hear the last remark of the Senator.

THE PRESIDENT: Senator, could you repeat your last sentence for the benefit of the sponsor.

SENATOR DUANE: I said, Madam President, that I guess that we've now discovered the reason why farms were excluded, because farms traditionally have not had good cab service.

Anyway, the -- I understand what the intent of this bill is, but I don't think it closes loopholes. And I think that we need to have emergency provisions for emergencies. And I think legislation of this sort should be crafted to include those kinds of situations.

And I'm also uncomfortable with the differences made between some kinds of private property and other kinds of private property. And I also don't really understand why it is that a police officer, even though it was briefly discussed, would be involved with pulling over a driver on private property. I just don't really see that many circumstances arising that way, and I think it raises issues of privacy and how it is that we define private property.

So I'm going to be voting no on this legislation.

THE PRESIDENT: Senator

Hassell-Thompson I believe was next.

SENATOR HASSELL-THOMPSON: Yes, thank you, Madam Chair. I just have a couple of questions, if the Senator will yield.

SENATOR MARCELLINO: It will be my pleasure.

THE PRESIDENT: Senator, you may proceed.

SENATOR HASSELL-THOMPSON: Thank you, Senator.

Would the penalties or fines that a motorist would face be the same as those on a public highway if the license is suspended?

SENATOR MARCELLINO: The answer is yes, Senator.

SENATOR HASSELL-THOMPSON: And the other part of the question is, does in the court, then, the motorist get the opportunity to plead an affirmative defense in the same manner as if they were on a public highway or a street?

SENATOR MARCELLINO: My understanding is yes.

SENATOR HASSELL-THOMPSON: Okay. Thank you, Senator. Thank you.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Madam President, will the Senator yield for a question?

SENATOR MARCELLINO: It will be my pleasure to yield to the past president of the Italian-American Legislators Association.

THE PRESIDENT: You may proceed.

SENATOR ONORATO: Thank you.

Senator Marcellino, I notice in here regarding the penalties for a licensee who has been suspended, at what particular time -- you know, there's generally a period of time between the actual suspension and the time that the motorist is actually informed that his or her license has been suspended.

You know, what is the procedure to be reassured that the individual motorist has been notified that their license has been suspended and the occurrence did not occur prior to their notification?

SENATOR MARCELLINO: The section of the law that we're pointing out, Senator, reveals a person is guilty of the offense of aggravated, unlicensed operation of a motor

vehicle in the third degree when such person operates a motor vehicle upon a public highway while knowingly operating or knowing that your license has been revoked or suspended.

SENATOR ONORATO: Thank you.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Through you, Madam President, will the sponsor yield to just to two questions? I'll do them one at a time.

THE PRESIDENT: Senator, do you yield?

SENATOR MARCELLINO: Senator Dollinger, you have the floor.

THE PRESIDENT: Senator, you may proceed with two questions.

SENATOR DOLLINGER: Thank you, Madam President.

Does this apply to the use of other vehicles in a parking lot? For example, snowmobiles, all-terrain vehicles that are not allowed on public highways? Would the operation of those vehicles in a parking lot be the basis for enforcement of this statute?

You understand I'm just saying that there are certain vehicles which you can't operate on a public highway. If you operate them in a parking lot, would it apply?

SENATOR MARCELLINO: It would be my understanding, Senator, as long as the vehicle in question has a license requirement to operate it, that this law would be in place.

SENATOR DOLLINGER: Okay. Through you, Madam President. So this bill only applies to the suspension of a license and the ability to enforce it in a parking lot? None of the other vehicle and traffic rules would apply, it's just that suspension of license provision?

SENATOR MARCELLINO: We would not exclude any other laws that are in place currently. By this bill we are simply plugging the loophole that we talked about so that operating in a parking lot or on private roads is in fact able to be enforced. That's all we're doing.

SENATOR DOLLINGER: Just through you, Madam President, one final question.

SENATOR MARCELLINO: Sure.

SENATOR DOLLINGER: In devising this bill, did you consider the implications of allowing the police to in essence make private property public with respect to issues under the Labor Law, with respect to access to public property for purposes of, for example, union representation?

The only reason why I ask, Senator, is that at least in my own practice, the National Labor Relations Board and I think the Public Employment Relations Board in this state have had a huge controversy over the course of the last 25 years about what constitutes public property for purposes of access by solicitors to public property in order to engage in solicitation of employees for other reasons. There's been a huge fight over what constitutes public property.

And the general rule is that a parking lot in a mall, for example, or a parking lot in a supermarket, the parking lot portion doesn't constitute public property. It's only the sidewalk.

And my only question is whether

you've given any consideration to the fact that if we enforce the laws in a parking lot, we're increasing what constitutes public property for other purposes, labor law and other purposes.

SENATOR MARCELLINO: No, Senator, I don't see that as a factor. You open up an interesting situation which might have to be studied further.

However, most -- it's been our experience, at least down where I come from - and I don't think it's different in most places -- most mall operators, most people who operate strip malls or the like usually give the police the right to come on and enforce their traffic or enforce their own parking restrictions. That's generally done by the town boards when they issue the permits to build and all the rest.

So we don't think we're changing anything. We just think, as I said earlier, we're allowing for a technical loophole here to be filled, if you will, so that we can - if a person is involved in an egregious act and they operate knowingly, obviously they

have to drive on the main roads to get to the parking lot where the accident took place. So they were committing a crime on the main road, knowingly committing a crime.

Now they're in a parking lot. If the accident had occurred two feet outside the parking lot, they're liable for a traffic felony for operating without a license. If they go onto the parking lot, have the same accident, you can't charge them. So all we're trying to do is say yes, charge them.

And that, I think, further answers Senator Duane's problem with private property. Because most malls permit the police and encourage and want the police to come onto their lots to enforce the parking problems and settle disputes that occur from them. They don't want to have to hire their own police force to go out and try to ticket people and make them move when they don't want to move. That opens up a whole host of problems. They would prefer the local police to come on board and do that job for them.

So we're not changing any rules here, we're simply making the rules fair to

everybody. Because right now if you operate with a license, you're obeying the law, as Senator Paterson said earlier, I believe. If you're obeying the law, you're penalized on that same parking lot where someone who is breaking the law is not. I don't see how that's a problem.

SENATOR DOLLINGER: Madam President, just on the bill.

I appreciate Senator Marcellino's explanation. I think it's right on the nose. I agree that this is a loophole that deserves to be closed.

The reason why I bring up the issue of what constitutes public property for purposes of enforcement of the law is that there is a longstanding debate in the enforcement of the National Labor Relations Law and other laws about access to what constitutes private property and what constitutes public property.

And, Senator Marcellino, I agree with you that most mall operators encourage the police to come in and enforce and would like to be able to enforce the suspension

provision that you talk about. I think one of the dangers, however, is that there may be instances in which, for some reason, the parking lot owner does not want the police to come on the property. That may create a problem sometime in the future.

But I agree with you. If this is a violation of the law in the public streets, it ought to be a violation on private property that's open to the public, like a parking lot. I just think it would be fascinating at some point, Senator Marcellino, if this bill becomes law, some crafty labor lawyer is going to come up with the idea, Well, gee, they're enforcing state law on this private parking lot, and if that's the case, it loses its identification as private property and becomes more public and therefore should be accessible to the public for other purposes.

It's one of those unintended consequences of what we think is a good and remedial legislation that may actually come back to, at some point, haunt a landowner who has let the police come in and enforce state vehicle and traffic laws in his parking lot.

That having been said, Madam President, I still think it's a good bill, and I'll vote in favor.

THE PRESIDENT: Read the last section.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you. Through you, Madam President, if the sponsor would yield for a couple of questions.

THE PRESIDENT: Senator Marcellino, do you yield?

SENATOR MARCELLINO: Certainly.

THE PRESIDENT: You may proceed, Senator.

SENATOR SCHNEIDERMAN: I'm wondering how you came up with the exception for property on which is situated a one-or-two-family residence.

SENATOR MARCELLINO: It's not on, the mike's not on. Thank you.

See, Senator Gentile, it's not just you. I think it's some of us with names ending in a vowel. We'll have to look into that.

Because, Senator, we're trying to

protect private property. We're just trying to protect the private property owner, the single-family dwelling, that two-family, owner-occupied dwelling, so that the imposition of -- police cannot come on the private property. We're looking at that limitation, that's all.

SENATOR SCHNEIDERMAN: Through you, Madam President, a concern I have that unintentionally, I believe, this actually may discriminate against low-income New Yorkers to the extent they live in -- they're more likely to live in multiple-family dwellings that nevertheless have driveways around them, or trailer parks. And -

THE PRESIDENT: Excuse me, Senator. Do you have a question?

SENATOR SCHNEIDERMAN: Yes. And -

THE PRESIDENT: Senator Marcellino, do you continue to yield?

SENATOR MARCELLINO: Yes, I would. But I would also just indicate -- I do yield to the Senator's next question, but I would just like to indicate, as I am reminded,

that this language is in the DWI section of the statute. So we mirror Section 1192, I'm told.

As you know, I am not an attorney, I'm a civilian. And so I yield to staff on the expertise on that. But this is mirrored language that we took from one section of the law to make it apply here.

So it already exists, that problem you're talking about.

THE PRESIDENT: Senator Schneiderman, you may proceed with a question.

SENATOR SCHNEIDERMAN: Thank you. Through you, Madam President.

Would you be receptive to broadening this effort to address this possible, unintentional discrimination that exists, as you've kindly pointed out, in the existing law, to try and accommodate more low-income New Yorkers who live in multiple-family dwellings, four-family homes, or trailer parks?

SENATOR MARCELLINO: That's certainly something we might look at. But I'm not looking to amend this particular piece of

legislation at this moment. But we'll look at it.

Send us something -- quite seriously, in all earnestness, if you can send us something in writing, we'll be happy to look at it.

SENATOR SCHNEIDERMAN: Okay. Thank you. Through you, Madam President, on the bill.

I appreciate the sponsor's courtesy, and I will follow up on that.

I do have a concern that in many areas of the law, intended or unintended, there exist many, many small instances of discrimination against poor and working people in our state. And I think that the difficulty I have with the way this is drafted is that it exempts property -- and it could be a huge estate with lots of roads on it, but if there's a one-family house on it, that's exempt. Whereas a small area where several people live in a four-family house or in a couple of trailers that has a relatively small area that would -- I would think would be a more suitable target for an exemption from

this rule, they wouldn't be exempt.

So I think that there is a -- if I can put it this way, and I don't think this is in any way intentional, there's a kind of a class bias built into the way this is drafted.

I will take the sponsor up on his offer to try and work with him to come up with a solution to the problem. Because it's clearly a well-intentioned bill that fills a need that we have.

Thank you, Madam President.

THE PRESIDENT: To close debate, Senator Marcellino.

SENATOR MARCELLINO: If there aren't any other questions.

But the -- I'm glad I listened to the Senator's comments, because the further explanation going into this class-bias business bothers me.

If I lived in an apartment complex where we had a parking lot, this bill would apply. I think they would want it to apply. Why should a person living in an apartment complex or a trailer park, which may have extensive roads leading in and around the

various trailers, and to them, not be protected from an individual who is driving without a license?

Why should I be able to get in and run somebody over in a -- I don't mean to make light of this, but this is what you're saying, I should be allowed to run somebody over and not be ticketed for a felony because it's an apartment complex.

I don't see that. We restrict the one-family and the two-family house because that's usually a local driveway, and it's small and short. You're not going to get too many other people on it but the owner. But when you get into multiple-dwelling areas, other people drive on those roads, and those internal roads.

So, yes, this law definitely should apply. That's not class warfare. It would be class warfare to do it in the reverse, in my opinion.

THE PRESIDENT: Read the last section.

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

November.

THE PRESIDENT: Senator Duane, to explain your vote.

SENATOR DUANE: Thank you very much, Madam President. To explain my vote.

I'm hopeful that the sponsor was not implying in the debate that if someone gets run over in a parking lot now there is nothing in the law that would make it possible to prosecute the person that did the running over. Far from it. There already is -- there already are laws in place to prosecute.

You know, I know that some would say that debates are a waste of time. And I disagree. I think that we've gotten a lot of good information by having this debate on the floor. I might say that it's a waste of time in that this sort of discussion should go on in committees, but that very rarely happens in this body that this kind of discussion goes on in committees.

So to have the debate on the floor here today I think was helpful. We found out, for instance, that you don't need to have a driver's license to drive on private property.

We discovered that there might be some class bias in the legislation. You know, many things. Debates are very good. Perhaps we've, you know, encouraged people to update ten-year-old information and that sort of thing.

So I'm a big fan of having debates on the floor, particularly when we're debating bills that really should have had this kind of discussion in committees but unfortunately don't have this kind of scrutiny in committees. So until that changes, I think that it behooves us to make sure that all of our questions are answered before we actually vote on any piece of legislation.

But I will be voting no on this legislation. Thank you, Madam President.

SENATOR MARCELLINO: Madam President, to explain my vote.

THE PRESIDENT: Senator Duane, you will be recorded as voting in the negative.

And we need the Secretary to call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Yes, Madam President, to explain my vote.

I'll state it again, there is no class bias in any way, shape or form within this bill. I don't think we discovered there was. I think we in fact discovered there was not.

The fact that we cannot run somebody over on private property is clear. We argue that that is true. What we're saying, Senator, is that -- and through you, Madam President, is that we would like to be able to punish that person with the traffic violation in addition to those other charges that would be brought against them for committing that heinous act. Right now they get away with it.

You as an honest citizen who keeps your driver's license current would not get away with it, but someone who is careless and just doesn't give a darn can get away with that section. We don't think that's correct. We think everybody should be held equally

under the law.

Madam President, I vote aye.

THE PRESIDENT: Senator Marcellino, you will be recorded as voting in the affirmative.

Senator Stachowski, to explain your vote.

SENATOR STACHOWSKI: Madam President, to explain my vote.

I enjoyed listening to the debate. And if there is in fact a loophole for people with suspended licenses, then I'm going to support Senator Marcellino's effort to close the loophole, because I don't think people should be driving around with suspended licenses. I know that in some cases they do, and they do it intentionally.

I mean, once in a while you have a rare case where the wrong person's license gets suspended by accident, and they obviously still have their right to a proper defense in the court situation, so that that would be rectified.

But there are far too many people driving with their license knowingly suspended

because of either too many violations, no auto insurance, or they lost their license because of DWIs that they previously had and they're currently driving without it, knowingly, and someone else had got them their plates, oftentimes the wife in the family. Or vice versa, the husband got the plates and the wife's driving without a license because she had lost it.

So I'm not being -- I'm being equitable in my gender disbursement of who's driving without licenses because of losing it because of driving either drunk or impaired or whatever the charges were that finally caused them to lose their license.

But there are a large number of those people driving around. And if they were getting away once in a while by being on a private parking lot, this will stop that from happening. I'm glad to see it happen, and I vote yes.

THE PRESIDENT: Senator Dollinger, to explain your vote.

SENATOR DOLLINGER: Thank you, Madam President. I'm going to vote in favor

of this bill.

And I just want to applaud Senator Marcellino for including the home driveway exception. I think every kid in my neighborhood when I grew up who was between the age of 13 and 16, we had the only house in the neighborhood that had a little turnaround in the back yard. And I think everybody between the age of 13 and 16 drove my father's car up and back and performed the K-turn, including, at one point, Senator Marcellino, my unlicensed 11-year-old brother.

So I think it's the right thing to do. I think Senator Schneiderman's question raises the broader issue of what do we do for families that weren't in that situation. But I know a whole group of people who learned to drive in my father's car in our back yard without his authority, without his approval, without a license, and we're all still here today.

I vote aye, Madam President.

THE PRESIDENT: Senator Schneiderman, to explain your vote.

And Senator Stachowski and Senator

Dollinger will both be recorded as voting in the affirmative.

SENATOR SCHNEIDERMAN: Thank you, Madam President, to explain my vote.

I am going to vote for this bill. I think it's a good piece of legislation. The issue that I was trying to raise before was not intended to suggest any animus behind the bias. I just am concerned that there's a sort of a loophole left within the loophole that's being closed.

And I wasn't thinking of -- listen, a multiple-family dwelling, a 40-family apartment house, of course this should be enforced there. I'm thinking, though, that if you have a large estate that has servants coming and going and lots of activity, that would be exempt under this rule, whereas if you have three people living in trailers on a piece of property, they wouldn't be. There are many places in this state where you have houses that have been converted to four-family occupancy.

And I do think that there may be room to adjust this with regard to the actual

use of the property or, you know, some other parameter other than just it being a one- or two-family residence. I can understand, listening to the sponsor, why that was selected. I think, though, it does leave some places out that should be included in and includes some areas of driveways in that probably should be excluded.

But overall, I can't disagree with the intent and the thrust of this, and I will try and make some suggestions for how to improve it. I vote yes.

THE PRESIDENT: Senator Schneiderman, you will be recorded as voting in the affirmative.

Senator Lachman, to explain your vote.

SENATOR LACHMAN: Yes, on the bill.

I want to commend Senator Marcellino. Within the parameters of the legislation, this does fill a loophole and improves what has to be improved, especially with people, whether they're young people or middle-aged people or older people, who are

driving around without a license.

So I vote aye.

THE PRESIDENT: Senator Lachman, you will be recorded as voting in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 56. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 118, by Senator Maltese, Senate Print 1854, an act to amend the Vehicle and Traffic Law, in relation to increasing the penalty for obstructing access.

SENATOR PATERSON: Explanation.

THE PRESIDENT: Senator Maltese, Senator Paterson has requested an explanation.

SENATOR MALTESE: Madam President, this bill is an act to amend the Vehicle and Traffic Law in relation to increasing the penalty for obstructing access by a fire vehicle to a fire hydrant during the time of emergency operation.

The bill provides, as it states, that during a time of emergency, if access by a fire vehicle to a fire hydrant is impaired by a vehicle left unattended by a licensed operator, such person shall be in violation of a traffic infraction and shall be the subject of a fine of not more than $300.

Essentially, the change is adding the fine of not more than $300 to the present fines. And the stipulations are such that there has to be actual access hindered by, and the vehicle has to be a fire vehicle engaged in an emergency operation.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, would Senator Maltese yield for a few questions.

SENATOR MALTESE: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Senator, do we have a fine for emergency situations where a fire-fighting vehicle needs access currently?

SENATOR MALTESE: Yes.

SENATOR PATERSON: How much is that fine?

SENATOR MALTESE: Well, that fine is set out in the present statute. And a first conviction shall be punished by a fine of not more than $100 or imprisonment of not more than 15 days or by both. A second violation -- a second conviction within 18 months would be $200 or 45 days. And a third conviction would be $300. And that of course would be added -- that would be added to the $300 that this legislation would add.

This legislation is not simply for a hydrant being -- the space in front of a hydrant being occupied within the foot limitation. This is actual -- if an actual emergency take places and the hindrance actually takes place.

SENATOR PATERSON: Thank you, Madam President. If Senator Maltese will continue to yield.

THE PRESIDENT: Senator, do you yield?

SENATOR MALTESE: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Senator, I appreciate that you drew up the legislation with the intent of an emergency situation in mind, because normally, with the overcrowded parking conditions, particularly in New York City, with which you and I are both familiar, a technical violation could be a car whose wheel exceeds the limitation. And that kind of a fine I think would be prohibitive.

But because it's an emergency situation and because there is actual limited access, I think the bill is drawn up very well.

My question relates to the vehicle itself. Do we tow the vehicle and then also pass that cost along to the operator in addition to the fine? Or have you any suggestion for what happens to the vehicle when the access is limited?

SENATOR MALTESE: Madam President, it's not set forth in the law, but I am familiar with what the fire personnel do. As a matter of fact, I have actually seen them

with the hose, the nozzle of the hose, break through the glass on one side of the vehicle, break through the glass on the other side of the vehicle, and take the hose through the vehicle. Which is not necessarily beneficial to the vehicle itself, but certainly makes a good point.

In addition, I assume all the normal towing rules would apply and the vehicle, when towed, would be subject to the increased fines.

SENATOR PATERSON: And a final question for Senator Maltese.

You haven't changed the likelihood of imprisonment that exists in the law right now, have you?

SENATOR MALTESE: No, I have not.

SENATOR PATERSON: Thank you, Senator.

Madam President, on the bill. I don't have any further questions. This is fine. I'm sorry we don't have a fire hydrant in the chamber. That way maybe I could get some water right now. I've been debating for a long time.

THE PRESIDENT: Read the last section.

Senator Onorato, to explain your vote.

SENATOR ONORATO: Madam President, will the Senator yield to a question?

SENATOR MALTESE: Yes.

SENATOR ONORATO: Senator Maltese, just for clarification, what defines obstruction of the fire hydrant? You know, sometimes there's markings that are not visible. Some fire hydrants are actually marked with the amount of feet that you're supposed to allow for clearance.

Now, are you referring to strictly that if they're directly in front of the hydrant that they cannot actually get their hose to it without going through the windshield or through the side window -- say if it's five or six feet or eight feet, rather than the current law, whatever that happens to be, 18 feet, which I'm not completely familiar with. I'd just like a clarification of that aspect of it.

SENATOR MALTESE: Madam President, the normal distance required by the signage at the location would apply. It's normally within 15 feet, as set forth in the law, unless there's another sign at the location itself.

So in this case I believe the law would apply, depending on the signage at the location. And it would not put it -- impose any new requirement as far as a hindrance or impairment of access.

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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 119, by Senator Kuhl, Senate Print 2101, an act to amend the Highway Law, in relation to the temporary discontinuance.

THE PRESIDENT: Read the last section.

SENATOR PATERSON: Explanation.

THE PRESIDENT: Senator Kuhl, an explanation has been requested by Senator Paterson.

SENATOR PATERSON: Thank you, Madam President.

The purpose of this bill is very, very simplistic. It is to save monies and an additional requirement currently on towns.

Currently in law there is a designation for what are called seasonally limited-use highways. And there's an exception that's provided to towns to allow them to discontinue snow and ice removal and maintenance from the first of December until the first day of April. And -- or, excuse me, May. December, excuse me.

And what the bill does is it changes the designation from the first day of December to the first day of November and from the first day of April to the first day of May.

With changing weather patterns, it

seems as though we have snow earlier in the fall and we have it later in the spring. And so this is an attempt to try to provide some fiscal relief to town governments across the state.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, if Senator Kuhl would yield for a question.

THE PRESIDENT: Senator, do you yield?

SENATOR KUHL: Yes.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Senator, is there a significant savings? I know that it has snowed in November and also in April - definite evidence of global warming. But the question is, is there that much savings? Have there been that many incidents that it's going to benefit us to expand the time period by two months?

SENATOR KUHL: Well, what's interesting, Senator, is that there's no way to estimate what the savings will be, simply

because you don't know whether it's going to snow in April or November.

But if it does snow, there is currently a requirement of these towns to actually plow these roads. Now, these roads, keep in mind, are roads that are designated as temporarily seasonal. They provide paths of journey really for ease. There are no residential units on them, there are no commercial establishments on them. So there is no service to any kind of an individual or constituent within these towns. But there would be an additional requirement all of a sudden, under the law, to go and plow these roads when it would be of virtually no use.

So the law currently is kind of nonsensical, if you will, in a way. And it would definitely provide savings and certainly would, if you want to think about it in longer terms, would provide an ease of liability. Because if a town was not -- if there was a snowstorm, say, in April or in November and they didn't plow and for some reason somebody ran out, and all of a sudden there's a requirement now in the law for them to plow

and they haven't, well, you don't know what's going to happen. And so there's a two-sided prong of savings in this particular bill.

SENATOR PATERSON: Thank you, Madam President. I have one last question for Senator Kuhl if he would so yield.

THE PRESIDENT: Senator, do you yield?

SENATOR KUHL: I'd be happy to.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Senator, the law as I see is it is also difficult to understand. And could you clarify for me what happens right now if the towns are not within compliance of the statute? In other words, if it snowed this April and a township didn't plow, what are the penalties for failure to do so?

SENATOR KUHL: I don't know as the towns really are neglectful of their responsibility, Senator. I think that this bill came about as a result of a requirement that they do in fact plow.

And what you find is that -- again,

as I said, it's kind of a useless exercise and a costly exercise, because the law requires them to plow these roads that aren't being utilized and haven't been utilized, but the law says that they shall, unless it happens to be from the first of December through the first of April. So if you have those snowstorms, they are doing that.

And they brought this to my attention and said, Look, that's a requirement that we don't think makes a lot of sense, because there are no constituents being served. And if we have to use our personnel to plow those roads, then it takes them away from roads where people actually live. And you're costing us money to do that, and time and expense, from being away from actually providing the service to the people who are demanding the service, those people who live on town roads and have residences there or who have commercial establishments.

So it's one of those things that I guess, just as you mentioned, whether it's global warming or whether it's just the good grace of God who's trying to have us enjoy

winter a bit longer, I do not know. But in any case, it's a requirement that I think doesn't really fit its purpose at this point, and we should amend the law to relieve these towns from this responsibility.

SENATOR PATERSON: Thank you, Madam President, on the bill.

I didn't mean to imply that the towns would be derelict in their duty. I was just asking what was the current penalty if a town did not plow those particular roads.

My suggestion actually is to leave the time periods out, period, and to just put into the statute that when it snows -- I think that would be the simplest way to do it, when it snows -- that the townships can have these low-access roads that they are not required to plow, in favor of plowing the more utilized roads to make sure that there is activity and commerce and movement during those snow periods.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, if the sponsor would just yield for a brief

question.

THE PRESIDENT: Senator Kuhl, do you yield for a question?

SENATOR KUHL: Yes.

THE PRESIDENT: You may proceed, Senator Schneiderman.

SENATOR SCHNEIDERMAN: I don't have any sense of this, because I must admit this is relating to areas that are mostly far different from my district. What do you estimate the fiscal impact, if any, of this will be?

SENATOR KUHL: I don't think we know, Senator, because you're dealing with an unknown. Is it going to snow tomorrow? Is it going to snow on Friday?

SENATOR SCHNEIDERMAN: I hope not.

SENATOR KUHL: On Saturday? We may still be here debating this bill on those occasions.

But I'm just saying to you if it snows, not this month but next month, then there's a requirement for those towns to actually eliminate the snow from roads that

aren't used at this time of year.

These roads that you have to mind -- see, Senator, your district is just a little bit different from mine. And just to expound on this a little bit, I have 74 town units in my six counties that I represent all or a portion of. There's 74 separate municipal governments. Okay? This doesn't include the cities, this doesn't include the counties, this doesn't include other villages. There are many of those too.

But the towns, their major responsibility is to provide a road network. Many of these town roads link farms. Okay? Or they're back access across one hill to another. There's nobody living on them, but they are shortcuts in or around the geographical territory.

Just to give you a better perspective, the 74 towns that I represent areawise, geographically, are more than 3,000 square miles. That's larger than the state of Rhode Island, larger than the state of Delaware, about half the size of the state of Connecticut. Land is everywhere. And so

there's this communication, this network of roads that links it. But many of them are not traveled during the winter.

And so what you'll find is in dealing with town governments, the road operation is probably 80 to 90 percent of their total budget. And if all of a sudden they're required to plow roads that have no use during -- connecting farms, getting, moving commerce around, during the times of a harvest or planting, okay, then in fact you're requiring them to expend resources that can be better spent in other areas.

And that's what this bill is. It just simply says, you know, take the responsibility off for snow and ice removal a little earlier in the fall and extend it a little later in the spring. And so the fiscal impact, there's an implication, but it all depends on how many times does it snow in April, how many times does it snow in November.

SENATOR SCHNEIDERMAN: Thank you. Through you, Madam President, if the sponsor would yield for another question.

THE PRESIDENT: Senator Kuhl, do you yield?

SENATOR KUHL: I'd be happy to.

SENATOR SCHNEIDERMAN: Then do I understand it will be up to each of these jurisdictions to designate the roads that would be subject to this provision? Or how are the roads that are plowed as opposed to the ones that are not plowed designated?

SENATOR KUHL: The roads are designated now by the municipalities as to whether or not they're temporary seasonal highways. They have to meet certain criteria. The criteria are that there are no residences, no commercial establishments on those highways. That's the only way that they can designate those. And they have to do that by local declaration. Each one of those towns sets that out in that pattern.

If they don't designate them as seasonal highways, then they have to provide annual maintenance to them. Which means they have to plow the roads, they have to maintain them, pave them, or whatever it happens to be.

SENATOR SCHNEIDERMAN: Thank you,

Madam President. When you're right, you're right.

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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 125, by Senator Maltese, Senate Print 2089, an act to amend Chapter 164 of the Laws of 1907, relating to the incorporation of the Queens Borough Public Library.

SENATOR DOLLINGER: Explanation, please.

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

SENATOR MALTESE: Yes. Madam President, this bill would -- relates to the incorporation of the Queens Borough Public Library and authorizes the Speaker of the City Council to serve ex officio on the board of

trustees. At the same time, we took the opportunity to change the reference to the President of the City Council, which was the title at the time, up until 1994, to Public Advocate.

This bill was introduced at the request of both the executive director of the Public Library, Queens Public Library, Gary Strong, and the Speaker of the City Council.

It's fair that since the other three citywide officials are represented on the board of trustees of the Queens Public Library, that the Speaker also be represented. And it brings the terminology of the legislation up-to-date with the change in the title of the Public Advocate.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Will the Senator yield for a question?

SENATOR MALTESE: Yes.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: What is the current composition? How many members are

there currently on the library board?

SENATOR MALTESE: I'm not aware of how many members are on, but the -- I'm aware of the fact that the compensation is nil. It is a pro bono board. And it is a board in the finest example of public service. They spend a great deal of time on the activities of the Queens Borough Public Library.

As the present legislation indicates, all five ex officio officers are the President of the City Council, the Mayor, the Public Advocate, if this legislation is passed, and the Comptroller. In addition, the President of the Borough of Queens serves ex officio.

The trustees, so far as I know, I believe there are approximately 12, since I have participated in events and functions of the board and do not recall more than 12. I believe, like any board of trustees, this may not be set forth in legislation and may be up to the board that does all governing for the Queens Borough Public Library.

SENATOR DOLLINGER: Through you,

Madam President, if Senator Maltese would continue to yield.

THE PRESIDENT: Senator Maltese?

SENATOR MALTESE: Yes.

THE PRESIDENT: You may proceed.

SENATOR DOLLINGER: The reason why I asked the question about what the current composition was, how many members, is that most boards that are chartered by the state have an odd number of members to prevent that situation in which a tie would occur, that there would be either nine members or seven members instead of eight or 10.

The reason why I asked the question is because not only are you changing the title, but you're adding one more member to this board. And my question is, will there now be an even number of members on this board, which carries with it that possibility of a tie vote?

SENATOR MALTESE: Madam President, I've been involved in civic and community affairs for many years. And fortunately, the Queens Borough Public Library is not an arena of confrontation. And

ordinarily, all proposals are fairly unanimous and they have a very harmonious atmosphere at the meetings.

Should there be a real question that would be in peril of being decided by a close vote, I don't think that would outweigh the fact that the Speaker of the City Council should be excluded from appointing a representative, especially in this case, while he is presently seeking other office. The President of the City Council is a Queens resident. So we have the situation that a Queens resident who previously served as the city councilman from Astoria, who was very, very active in civic and community affairs, would be denied the right to have any real input by serving as a member of the board of trustees.

SENATOR DOLLINGER: Through you, Madam President, if Senator Maltese will continue to yield.

THE PRESIDENT: Senator, do you continue to yield?

SENATOR MALTESE: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: Senator Maltese, your last answer brings up my next question. Currently, the Mayor, the Comptroller, the Public Advocate all run citywide. So they're all elected by citizens of Borough of Queens. In addition, as you properly point out, the current Speaker of the City Council is also from Queens.

But what happens and would it be appropriate for the Speaker to have a designated representative on the Queens Borough Library if the speaker comes from Staten Island or Brooklyn or some other place?

I mean, I understand your need to include public elected -- officials elected citywide should have a representative. But the Speaker of the City Council may come from some other borough, unlike -- well, next year may well come from some other borough, since Speaker Vallone faces term limits.

And my question is, is it appropriate for the Speaker of the City Council, who is not elected in the Borough of

Queens, may not even be from Queens, to have a voice on the Queens Borough Memorial Library?

SENATOR MALTESE: Madam President, first of all, I do not -- I am not aware of other legislation that would or would not deny the power to vote to these ex officio members. Ordinarily, ex officio members would not vote. I don't -- so whether or not there could be a tie vote or they would be the deciding vote in a tie, I'm not aware of.

But certainly the fact that they are residents of Queens or the City of New York -- while in this particular case, I wanted to give the opportunity to Peter Vallone, as a resident of Queens who has had considerable input, to serve. This is not a case where they delegate responsibility. They themselves serve as members of the board.

At the same time, the City of New York funds a major portion of the Queens Borough Public Library. And the representatives, the elected representatives of the City of New York have control over at least that considerable portion of the funding. And at the same time, we see, for

instance, during the tenure of Mayor Giuliani and Borough President Claire Shulman that we have seen a considerable increase in the funds available to the Queens Borough Public Library.

And because of the efforts of the Queens delegation in both the Senate and the Assembly, we have seen not only member items enhancing the prestige and influence and spread of the Public Library, but also capital grants that have enabled us for the first time to expand our Queens Borough Public Library, which I'm told is the largest -- next to Manhattan, the largest public library system in the entire United States. Certainly the most diverse culturally.

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

I commend Senator Maltese for hitting my softball well out of the park. It's on its way out of Queens and well into Brooklyn, on its way to the ocean. He struck it with authority.

But I think the only question I raise here -- and I think, first of all, my

experience would be ex officio members do have the power to vote. The only difference between ex officio and regular members is that they sit there by virtue of their office. So my guess is when you add another member to the board, you may run into the possibility of a tie.

And the second question is, allowing the Speaker of the City Council to make an appointment, because Speaker Vallone is from Queens currently, it seems to work. If that Speaker comes from Manhattan, Brooklyn, the Bronx, or wherever, it may not work as well in the future. And if this bill goes to the Assembly and if there's some difference of opinion with our Assembly colleagues, I would suggest that the Queens delegation to the City Council have the power to designate that person that sits on the board of the library.

But other than that, I'm not opposed to increasing public officials' participation in libraries. I'll be voting in favor, Madam President.

THE PRESIDENT: Senator Smith.

SENATOR ADA SMITH: Thank you very much, Madam President. On the bill.

Since the Queens Public Library's main office is housed within the 12th Senatorial district, I stand to support my colleague in this wonderful bill. Not only the fact that our Speaker, Peter Vallone, comes from Queens, but I think that this would enhance the opportunity for our next Speaker, whoever he or she may be, or wherever they may come from, to continue what has been started by creating funds and giving funds to the Queens Public Library, which is so very necessary.

And I beg to differ with my colleague who thinks that this will make an even number. I believe that we have an even number, and this addition would make it an odd number of board members. So that would eliminate any problems of a tie vote.

And I'm very pleased that this legislation has been introduced, and I will be most supportive.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Madam

President, on the bill.

I'd like to commend Senator Maltese for this piece of legislation. You know, Queens County, outside of Manhattan, does have the largest library system in the City of New York, and has the most usage of -- and this is probably why Queens County rates one of the highest scholastically in the City of New York, because they do use the public library.

And I think by adding an additional member to that board, especially in view of the fact that Councilman Vallone, who is from my own district, would be a member of that board, would certainly add a lot more luster to the board. And perhaps we'd get the equivalent funding that we justly deserve for the amount of use that we have for the second largest borough in the City of New York.

So I will be voting 100 percent in favor of this piece of legislation. Perhaps we can get two members from Queens on the board, which would make it doubly good.

THE PRESIDENT: Senator Smith.

SENATOR MALCOLM SMITH: Yes,

thank you very much, Madam President. On the bill.

I just rise to speak on behalf of my Christ the King colleague, Senator Maltese, who I believe, as Senator Dollinger said, has clearly hit a home run, possibly a grand slam. Because in my experience, being an ex officio member of the board of at least the public library system in New York City, it actually affords you the opportunity to be of assistance to.

So by virtue of giving the access to our current Speaker -- and if in fact down the road it becomes the Speaker is from Staten Island, even having an ex officio member there, I would assume that my colleague Senator Gentile would make sure that Queens would still be taken care of. So I'm not too concerned about it.

But I would say of my colleague that I think he's actually hit the mark on this one. It's something that will be very helpful to us in Queens. And I look forward to voting in favor of this and am hoping to endear all my colleagues on this side to do

the same. Thank you.

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 PRESIDENT: Senator Dollinger, to explain your vote.

SENATOR DOLLINGER: Just to explain my vote, Madam President.

The debate is always enlightening. I appreciate Senator Ada Smith's comments about balancing of the board and eliminating the possibility of a tie. I'd asked that question of how many members there were.

And I think this is a good bill that the members from Queens have stood up - and these are your three base runners, Senator Maltese when you hit that grand slam. I would add that it would be a game-ending grand slam home run, Madam President, were the names of all the members of the Queens delegation in the Senate on the bill.

I vote aye.

THE PRESIDENT: Senator Dollinger, you will be recorded as voting in the affirmative.

Senator Duane, to explain your vote.

SENATOR DUANE: Thank you, Madam President.

I was tempted to recuse myself, because I spent a lot of time in the Queens public libraries. My particular branch was the McGoldrick branch of the Queens system. And what was most unusual about the McGoldrick branch is very few -- in fact, I think there's only two in the library system, only two branches are named after an actual person. So the McGoldrick really stands out in that way.

And while I now rarely use the services of the McGoldrick branch, I can assure you that my mother, on a very regular basis, is a customer at the McGoldrick branch. Of course it's a new branch now, it's been rebuilt. It's next to McDonald's now. It used to be on Crocheron Avenue, but it's not there anymore. But it still has the same wonderful selections of books for people of

all ages.

And I'm glad that the Speaker of the City Council will be able to be involved in the furtherance of literacy and reading in the wonderful borough of Queens.

Thank you, Madam President. I'll be voting yes.

THE PRESIDENT: Senator Duane, you will be recorded as voting in the affirmative on this bill.

Senator Schneiderman, to explain your vote.

SENATOR SCHNEIDERMAN: Thank you, Madam President, to explain my vote.

It's hard to argue with this bill. I think it corrects an outdated error in the current law. However, I would like to urge my colleagues that the current Speaker of the City Council actually did raise the issue of our failure in the State Legislature to provide the funds for these libraries in a speech two months ago or so that I was privileged to attend.

So I hope that in addition to doing these more cosmetic pieces of legislation we

will, when the budget battle heats up in the next month, address the crying need of many libraries in New York City for additional funding for them to update and be as good as our communities deserve.

Thank you. I vote yes.

THE PRESIDENT: Senator Schneiderman, you will be recorded as voting in the affirmative on this bill.

The Secretary will announce the results.

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 129, by Senator Stafford, Senate Print 1054, an act to amend the Environmental Conservation Law, in relation to nonhazardous municipal landfill closure.

THE PRESIDENT: Read the last section.

SENATOR DOLLINGER: May we have an explanation, please, Madam President.

THE PRESIDENT: Senator Stafford, Senator Dollinger is requesting an

explanation.

SENATOR STAFFORD: Mr. President -- Madam President, excuse me.

THE PRESIDENT: Thank you, Senator Stafford.

SENATOR STAFFORD: I said I'd never make that mistake, and I haven't done it this year until just then. It will never happen again.

THE PRESIDENT: I won't take it personally, Senator.

SENATOR STAFFORD: Excuse me.

THE PRESIDENT: You may proceed.

SENATOR STAFFORD: Madam President, this bill passed in 1994, '95, '96, '97, '98, '99, and 2000. No opposition.

What this bill does is rather than having municipalities reimbursed for closing landfills, 3,500 population or less, this moves it up to 10,000 population or less.

It's very important for the municipalities. It's a bill we need. And we appreciate it being considered today.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Madam President, if Senator Stafford will yield just for one question from me.

THE PRESIDENT: Senator, will you yield?

SENATOR STAFFORD: I will.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: I think I've voted for this bill every one of those years.

My only question is, why won't the Assembly pass this bill if the apparent beneficial impact -

SENATOR STAFFORD: Good question. And I made -

SENATOR DOLLINGER: -- is to make more communities eligible for these landfill closure reimbursement funds?

SENATOR STAFFORD: It's an excellent question.

And as I mentioned the other day on another bill, I'm sure it's the staff of the Assembly, the staff is giving very poor advice to the members. And I would hope that the staff would see the light, so to speak, and

make sure that the right information is provided to the members.

SENATOR DOLLINGER: Again through you, Madam President, just -- if Senator Stafford will yield just to one other question.

SENATOR STAFFORD: I had -

THE PRESIDENT: Senator -

SENATOR DOLLINGER: I know, but I didn't get the rationale of why the Assembly won't do it. I assume -

THE PRESIDENT: Senator, do you yield?

SENATOR STAFFORD: All right, I will go over it again. The rationale is - that's the correct pronunciation, by the way.

SENATOR DOLLINGER: Absolutely.

SENATOR STAFFORD: The rationale is that members of the Assembly of course get advice from their very able staff. And I would suggest that the staff is giving advice less than correct. And I hope they will do some research and provide the correct information to the members.

SENATOR DOLLINGER: Thank you,

Madam President. It's always an interesting question and answer with Senator Stafford about why bills won't pass the Assembly. I'll just address it on the bill, Madam President.

We have done this bill for I think almost every year since I've been here. And every year, I think, with -- Senator Stafford we had a couple of conversations way back in the mid-'90s about the merits of this bill and why increasing it from 3,500 to 10,000 was appropriate. Because we're obviously expanding the number of communities that would qualify for reimbursement of these funds.

But my understanding is these were 1986 Bond Act funds. I'm not sure how much of the 1986 Bond Act is left. I'm not sure that there are actual applications filed by communities between 3,500 and 10,000 and how much it would cost to cap or remediate the landfills that are subject to closure.

And quite frankly, it seems as though there's something driving this bill but the Assembly doesn't seem to want to go along with it. And I would suggest until we get a better explanation for what the Assembly

position is, it's difficult for me to make a judgment.

I've voted for it in the past; I'm going to take Senator Stafford's word for it this year again. But I'd love to know why the State Assembly couldn't simply expand the available funds for landfill closures in small communities in this state that is - apparently there's some fund that says only little tiny communities, those that have less than 3,500 people, qualify. And Senator Stafford is now suggesting that that small size should be revised upward to 10,000.

There are obviously some fiscal implications. There may be some significant fiscal implications if one of those communities has a very expensive landfill. But frankly, it's 14 or 15 years after the Bond Act, and I just wonder whether the funds are needed, whether the concept still has viability eight years after we first debated it on the floor.

With respect to -- because of my respect for Senator Stafford, if he tells me it's still a good idea, it's still the right

thing to do, I'll take his word for it. But I would love to hear what the Assembly has in their mind when they don't bother to progress this bill.

And if one thing, Senator Stafford, my guess is we may bring closure to the landfills before we bring closure to the landfill debate in this house over this bill. Closure seems to be eluding us both here and other places.

I vote yes, Madam President.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Madam President, I just would like to make a comment. And I think this is a fine bill.

My strong suspicion is that the problem with this bill in the Assembly is that it's sponsored by Assemblywoman Betty Little, who is a Republican. That might be part of the problem, a Minority sponsor in the Assembly. Just a thought.

(Laughter.)

THE PRESIDENT: Senator Stafford. Senator Stafford has the floor.

SENATOR STAFFORD: Now, that's

how the advice of the staff ties in.

(Laughter.)

THE PRESIDENT: Senator Smith.

SENATOR MALCOLM SMITH: Madam President, would the distinguished Senator yield for a question.

THE PRESIDENT: Senator Stafford, do you yield?

SENATOR STAFFORD: I'll yield.

THE PRESIDENT: He yields. You may proceed, Senator Smith.

SENATOR MALCOLM SMITH: Notwithstanding the intellect of the staff, allow me to ask one question -- two questions. And I will do two.

The first question, that is -- and I believe the bill talks about the amount of individuals living in a particular area, be it 3,500 or 10,000, that there's an amount to be expended for that particular nonhazardous site of up to about $2 million. Is that correct?

SENATOR STAFFORD: Your research is excellent. And $2 million is the correct figure.

SENATOR MALCOLM SMITH: Through

you, Madam President, if the sponsor will continue to yield.

THE PRESIDENT: Senator Stafford, do you yield?

SENATOR STAFFORD: Yes.

SENATOR MALCOLM SMITH: Is there a particular formula or means by which to deal with a particular site if it happens to -- if the cost for that particular site goes beyond what this particular bill allows?

SENATOR STAFFORD: Very good point. It makes a great deal of sense.

We have had those situations, and we have been able to work through them. And in some cases additional funds have been provided, and in other cases the funds haven't been provided. And you can imagine that it was extremely difficult.

SENATOR MALCOLM SMITH: Mr. President -- Madam President, excuse me, if the sponsor would continue to yield, just two more questions.

THE PRESIDENT: Senator, do you yield for -- was it two, Senator Smith - additional questions?

SENATOR MALCOLM SMITH: Two more. They tend to grow.

THE PRESIDENT: You may proceed, Senator Smith.

SENATOR MALCOLM SMITH: If in fact the -- when the situations have been difficult and additional money has been found, perhaps could the sponsor just elaborate on where that particular money comes from or what's the source of that.

SENATOR STAFFORD: It has come from the state.

SENATOR MALCOLM SMITH: Well, I had two more questions -- well, I have one more question. I'll leave that one alone.

Is there, Madam President, a means by which to prioritize these particular sites when they get on the list? Perhaps the sponsor could respond.

SENATOR STAFFORD: The Department of Environmental Conservation has done an excellent job. They have realized the necessity.

Having very few people in the room as old as I am, I remember when places where

you placed your refuse were not the same as they are today. And in many rural areas, up until just a few years ago, we did not have some of the improvements that we needed. The Department, I think, has really prioritized. And sometimes some of the local officials have found it rather difficult when they prioritized in a rather direct manner. And they of course enforced the closures.

SENATOR MALCOLM SMITH: Madam President, on the bill.

I believe I'm going to support this bill. However, I do share some of the concerns of my colleague Senator Dollinger as it relates to why a certain amount of this money hasn't been expended to date, in addition to the fact that it has sat around the Assembly for quite some time.

I would suggest to the sponsor that some thought be given to how it is prioritized, notwithstanding the local debate that may go on. And I who in particular have a site or two in my district, one of the fights that I have, beyond being on the list, is getting the site actually cleaned. And a

lot has to do with it being prioritized based on need and the extent of the hazard that exists or the nonhazardous site that exists.

So I'm going to support this bill, but I would hope that we do something about the staff in the Assembly and try to convince them to move forward as well.

Thank you, Madam President.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. If the Senator would yield to a question.

THE PRESIDENT: Senator Stafford, do you yield?

SENATOR STAFFORD: By all means.

THE PRESIDENT: You may proceed, Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Senator.

I heard the question that Senator Smith asked you about where the money would come from, and I heard your answer, which said from the state. It didn't quite answer -- I thought he was asking the same question that I

wanted. Could you possibly be saying that with the expansion of the language of the Environmental Protection Law that it might come from somewhere in the state other than the Bond Act? Because that was -

SENATOR STAFFORD: By all means.

SENATOR HASSELL-THOMPSON: Okay. Thank you. Thank you, Senator.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Madam President, will the Senator yield to another question.

THE PRESIDENT: Senator, do you yield?

SENATOR STAFFORD: Yes.

THE PRESIDENT: You may proceed, Senator Onorato.

SENATOR ONORATO: Thank you, Senator.

Senator Stafford, we know that the 1986 bond funds for these issues have not been fully expended as of this date. Now, while I intend supporting your legislation, by bringing in communities of 10,000 it will open up even more hazardous waste sites to be

cleaned up. What are we going to use in this law to trigger -- if we haven't expended the money in the past 14 years for the smaller communities, what are we going to do now to take care of the larger communities to ensure -- to trigger that the monies do go forth and that those particular hazardous sites be cleaned up? What can we do to trigger the motion to get them going?

SENATOR STAFFORD: Having a respect for you and us being together for this many years, I'm going to answer the question, although I suppose I could raise the germaneness issue.

Obviously, we'll have to follow the law. It will have to be up to the DEC officials to follow the regulations.

And I also would point out that I believe, and I've been here long enough that you can correct me -- and I've been corrected many times -- but I think this is the 1993 Bond Act, if I'm correct, rather than '86, that we're working with at the present time.

SENATOR ONORATO: Again, just for clarification. What I was referring to was

that we also had one from 1986.

SENATOR STAFFORD: That's right.

SENATOR ONORATO: And those monies that were appropriated in that particular one have not been expended as of this date. So if there's money not spent in the 1986, there may be a great deal of money still available in the 1993.

SENATOR STAFFORD: I certainly would be pleased to sit down with you and see if we can move things in the right direction if monies haven't been spent.

SENATOR ONORATO: Maybe we can do it over a cup of coffee. I believe they just opened up the lounge. Thank you.

SENATOR STAFFORD: I stopped drinking coffee because I find that it -- I don't answer the questions that well.

(Laughter.)

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: If Senator Stafford will yield. And he knows how well he answers questions.

THE PRESIDENT: Senator, do you

yield?

SENATOR STAFFORD: I certainly will yield. Now we're going to have the environmental debate.

THE PRESIDENT: You may proceed, Senator.

SENATOR OPPENHEIMER: Through you, Madam President, I just have to say I sort of miss our conversations of the last few years, because you haven't been putting out those same terrible bills. So I haven't had the opportunity to have our continuing dialogue.

SENATOR STAFFORD: You said it, I didn't.

SENATOR OPPENHEIMER: But it's always a pleasure to question you -

THE PRESIDENT: Senator, state your question.

SENATOR OPPENHEIMER: -- because you can answer in a way that's very obfuscating.

Okay, here's my question, if you will yield. This is going to give assistance for nonhazardous municipal landfill closures.

I guess I was outside of the chamber on a phone call, and I guess I don't understand why we're doing this for nonhazardous. We have so many sites that need remediation that are of serious concern to us. Why are we doing this for nonhazardous?

Did someone already ask that?

SENATOR STAFFORD: I didn't hear.

SENATOR OPPENHEIMER: Okay, I'll speak up.

SENATOR STAFFORD: I often find it difficult hearing what you're saying. And I find -- is it you're being reticent? I don't understand why.

SENATOR OPPENHEIMER: Well, I'll try again.

My question is really simple. This is for nonhazardous sites. And in light of the fact that we have so many hazardous sites that we haven't remediated -- literally hundreds in the state -- I don't understand why we're going after nonhazardous. Is this merely to help out the municipalities pay for these?

SENATOR STAFFORD: Well, Madam

President, we have a very complex state. And, you know, there are places other than Vermont that are rural. Now, I know you're very familiar with Vermont and you spend a great deal of time there and give them a lot of business over there. And I'm sure that you enjoy doing that.

But if you were to go in these communities that need to have this done, you would not be asking the question. Yes, hazardous, it's very important. But in the rural areas, this is very, very important to the local areas. And if you traveled upstate -- and, you know, we ski at Whiteface, we have all sorts of areas in upstate New York -- you would find this is true.

SENATOR OPPENHEIMER: If the Senator would yield again.

THE PRESIDENT: Senator, do you yield?

SENATOR STAFFORD: Also, Madam President, I also have to say I very seldom rise to a high point of personal privilege, but I don't think this is a terrible bill.

SENATOR OPPENHEIMER: No, I would

agree with you. This is not a terrible bill.

THE PRESIDENT: Senator Stafford, will you yield for an additional question?

SENATOR STAFFORD: I certainly will, Madam President.

THE PRESIDENT: Senator Oppenheimer, you may proceed.

SENATOR OPPENHEIMER: No, I'm very pleased to see the bill. I'm just trying to understand it. Because if we are going to be giving monies from our various funds, which are certainly being reduced -- I mean, we're at the point now where we need to do something very quickly for our Superfund, because we are totally committed on that fund.

I'm just saying we have only a finite amount of resources, and those resources should be applied to those toxic waste dumps and those serious hazardous sites that we have around our state. And Lord knows I know from nonhazardous sites, because I have one in my own village. But I just don't feel that our state money should be going for that kind of remediation, since we have so many really serious toxic sites to remediate.

SENATOR STAFFORD: Well, Madam President -- oh.

(Laughter.)

ACTING PRESIDENT LIBOUS: Senator Stafford. Madam President has changed.

SENATOR STAFFORD: Now I've made another -- two mistakes in a day. That's never happened -- well, it has. It has.

ACTING PRESIDENT LIBOUS: Senator Stafford, you have the floor.

SENATOR STAFFORD: I didn't know that this was such a terrible debate that Madam President would have to leave. But I would not blame her.

SENATOR OPPENHEIMER: She's hungry.

SENATOR STAFFORD: Mr. President, thank you for joining us.

On one final serious note, all you would have to do is be in a community where the landfill closure has been mandated -- it's been mandated, they've been told they have to do it. That's obviously a problem. Therefore, there has to be funding.

Secondly, it is -- it is, I

suppose, enjoyable for some people to go to the dump -- that's what we used to call it, the dump, you know -- and watch the bears at night. That was the thing to do. But we also have found that it's not sanitary and it's serious business as far as having them closed because they are affecting people, and it can be just as serious as hazardous. I would just share that.

SENATOR OPPENHEIMER: Thank you. Thank you very much.

On the bill for a moment.

ACTING PRESIDENT LIBOUS: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: I see that the -- I think I understand where this is coming from now. And it's less of an environmental issue than it is an issue of what do we do with small municipalities that, under order, have to close their, quote, dumps. And we do know about that in suburbia as well as in rural New York State.

And so we are looking at communities with populations of less than 10,000. And I think what this bill is saying

is we have to help those small communities to meet the mandate. And they really don't have the funds, because they are small communities, to do that.

And therefore, that since this is not a large expense item -- I don't think it will be -- I think we probably should support, should support this. But not as an environmental issue, but as a way to assist our smaller municipalities in the State of New York. I'd be voting yes.

ACTING PRESIDENT LIBOUS: Senator Brown.

SENATOR BROWN: Thank you, Mr. President. If Senator Stafford would yield for two questions.

ACTING PRESIDENT LIBOUS: Senator Stafford, would you yield to Senator Brown for two questions?

He will yield, sir.

SENATOR BROWN: Thank you, Mr. President.

Senator Oppenheimer asked a series of questions about these nonhazardous municipal landfills. And my question has to

deal with what are the expenses that are associated with the closure of these nonhazardous landfills.

SENATOR STAFFORD: Mr. President, it is very detailed, and it's very scientific. And I will just give you, as a layman, having seen many of them close.

Usually they put a clay lining, I believe -- and I'm just giving you roughly what's involved -- and usually there's some gravel. And first you have to dig it, of course. No, it's already dug. This is closing. You have to make sure that there's no leaching. You have to drill wells. You have to put over -- and if there is seepage, leaching, that has to be corrected by digging, which is very detailed. And then the lining on the top is usually gravel. Sometimes there's a plastic liner, then there's material they put on that, then there's gravel.

And it's interesting, like any other field, I've noted that it's progressed in how it's done, through experience and science and engineering.

And then you'll see they put a

regular covering on, and usually grass. Then if you've noticed, passing some of them, they drill and you'll see these pipes sticking up, and that's to let the gas out. In some areas, they capture the gas and use it for fuel.

So it's quite detailed and expensive.

ACTING PRESIDENT LIBOUS: Senator Brown.

SENATOR BROWN: Through you, Mr. President, if Senator Stafford would yield for a final question.

ACTING PRESIDENT LIBOUS: Senator Stafford, Senator Brown would like you to yield.

He will yield, sir.

SENATOR BROWN: Senator Stafford's answer to my first question was very helpful. I'm wondering what are some of the reuse options of these closed landfills, if there are any reuse options.

SENATOR STAFFORD: Well, I know one landfill -- and there's a good bit of debate over it, and you probably would see why -- they are considering having a park and

actually an athletic field. And the engineers and scientists have -- some engineers and scientists have determined that it's safe. Others, of course, are questioning.

Many of the landfills you'll just see, really, grass. I'm trying to think of any other uses that they're using for the land right now. I know there are. I know there are.

SENATOR BROWN: Mr. President, through you, I want to thank Senator Stafford for answering my questions. I think -- if I may, on the bill.

ACTING PRESIDENT LIBOUS: Senator Brown, on the bill.

SENATOR BROWN: I think this is a good bill. And I think it's important, if municipalities are mandated to close nonhazardous municipal landfills, that the state provide them some relief and some assistance in being able to do that.

I think also, if these landfills are nonhazardous, this potentially is one way to reclaim land throughout the State of New York in these communities, and perhaps and

hopefully have some kind of reuse for this land that the residents of these communities can safely enjoy.

So hopefully that will be an element of the monies that are expended through the remediation of these properties. From reading the legislation, it's my understanding that remediation costs can go up to as high as $2 million. And hopefully through that kind of expenditure we will be able to sufficiently clean some of these areas so that the land can be reused, so that there can be public access to the land. And I think that can only inure to the benefit of the residents of the state.

Thank you.

ACTING PRESIDENT LIBOUS: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

I was going to ask a question, and I don't want to really fumble this. But I think that when we talk about nonhazardous, we also need to remember that while we're not talking about biohazardous materials, we are

talking about areas that -

ACTING PRESIDENT LIBOUS: Senator, are you speaking on the bill?

SENATOR HASSELL-THOMPSON: Yes.

ACTING PRESIDENT LIBOUS: Senator Hassell-Thompson, on the bill.

SENATOR HASSELL-THOMPSON: Last summer, and into the fall, we were very concerned around the state about incidences of the West Nile virus. And many of these areas would hopefully be included, as we looked at clips of the areas of the Bronx and other areas where stagnant water and some other - perhaps considered nonhazardous, but yet hazardous to the quality of life to the people in their communities.

I see this as a good bill that goes a long way toward helping to correct those issues. So while we might not be talking about biohazardous, there are still some nonhazardous conditions that speak to the quality of life of some of our communities. So I think from that perspective, this makes it an excellent bill for us to support.

ACTING PRESIDENT LIBOUS: Read

the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LIBOUS: Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: Thank you, Mr. President.

Again, I think the debate is instructive, as it always seems to be - whether it's Senator Oppenheimer asking questions, Senator Brown asking about use of nonhazardous landfills and how the closure of that works, what alternative uses there are. It seems to me that that discussion will get ideas germinating in all of our minds about what uses we should put these to and communities across the state and how they should use them.

I've vote for this bill in the past because Senator Stafford has stood here and said there are lots of the communities up in the Adirondacks, the cost of landfill closure

can be enormous, it can be a huge drain on a relatively minor tax base. Especially if, as we know in the Adirondack Park and other places, large amounts of land are owned by the State of New York and hence exempt from taxation.

And I think that the notion that we expand, in essence, the small landfill exemption from 3,500 to 10,000, which would include communities in the western portion of this state, smaller communities, is a good one.

That having been said, I'm going to vote in favor of this bill again, because I think that the debate and the discussion produces not only good discussion of the issue at hand but allows us to think in more detail about this issue of landfill closure, where we're going to go and whether it's time to do another bond act, as we did back in 1996 when we did the Environmental Quality Bond Act.

Maybe it's time to look again at landfill closure and landfill protection and enact a -- give the voters an option for more landfill closure money to do the kinds of

alternative uses that Senator Brown talked about, to encourage communities to close landfills in a fully environmentally secure way so that we can recycle this land.

Nonhazardous landfills deserve the same treatment as even our more hazardous landfills. And it seems to me that our goal should be to try to get as many of these cleaned up as quickly as possible. Senator Stafford's bill I think would get us there quicker than where we are today, and I'm going to vote in favor of it on that basis, Madam President. Thank you.

THE PRESIDENT: Senator Dollinger, you will be recorded as voting in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing committees, I believe there's a report of the

Rules Committee at the desk. I ask that it be read.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bill direct to third reading:

Senate Print 2962, by Senator Larkin, an act to amend Chapter 398 of the Laws of 2000.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Move to accept the report of the Rules Committee.

THE PRESIDENT: All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Rules report is accepted.

SENATOR SKELOS: Madam President, if we could take up the Rules report at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 202, by Senator Larkin, Senate Print 2962, an act to amend Chapter 398 of the Laws of 2000 relating to creating.

SENATOR STACHOWSKI: Explanation.

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

SENATOR LARKIN: This bill is a chapter amendment to Chapter 398 of the Laws of 2000 where we authorized a public referendum for a library because there were people that were underserved and, according to the State Comptroller, they could not continue to pay a fee for utilization of the library.

After we got all the parties together for the bill, the bill was passed, there were certain entities that thought other people should be included in the library. They wanted a few other things to be straightened out -- i.e., the trustees, the funding of it.

And what happens is we're doing this now because, based on what they want and what State Ed gave us, they want to change the referendum date from March 30th to April 24th.

That will give the library and its entities adequate time for discussion and knowledge of what it was all about.

We also want to remove some ambiguity in the delineation of the existing board of the trustees. Under the old system, the boards would have all had to resign and run again. This will preclude that from happening.

We want to clarify that the new library district will begin operation on January 1, 2002, if approved by the voters. It permits for library inspectors and for the paying of them and insures that the old library district shall transfer all of its liabilities and obligations, including agreements, collective bargaining agreements for their employees. And it alters the fiscal year to comply with the conformity of the town fiscal year.

Now, this new entity has been supported by the Pine Bush Central School District, the Valley Central School District, the City of Middletown, the Town of Wallkill, the current Thrall Library, the

Ramapo-Catskill Library System, and the New York State United Teachers.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Madam President, if the sponsor would yield for a question or two.

THE PRESIDENT: Senator Larkin, do you yield?

SENATOR LARKIN: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR STACHOWSKI: Senator, I was trying to find out both in Local Government and then today in Rules, since it was sort of a drawn-out process, I was -

SENATOR LARKIN: Excuse me, Bill, I can't hear you.

SENATOR STACHOWSKI: Okay. Since it was sort of a drawn-out process, I was trying to find out in both committees that this bill passed through in the last few days, since it was a drawn-out process to put this original library district, how was this part

left out and why didn't they come forward at the time? And nobody seems to be able to answer that, or at least they couldn't in the last two days.

SENATOR LARKIN: Well, Bill, I went to about three or four meetings back home, and we couldn't get all the parties together. And last year when we were doing the bill, the Ramapo-Catskill Library, which was doing the engineering -- that individual isn't there anymore -- he couldn't get to agreement with the Thrall Library, the Thrall Library couldn't get to agreement with them.

It was decided that the bill that we were doing at that time met the needs of about 90 percent of the people. After we put it together, some of the school districts felt that there was a failure to include -- at their request, not our request -- the documentation that they sent to us. It was a failure on their part. They were of the opinion that they didn't need to belong to it because they could go and pay a fee. The Comptroller's decision is that they couldn't charge a fee for utilization of that library.

So that's why we had to amend it or we would have had people that were underserved.

SENATOR STACHOWSKI: Madam President, one last question.

This chapter amendment doesn't cost any additional money or just includes more people that are allowed to use the library?

SENATOR LARKIN: More people that are allowed to use it. And it creates the atmosphere that we think we should have had a year ago.

SENATOR STACHOWSKI: Thank you.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: I wonder if the sponsor would yield for a question.

THE PRESIDENT: Senator Larkin, do you yield?

SENATOR LARKIN: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR STAVISKY: I'm reading the last section and it says that, from my reading, that it's retroactive to when the law

passed last year.

SENATOR LARKIN: Yes.

SENATOR STAVISKY: Is that commonly done, to make something retroactive?

SENATOR LARKIN: Yes.

SENATOR STAVISKY: Have the people who are eligible to make this request -- not the board, but the people who live in that area -- done the necessary preliminary petition work and so on?

SENATOR LARKIN: Yes.

SENATOR STAVISKY: Thank you, Senator.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. Will the sponsor yield? I have just one question.

THE PRESIDENT: Senator Larkin, do you yield?

SENATOR LARKIN: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: Why does the

bill include, on page 4, revenue anticipation notes as within the scope of -- I understand tax anticipation notes.

SENATOR LARKIN: There's just a reversal of the words in there.

SENATOR DOLLINGER: Oh. Through you, Madam President, just so I can clarify. So that when it said "anticipation revenue" you just -

SENATOR LARKIN: Yes.

SENATOR DOLLINGER: That's fine, Madam President. Just on the bill, briefly.

THE PRESIDENT: You may proceed on the bill, Senator Dollinger.

SENATOR DOLLINGER: Thank you.

Again, I think this is a good bill. I think Senator Larkin has obviously done his homework with the people back in his communities to help put this together. I'm pleased that the Senate can quickly come to the assistance of the people in these communities who have worked hard to put this project together.

I think that this body at times has to take bills and take concepts that are

sitting in committee or sitting in hard work in the communities that they come from, bring them to the floor of the Senate, put them out for debate and pass them. I would point out to everybody in the chamber that that's what the old motion to discharge procedure was all about, that if a bill like this was sitting in committee, one that was valuable, one that was critically important to the constituents of Senator Larkin or Senator Stafford or Senator Marchi or, heaven forbid, someone on this side of the aisle, like Senator Hassell-Thompson, you could make a motion to discharge it, bring it to the floor, and get a vote in the Senate to make the bill into a law.

I commend Senator Larkin. It's a good thing to do. I'm pleased that he can bring this bill quickly and get a prompt response from the Senate and do it in time to change the referendum and make it all work. It's the kind of good legislative work that should be rewarded by this chamber regardless of which side of the aisle you happen to sit on.

Again, I don't say that in any way

to derogate from what Senator Larkin has done; he deserves to be commended. But in a real elected body that really works like a democracy, it would be a privilege extended to everyone, Madam President.

I'll be voting in the affirmative on this bill.

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, 58.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to the controversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 139, by Senator Volker, Senate Print 1533, an act authorizing and empowering the board of

the Village of Farnham.

SENATOR DOLLINGER: Explanation, please.

THE PRESIDENT: Senator Volker, an explanation has been requested, I believe by Senator Dollinger.

SENATOR VOLKER: Madam President, if you were one of the I think it's 280 people that lives in the village of Farnham, which I think is the smallest village in Erie County, I think you'd be in favor of this bill.

What has occurred here is that the village of Farnham has had one justice as long as anybody can remember. He was elected two years ago for a four-year term. But what happened was he resigned last year, I believe it was, and his term would continue for several more years. His clerk then resigned October 31st. The village board got together and said, you know, I don't think we need a justice.

And by the way, the village of Farnham is part of the town of Brant, which of course does have two justices.

At any rate, they had a discussion

back in January and they said that they had given this project to Assemblyman Smith. But then somebody said, You know, we should do something with those guys in the Senate. They said, Along with the new law being presented in the Assembly, it must also be presented and voted on in the Senate.

So the mayor said he was going to State Senator Dale Volker and see about the Senate. That was on January 18th. So on January 23rd, I put this bill in. And that's what the bill is that you see here.

The village board has given a home rule message, even though you don't need one for this. Because what happens is we don't abolish it, all we do is give them the authority to abolish it. The town of Brant has also given -- which is the town that now will take all the business, although they've been taking all the business anyways, because there hasn't been a judge there for a while. The town of Brant will pick up the other part of it, and they have given a home rule message.

The savings will be a minimum of

$6,000. Now, that may not seem a lot to you people, but for a little village like Farnham, that's a lot of money.

THE PRESIDENT: Senator Dollinger.

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

Senator Volker, seldom I guess in my history in the Senate have we actually sat here and said we're saving each taxpayer $30. That's $30 per capita, $6,000 over 254 residents.

Again, I commend Senator Volker. This looks like prompt, responsive government at its finest, even for our smallest community. And I would suggest that the people of the town of Farnham or the village of Farnham are well served when their State Senator can produce a bill like this that cures a local problem with the speed that Senator Volker has done it. I think that's a good thing.

I continue to, however, suggest that that ability, that power, that responsiveness that characterized both Senator

Larkin and Senator Volker's action is one that should be accorded to all the members of the Senate. So that the problem of Senator Volker's earlier comment with respect to Assemblywoman Betty Little in the Assembly will not handicap all of our abilities to perform the services that the people elected us to do.

Again, Senator Volker, I don't know that I've actually sat in this chamber and said that I actually saved the taxpayers of a community $30 apiece. I guess I'll get a chance to do it here when I vote in favor of this bill.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: I wonder if Senator Volker will answer a couple of questions.

THE PRESIDENT: Senator Volker, will you yield?

SENATOR VOLKER: Sure.

THE PRESIDENT: You may proceed, Senator Stavisky.

SENATOR STAVISKY: The $6,000, is that per year?

SENATOR VOLKER: Well, I guess.

I must point out that the only reason that they came up with that figure is I think that is the salary of the judge and I think the salary of the clerk. I mean -- so, you know, are you -- I was wondering, are you going to ask me if we could abolish the city court judge, maybe, and save some money, or what?

SENATOR STAVISKY: Only if I can choose the judges to be abolished.

SENATOR VOLKER: Right, I thought you'd say that.

SENATOR STAVISKY: I have one other question. Will the Senator yield for another question?

SENATOR VOLKER: Certainly. Sure.

SENATOR STAVISKY: For $6,000, we have a judge and a clerk. How were they able -- how could we have justice served? Was this a traffic situation where the motorists will also be saving a considerable amount of money?

SENATOR VOLKER: Well, see, the

local courts -- and the local courts, by the way, serve a real genuine purpose. And what really was happening here, this is a very little village. I mean, most of our villages are quite substantial. But this is one of the villages that is very, very small and didn't have much business anyway. It's virtually all traffic. Anything of any consequence would - well, I don't want to be -- I don't want to sound as if I'm criticizing it, but the town would certainly take anything of any -- and what normally happens with justice courts, it is mostly traffic, misdemeanors. And what happens is you do hearings and then -- in preparation for sending it on to a higher court where it's a felony or whatever.

They serve a genuine purpose, frankly. And I think what happened here is, though, that the village is so small and has had, by the way, a series of problems. I'm well aware of it. Assemblyman Smith and I have been helping to fund their sewer system and some other things. They've had some disasters that have occurred. Their public water system came up through the street, and a

few things have happened. So what they're really looking for, in all honesty, is they're trying to save anything they can save. Because they really have a problem.

I think the next step may well be, very honestly, that the village is seriously thinking of cashing it in and becoming part of the -- just becoming the town, if you know what I mean. I'm not so sure the town is excited about that, but I think -- and I say that. That could well be the next step.

SENATOR STAVISKY: My next question, Madam President, if the Senator -

THE PRESIDENT: Senator Volker, do you continue to yield?

SENATOR VOLKER: Why, sure.

THE PRESIDENT: You may proceed.

SENATOR STAVISKY: The town justice who was paid the princely sum of $6,000 -- that has to be probably split with the secretary -- was this gentleman or lady an attorney?

SENATOR VOLKER: No, I can assure you that on that -- I should remember, but - I know most of these people. Who was this? I

don't believe that -- almost invariably in these very small places they're not attorneys. In the bigger towns, most of them are attorneys now today. Not all of them. But I'm pretty sure that this is not an attorney. He's probably maybe a grocer or a, you know, whatever.

SENATOR STAVISKY: Madam President, on the bill.

In my opinion, I know Senator Volker is being far too modest in saving the residents of the town of Farnham the $6,000. I think he also should take credit for saving the motorists, I suspect, a great deal of money for what might be left in the town of Farnham after they drive through it.

So I intend to vote for the bill. And I congratulate both Assemblyman Smith and Senator Volker for, as Senator Dollinger indicated, being so prompt and so expeditious in dealing with this situation.

THE PRESIDENT: Senator Brown.

SENATOR BROWN: On the bill, Madam President.

Senator Volker is the dean of the

State Senate delegation in my district and cochair of the Western New York delegation. And certainly I am very happy to indicate that I will be supporting this bill.

Senator Volker was asked to put in this bill by the local community. They did present a home rule message. And as Senator Volker said, the home rule message was not necessary in this case. But as Senator Dollinger said, I think it's always good when Senators can respond expeditiously to the requests of constituents that they represent.

And in Erie County, one of the things that we have been discussing is regionalism and consolidating unnecessary areas of government and trying to reduce duplication of services. And I think this helps to accomplish that. Obviously, this community itself made the decision that this additional layer of government was not necessary and has asked that this layer of government be abolished, and I wholeheartedly support Senator Volker in responding to the local community.

Thank you, Madam President.

THE PRESIDENT: Senator Montgomery, I believe you rose first.

SENATOR MONTGOMERY: Yes, Madam President. I would like to ask Senator Volker a question, if he would yield.

SENATOR VOLKER: Sure.

SENATOR MONTGOMERY: Senator Volker, you know, we have a community justice court in Brooklyn. And I believe there's also one in the Bronx, I'm not absolutely sure. And the idea is to bring the court to the community and make it a local justice center.

It includes a youth court, which works very well, and offers a number of other kinds of services and programs to the community and involves the law enforcement community, the police department, the district attorney, and et cetera.

So I'm just wondering -- I'm not, certainly, opposed to this bill. I think this is not -- you're not taking something away from a community that hasn't requested it. But I'm just wondering if this is the same kind of court that we have in Brooklyn.

SENATOR VOLKER: No.

SENATOR MONTGOMERY: And if so, should we be supporting this court as a state -- as part of our court system generally.

SENATOR VOLKER: Entirely different. The village and town justice courts are formal creations of the State of New York, with the approval of the local jurisdictions.

The courts I think you're talking about are -- although they're structured through the court systems, they're sort of informal courts, and I think they're funded by grants, usually justice -- or juvenile grants from DCJS. In some cases, you also have drug grants also. That is, oh, burn money grants that in fact this Legislature just last year -- and we tried to explain that to the media, that we made a great expansion in the drug courts last year. And it didn't really get through, apparently, that they kept saying we ought to do more about drugs.

And that was a rather substantial expansion of the powers in -- formal but informal powers. In other words, it's not a

totally structured kind of thing. But the local people set up their own structures, in a sense, as to how these would be -- with the approval of the DA and all the rest of the people. They're in Buffalo, they're in New York City, they're -- and they're expanding. And I happen to think that they're doing a good job.

There's some people that criticize it, because there are some people that think everybody ought to go to jail. I'm not one of those persons. Deep down, I'm a flaming liberal. And -

(Laughter.)

SENATOR VOLKER: But anyways - no. But we have expanded it, all those -- but that, I think, is the kind of things -- I'm of course being facetious. But that's the sort of thing you're talking about. You're not talking about -- these are formal structures that have been in place for a long time.

I've appeared before justice courts in my younger days when I used to do a lot of -- I did trials in justice courts, and I used to love it. You'd go out and, you know,

appear before somebody, you know, and the troopers would be in there, and -- but more and more of these cases are coming into the bigger -- the more populated areas, so to speak.

And I think, fortunately or unfortunately, depending on your position, you're going to see more of these justice courts, I think, in the really small areas probably disappear. Because the local people just don't want to, you know, spend the money to continue them.

SENATOR MONTGOMERY: Thank you, Madam President. I certainly will be supporting this legislation.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Just briefly, to speak on the bill.

I support Senator Volker's bill. I used to represent Farnham before he did. The mayor was, I believe, either in her late 70s or early 80s at the time. And she's still alive, but I think she retired from being mayor. She's still there, though.

And this is a very tiny village. And, Velmanette, just for your edification, the town of Brant is not exactly a thriving metropolis either. It's a small, rural town also, located south of Evans, which is a little bit larger town. That's about 50,000 people. So these two are much smaller than that.

And so that the people still have their hands-on court, but it's in the town court now. And it's probably a savings to the people because they only have to pay the town tax for the justice part and not the village part. And as Dale said, Senator Volker said, $6,000 in their budget is a sizable amount.

So I'm happy to have stood up and supported my colleague Senator Volker on this worthwhile bill. Thank you.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, if Senator Volker would yield for a question or two.

THE PRESIDENT: Senator, do you yield?

SENATOR VOLKER: Sure.

THE PRESIDENT: You may proceed.

SENATOR PATERSON: Senator, if you answered this question before, just let me know, because I was out of the chamber for a moment. There is -

SENATOR VOLKER: I did.

(Laughter.)

SENATOR PATERSON: He did.

My question is, you have given us a fiscal impact note on this bill. But there was apparently no requirement. And I'm just wondering why there wouldn't have been a requirement, given what we're doing here.

SENATOR VOLKER: I'm sorry, there was no requirement for what?

SENATOR PATERSON: A home rule. I'm sorry, I said a fiscal impact.

You gave us a home rule message, but apparently there was no requirement for it.

SENATOR VOLKER: That's right.

SENATOR PATERSON: And I just wanted you to explain how that was the case, because I just would have thought there would have been.

SENATOR VOLKER: I'm not exactly sure. I think the reason is because this has to go back to the village -- this does not abolish the court. In other words, the Governor signs this bill, this bill then goes back to the village and they have to vote to get rid of the justice themselves.

And there's apparently some sort of a rule now that if the same body that -- if it's a state structure where there's a local initiative -- in other words, the locals can decide -- and if they still get to decide, then you don't necessarily need a home rule message.

I have a policy, and I think -- I know all of us in Western New York have, we get home rules from everybody. Because, for one thing, it's safer, if you know what I mean. I mean, you can get yourself in a lot of trouble with some of these little places here if you don't -- if you're not careful.

And one of the things about it is you do have to be careful too that you might have a small group of people -- and that's why we would not do what some people have

suggested, give everybody authority, blanket authority, maybe, to just abolish their courts. Because you don't really want to do that unless you're sure that you've got everything, you know, in place.

So that's the story. The town of Brant that would, in effect, assume this jurisdiction also gave us a home rule, even though we didn't need it.

SENATOR PATERSON: We appreciate the home rule message.

Madam President, one final question, if Senator Volker is willing to yield.

THE PRESIDENT: Senator, do you yield?

SENATOR VOLKER: Sure.

THE PRESIDENT: Go ahead, Senator Paterson.

SENATOR PATERSON: Senator, what was the impact that created the township reaching out, the town of Brant? Were there hearings or just an ad hoc decision by the officials there? In which way did they demonstrate that it's the feeling of the

citizens of the township that -

SENATOR VOLKER: Well, the previous judge actually resigned back last year. And so there was nobody who was a justice for a considerable period of time anyways. And then the clerk resigned. So that the actual fact is that there was nobody there. And everybody was going to Brant anyways. And, you know, they didn't -- so they really didn't care.

And then the village said, You know, why should we pay for this justice when the Town of Brant is taking care of it anyways. And apparently the village officials talked with the town officials, and they said fine. So that's what happened.

So that's exactly the way -- I mean, you know, democracy is a funny thing. I mean, on a local level, people talk to each other and, you know, we try to accommodate them.

SENATOR PATERSON: Thank you, Senator Volker. 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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 140, by Senator Libous, Senate Print 1934, an act to establish certain boundaries in the counties of Broome and Chenango.

SENATOR SCHNEIDERMAN: Explanation, please.

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

SENATOR LIBOUS: Yes, Madam President. I'm pleased that there's an explanation asked for, and I'll be more than happy to give it.

This bill will establish a definite border between the counties of Broome and Chenango.

THE PRESIDENT: Thank you, Senator.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you. Through you, Madam President, if the sponsor would yield to a few questions.

SENATOR LIBOUS: Sure.

THE PRESIDENT: Go ahead.

SENATOR SCHNEIDERMAN: I'm interested in this issue because I don't know if the sponsor is aware of it or not, but there is a debate that's been going on and a dispute that's been going on for a long time between the two counties I represent, the Bronx and Manhattan, over an area of land called Marble Hill.

Some years ago my predecessor, Senator Leichter, actually was a part of a group of Manhattan politicians that went and planted a flag of Manhattan on Marble Hill to symbolize their reluctance to cede this piece of land to the usurping empire of the Bronx, as they described it at that time. I do not see it that way, of course.

How did you end up, if you were involved -- or how was this dispute brought to fruition? Because this is something that's been going on since, I believe, the early part

of the 19th century.

SENATOR LIBOUS: Madam President, the dispute started back in 1806, and it then went to court in 1992. In upstate, we do - you've probably heard of the Hatfields and the McCoys. Things do tend to go on.

But it was settled by the two counties and their lawyers out of court. And therefore, they needed us to put this piece of legislation in so that it could be rectified.

SENATOR SCHNEIDERMAN: Through you, Madam President. And will this involve -- how significant an adjustment in the boundaries does this involve? Is it many miles or a few feet?

SENATOR LIBOUS: We're looking at about 900 acres, Madam President, that has been disputed since 1806. And that -- now that it has been settled between the two counties, that it is exactly 900 acres that will be resolved through this dispute.

SENATOR SCHNEIDERMAN: Thank you, Madam President. On the bill.

I thank the sponsor for his answers. And this does provide an inspiration

for those of us in other parts of the state where these sorts of disputes exist. I look forward to us one day reaching such a peaceful resolution to the dispute over Marble Hill.

Thank you, Madam President.

THE PRESIDENT: Read the last section.

Senator Paterson.

SENATOR PATERSON: Madam President, this might raise an interesting issue for the members who represent Brooklyn, because the actual -

THE PRESIDENT: Senator, are you on the bill or explaining your vote? Which - where are you?

SENATOR PATERSON: I'm on the bill, Madam President.

THE PRESIDENT: All right. You may proceed on the bill.

SENATOR PATERSON: Thank you.

Because the low-water mark of the East River is actually the designation of where Manhattan ends, which is actually in Brooklyn. And in spite of Senator Smith and now I see Senator Montgomery's attempt to

protest that, we may just adopt some of what Senator Libous has suggested here and go and take our land back, particularly since we lost land to that empire of the Bronx some time back.

But if Senator Libous would yield for a question.

SENATOR LIBOUS: Yes, Madam President.

THE PRESIDENT: You may proceed.

SENATOR PATERSON: Senator, I'm wondering if this was a similar case where land -- where the actual title of the land was not known and there was, in a sense, a belief that it was possessed by one county but was in fact geographically designated to another and that was the basis. In other words, I'm trying to figure out what the basis of the dispute was.

SENATOR LIBOUS: Madam President, we believe that it was stated somewhere in 1806. Unfortunately, through research, we have been unable so far at this date to come up with anyone from that era who recalls exactly what took place. But the dispute was

not documented properly.

Therefore, once it was settled out of court, the interesting thing about this, Madam President and Senator, is that Chenango County brought the lawsuit on but, unfortunately, in the end they lost. They settled to give the land to Broome County.

SENATOR PATERSON: Madam President, if Senator Libous would yield, would you inquire as to whether -

THE PRESIDENT: Senator, do you yield?

SENATOR LIBOUS: Yes, absolutely.

THE PRESIDENT: Thank you. You may proceed, Senator Paterson.

SENATOR PATERSON: -- whether or not this bill required a home rule message.

SENATOR LIBOUS: Did not. Did not, Senator.

SENATOR PATERSON: And the reason was similar to what Senator Volker was saying prior? If the Senator would continue to yield.

SENATOR LIBOUS: I'll continue to yield.

I was not paying attention to my colleague Senator Volker, at least at that particular point in his debate. What was his -

SENATOR PATERSON: Well, just in the sense that if the same body is making the decision within its jurisdiction on the same issue, that there isn't need technically for a home rule message.

THE PRESIDENT: Read the last section.

Senator Stavisky, excuse me.

SENATOR STAVISKY: I'm sorry. Madam President, I just have a question or two.

THE PRESIDENT: All right. Senator Libous, do you yield for a question?

SENATOR LIBOUS: Yes. Yes.

THE PRESIDENT: Senator Stavisky, you may proceed.

SENATOR STAVISKY: Thank you. Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR STAVISKY: The 900 acres, Madam President, is anybody living on those

900 acres?

SENATOR LIBOUS: Quite frankly, I do not know.

SENATOR STAVISKY: So we don't know if there are any structures or if there are property taxes being paid on the 900 acres.

SENATOR LIBOUS: I'm not aware at the present time, Madam President.

SENATOR STAVISKY: The reason I ask, Madam President -- on the bill -- is that back in 1898, as long as we are being somewhat provincial, the residents of the county that I represent, Queens County, decided to join the City of New York, along with Kings County. However, there were many parts of northern Queens which wanted to maintain their independence and voted against the consolidation with the other boroughs of the City of New York back in 1898.

I know this is not 1806, and I know justice moves very slowly. However, the reason I inquired about the 900 acres and any people living there is I think we ought to take into account their considerations and

feelings about whether they would like to live in either Broome County or Chenango County. I think they should be given that option.

And despite my misgivings, I'm delighted that Senator Libous has resolved this dispute in such a manner, even if it has taken almost 200 years. Thank you, Madam President.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. 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.

THE SECRETARY: Calendar Number 159, by Senator Morahan, Senate Print 199, an act to amend the Social Services Law, in relation to county responsibility.

SENATOR PATERSON: Explanation.

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

SENATOR MORAHAN: Yes. This

bill, which passed two times in the Senate without debate or negative votes, merely adds more facilities to the current law covering hospitals and nursing homes that receive - patients who receive Medicaid. It adds adult homes and enriched housing programs to the current definitions of the current institutions that are now covered, such as hospitals.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, would Senator Morahan be willing to yield for a few questions.

THE PRESIDENT: Senator, do you yield?

SENATOR MORAHAN: Yes, I'll be happy to.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Now, Madam President, I'm wondering if the counties that are counting the Medicaid reimbursement against the counties for which the residents of these enriched homes or these facilities are indigenous is at the same time claiming

those individuals on the census every ten years.

SENATOR MORAHAN: I believe they would, absolutely.

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

THE PRESIDENT: Senator Morahan, do you yield?

SENATOR MORAHAN: Yes.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Well, then, Senator, if they're claiming them as a matter of population for census, which almost automatically brings back resources, as it would for any other citizen, why do they then at that point get to exempt them from the Medicaid cost when even a county that has Medicaid recipients receives special federal monies for Medicaid?

SENATOR MORAHAN: Well, Senator, currently the Medicaid issue on the current facilities cover the max of two months. This would now add two months for the enriched

housing programs and adult facilities.

So we're talking a period of maximum 60 days where the cost is reimbursed by the sending crown. No different than we do now. This does not -- this is not in perpetuity.

SENATOR PATERSON: Madam President, if the Senator would be willing to yield.

THE PRESIDENT: Senator, do you yield?

SENATOR MORAHAN: Yes.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Well, Senator, can you give me an example of the other aspects of reimbursement that are accomplished in this same fashion?

SENATOR MORAHAN: Well, it's my understanding, Senator, that hospital patients that come from another county, that for the first 30 -- for the balance of the month that they come out that they're transferred in is picked up by the sending county, and the second month is picked up -- the Medicaid

costs are picked up by the sending county.

SENATOR PATERSON: Madam President, if the Senator is willing to yield.

THE PRESIDENT: Senator, do you yield?

SENATOR MORAHAN: Yes, I do.

THE PRESIDENT: Please proceed, Senator Paterson.

SENATOR PATERSON: Senator, what happens after the two-month period has expired?

SENATOR MORAHAN: Then I believe the host county would pick up the cost. That's my understanding.

SENATOR PATERSON: Madam President, if the Senator is willing to yield.

SENATOR MORAHAN: Yes.

SENATOR PATERSON: Madam President, my question at that point is, does just the data and the, I would presume, paperwork of these transactions for an admittedly short period of time not exceed the value of the cost reimbursement to the county that is housing the resident?

SENATOR MORAHAN: I don't really

know if there's an exact figure of whether it's burdensome. However, but it would be no more burdensome than we do now.

SENATOR PATERSON: Thank you, Senator.

THE PRESIDENT: Read the last section.

Senator Paterson.

SENATOR PATERSON: I believe Senator Schneiderman is trying to get the floor.

THE PRESIDENT: If Senator Schneiderman would like the floor, I'll wait for him to rise, Senator Paterson, rather than yourself.

Senator Schneiderman.

SENATOR PATERSON: Madam President.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: I'm sorry, I don't want to interrupt.

THE PRESIDENT: Senator Paterson, do you wish to be heard?

SENATOR PATERSON: Madam

President, the only reason I pointed it out is that under Rule 9.3, subsection C, of our Rules, it is the duty of the Temporary President to seek out the members before reading the last section. In fact, it doesn't even say anything about reading the last section.

THE PRESIDENT: I'm perfectly aware of that section, Senator. And Senator Schneiderman was already on his feet. Let us proceed, please.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. If the sponsor would just yield for a few short questions.

THE PRESIDENT: Senator Morahan, do you yield?

SENATOR MORAHAN: Yes, I certainly do.

SENATOR SCHNEIDERMAN: Thank you.

I'm intrigued by this proposal, and I'm just curious as to what analysis, if any, has been done of the net impact on the counties. Some jurisdictions have invested in facilities, have facilities, and I'm concerned

about the net impact and whether or not this will have an effect of discouraging some counties from going forward with building facilities if they feel that they can -- it will have that sort of result.

Has any impact study been done about which counties will gain or lose from this bill?

SENATOR MORAHAN: We believe there will be some shifting of costs. However, I have no definite figures to outline to you at this particular time.

SENATOR SCHNEIDERMAN: Through you, Madam President, if the sponsor will continue to yield.

SENATOR MORAHAN: Yes, Madam President.

SENATOR SCHNEIDERMAN: Are there any particular counties that have identified this as an issue?

SENATOR MORAHAN: Rockland County.

SENATOR SCHNEIDERMAN: Thank you, Madam President. A fine county it is.

SENATOR MORAHAN: Absolutely.

SENATOR SCHNEIDERMAN: Has there been any sort of a hearing or analysis as to how this would affect the ongoing construction of adult homes, enriched housing programs, or residences for adults?

SENATOR MORAHAN: I believe the construction would be a matter of investment by the private sector and the zoning would be under the jurisdiction of the local municipalities, not the county. Therefore, I believe the counties would have minimal to say, pro or con, about the encouragement of more facilities.

I suspect it probably would help the counties out who happen to be subject to many developments like of adult housing. We're having many adult housings built in suburbia, especially in Rockland County, because we have the space.

SENATOR SCHNEIDERMAN: Through you, Madam President.

THE PRESIDENT: Senator Morahan, do you continue to yield?

SENATOR MORAHAN: Yes, I do, Madam President.

THE PRESIDENT: You may proceed, Senator Schneiderman.

SENATOR SCHNEIDERMAN: I believe the sponsor's answer to that last question really sort of gets to my concern. Wouldn't this be a particular burden on rural counties that do not have many of these facilities? Senior citizens in those counties go to the suburbs, usually -- sometimes the cities, but the suburbs certainly -- and this will impose quite a significant burden on some rural counties -- and, as has been pointed out in debate earlier today, many of which are not exactly in flush times.

SENATOR MORAHAN: It could be.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Thank you for the answers. On the bill.

I think -- I understand the intent behind this bill. This is an issue that a lot of us with aging parents and relatives are concerned with, how we continue to develop these facilities in New York State.

I do have a concern with the lack of any analysis of the fiscal impact, because

I do think there are some counties that could end up with a very sudden and very substantial fiscal burden as a result of this modification.

Nonetheless, I do think this is something we have to work on, and I commend the Senator for bringing this issue forward. I hope we will come up with a more comprehensive approach to the problem of the delivery of housing programs for senior citizens, especially the development of a better quality of adult homes in New York State.

Thank you, Madam President.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Madam President, will the sponsor yield to a question.

THE PRESIDENT: Senator Morahan, do you yield?

SENATOR MORAHAN: Yes, Madam President.

THE PRESIDENT: Please proceed, Senator Dollinger.

SENATOR DOLLINGER: Senator, in reviewing this bill I note that there's a bill of very similar language that was filed by Senator Meier on January 22nd which seems to include somewhat different language about the unique or specialized function of an adult in these homes. I'm wondering whether you're familiar with the Meier bill and the differences between the two bills.

SENATOR MORAHAN: No, sir, I'm not.

SENATOR DOLLINGER: Thank you, Madam President.

SENATOR CONNOR: Last section.

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, 58.

THE PRESIDENT: The bill is passed.

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

SENATOR BRUNO: Thank you, Madam President. Is there any housekeeping at the desk?

THE PRESIDENT: Yes, Senator Bruno, we do have a motion.

SENATOR BRUNO: Can we take that up at this time.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Madam President, on page 9, I offer the following amendments to Calendar Number 114, Senate Print Number 2118, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: So ordered.

SENATOR MARCELLINO: Thank you.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Madam President, I rise as I have, I think, for a dozen consecutive days to hereby give written notice, as required by Rule XI, that I will move to amend the Rules to add a new rule, XV, which will relate to ethical standards for

members, officers, and employees of the Senate.

Thank you, Madam President.

THE PRESIDENT: Senator Dollinger, it has been received and it will be filed in the Journal.

SENATOR DOLLINGER: Thank you.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Thank you, Madam President. There being no further business to come before the Senate, I would move that we stand adjourned until Monday at 3:00 p.m., intervening days to be legislative days. Thank you.

THE PRESIDENT: On motion, the Senate stands adjourned until Monday, March 12th, 3:00 p.m., intervening days being legislative days.

Senator Connor.

SENATOR CONNOR: Madam President, if you could just announce an immediate conference of the Minority. Thank you.

THE PRESIDENT: There is an immediate meeting of the Minority Conference in Room 314. You're welcome.

So adjourned.

(Whereupon, at 2:21 p.m., the Senate adjourned.)