NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:09 p.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, Friday, March 23rd, the Senate met pursuant to adjournment. The Journal of Thursday, March 22nd, 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 Skelos.

SENATOR SKELOS: Madam President, is there any housekeeping at the desk?

THE PRESIDENT: No, there is not, Senator.

SENATOR SKELOS: Would you please recognize Senator Meier.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Thank you, Madam President. May I have a sponsor's star placed, please, on Calendar Number 162.

THE PRESIDENT: So ordered.

SENATOR MEIER: Thank you, Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Would you please recognize Senator Dollinger.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR DOLLINGER: Thank you to the Deputy Majority Leader.

I hereby give written notice, as required by Rule XI, that I will move to amend the rules to add a new rule, XV, in relation to ethical standards for members, officers, and employees of the New York State Senate.

THE PRESIDENT: It's been received, Senator Dollinger, and it will be filed in the Journal.

SENATOR DOLLINGER: Thank you, Madam President.

THE PRESIDENT: You're welcome.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a privileged resolution by Senator DeFrancisco, Number 1020, at the desk. May we please have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator

DeFrancisco, Legislative Resolution Number 1020, honoring the students of Driver Middle School's Special Education 12-1-1 Program, Marcellus, for their participation in the "Good News! Good Kids!" Youth Responsibility Program.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR DeFRANCISCO: I really appreciate the opportunity to rise and welcome our students from the Driver Middle School of the Marcellus School District.

Each year we have a program called "Good News! Good Kids!" because unfortunately, in our society, it's a lot easier to make the news if you do bad things and are bad citizens. But we should recognize those who are doing the good things.

This is a specifically important group of people. Recently, a Mr. D'Andrea, Frank D'Andrea, who was the middle school psychologist, unexpectedly died. He was a

very special person to the special education students at Marcellus Middle School. Very, very close friends, helped these young people over some very difficult times.

Rather than making this a completely negative event, these students that are here today actually participated in a fund drive to help set up a scholarship fund in the name of Mr. D'Andrea, which is extremely important. It brought that something that became positive out of a very, very difficult situation for each of them individually.

And I wanted to honor them today. They were selected among many, many good groups that have presented projects to me for the 49th Senate District. They are truly good kids, and it's very good news that they're here and doing the wonderful things they are.

Thank you very much for coming, and we hope you've enjoyed your day.

THE PRESIDENT: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

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

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

Senator Skelos.

SENATOR SKELOS: If we could take up the noncontroversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 44, by Senator Balboni, Senate Print 859B, an act in release to authorizing.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 103, by Senator Skelos, Senate Print 417A, an

act to amend the Criminal Procedure Law, in relation to eliminating.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 163, by Senator Morahan, Senate Print 833, an act to amend the Education Law, in relation to certain BOCES programs.

SENATOR LACHMAN: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 195, by Senator LaValle, Senate Print 2082, an act authorizing the Office of Real Property Services.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 200, by Senator Trunzo, Senate Print 2032, an act to amend Chapter 672 of the Laws of 1993.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 205, by Senator Morahan, Senate Print 1158, an act to amend the Military Law, in relation to extending.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 207, by Senator Seward, Senate Print 2133, an act to amend the Executive Law, in relation to requiring.

THE PRESIDENT: Read the last section.

SENATOR DOLLINGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

SENATOR SKELOS: Thank you, Madam President. If we could go to the very controversial calendar.

THE PRESIDENT: The Secretary will read.

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

SENATOR DOLLINGER: Explanation, please.

THE PRESIDENT: Senator Balboni, an explanation has been requested by Senator Dollinger.

SENATOR BALBONI: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR BALBONI: This bill would allow the Lubavitch of Old Westbury temple to have a remedy that consists of being -- of utilizing and recognizing their tax-exempt status so that they will not have to pay approximately $13,000 in real property taxes from the January 1999 date of purchase of the property.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Madam President, will the sponsor yield to a question.

THE PRESIDENT: Senator, do you yield?

SENATOR BALBONI: Yes, I do, Madam President.

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

SENATOR DOLLINGER: Through you, Madam President. As you know, Senator Balboni, these bills have been a particular interest of mine. And I would just like to know, do you know what happened at the closing with respect to -- at the time this property was purchased with respect to the allocation of real property taxes in this case?

SENATOR BALBONI: No, I do not.

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

THE PRESIDENT: Senator, do you yield?

SENATOR BALBONI: Yes, I do, Madam President.

THE PRESIDENT: You may proceed.

SENATOR DOLLINGER: Do you know whether the religious organization that would

otherwise qualify for an exemption had a discussion with its attorney about the date of closing and what impact that would have on real property taxes on this property?

SENATOR BALBONI: No, I do not.

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

THE PRESIDENT: Senator Dollinger, do you have a few more questions?

SENATOR DOLLINGER: Yes, I -

SENATOR BALBONI: Yes, Madam President, I continue to yield.

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

SENATOR DOLLINGER: Yes. Thank you, Madam President.

THE PRESIDENT: Go ahead.

SENATOR DOLLINGER: Thank you, Madam President. Senator Balboni, do you know whether there were any claims made by this religious organization against the attorney when they determined that they were paying real property taxes under circumstances in which they, as a matter of law, as you know,

should not have -- would have otherwise been eligible for an exemption?

SENATOR BALBONI: I don't agree with your premise for your question.

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

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR DOLLINGER: My question is this. Did the religious organization have a discussion with their attorney about if they had closed this transaction in December of 1998 they would have been eligible in January 1999, which was the taxable status date, and they wouldn't have been required to pay any real property taxes during that period of time that you're now seeking to give them an exemption?

SENATOR BALBONI: Madam President, I'm sorry, I'm not aware of a question in that particular dialogue.

THE PRESIDENT: Senator Dollinger, could you rephrase your question?

SENATOR DOLLINGER: I will. I'm simply asking whether Senator Balboni is aware of such a discussion between the religious organization and their attorney.

SENATOR BALBONI: Madam President, asked and answered.

SENATOR DOLLINGER: Okay. Madam President, just one final question.

Senator Balboni, are you familiar with Senator Hannon's bill that would allow assessors statewide to provide partial real property tax exemptions in New York State?

SENATOR BALBONI: Madam President, what year would the esteemed Senator from Rochester be asking about?

SENATOR DOLLINGER: Madam President, I think that's an appropriate question in response.

Pick a year, Senator Balboni. It's been in the Assembly and I think has been in the Senate since 1995. Any one of the versions from 1995 to 2000. I'm not sure there's a 2001 bill in the house. But

certainly for the last five years, every one of those years, there's been a bill sponsored in the Assembly and also, I believe, cosponsored by our colleague Senator Hannon that would allow assessors to give partial property tax exemptions for religious organizations such as this one.

And my only question is, do you know why that bill hasn't come to the floor of the Senate for a debate or a vote?

SENATOR BALBONI: Madam President, through you, would the distinguished member from Syracuse or Rochester, or where are you -- no, you're from Rochester, that's right.

SENATOR DOLLINGER: That's correct.

SENATOR BALBONI: Would you please tell me what the bill number is for this year?

SENATOR DOLLINGER: Hold on a second, I'd be glad to, Madam President.

Well, let's see. How about S7325?

SENATOR BALBONI: The laws of - for this bill year -- this year?

SENATOR DOLLINGER: I don't know that, Madam President. That was the bill number last year.

SENATOR BALBONI: Yeah. But do you have the bill number this year?

SENATOR DOLLINGER: I don't, Madam President, have that right with me.

SENATOR BALBONI: Perhaps that's because the bill has not been introduced this year.

SENATOR DOLLINGER: Okay. Through you, Madam President, will Senator Balboni continue to yield?

SENATOR BALBONI: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR DOLLINGER: Senator Balboni, do you know why Senator Hannon's bill -- that would completely obviate the need to do this in a piecemeal, case-by-case fashion -- do you know why that bill hasn't been introduced in the house this year?

SENATOR BALBONI: Madam President, through you, I have not had the

ability to -- or the opportunity to ask Senator Hannon as to why he has introduced any particular piece of legislation that's in his legislative agenda.

However, I will certainly attempt to do so in the future.

SENATOR DOLLINGER: Okay, through you, Madam President, just one final question. Senator Balboni, do you know why that bill by Senator Hannon had never come to the floor of the Senate for a vote in the last five years?

SENATOR BALBONI: Do I know why?

SENATOR DOLLINGER: Yes, do you know why?

SENATOR BALBONI: Madam President, I don't understand the gentleman's question.

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

I've said this before, I'll say it again. I appreciate Senator Balboni's strong work for his constituents on Long Island. Lord knows our Long Island colleagues seem to have a plethora of these problems with religious organizations that buy properties in

the middle of a tax year and find that either they have not had a discussion with their lawyer about the tax-exempt status of the property or they can come to the State Legislature and get their property fixed, get the tax exemption declared after the fact, ex post facto, and therefore relieve them of their property taxes for a period of time.

The reason why I asked Senator Balboni the question about the conversations between the lawyer and the religious organization is because what I think we're in essence doing is allowing the lawyers in certain parts of this state to commit the equivalent of malpractice with the hope that the State Legislature will obviate the need for a malpractice claim.

I point out to Senator Balboni if the property is transferred in January of a particular year, my recollection is - certainly, I think, in all the counties the taxable status date could be in December and you could simply transfer the property prior to the taxable status date, file the property tax exemption upon the date of transfer, and

the problem that Senator Balboni has not only attempted to correct with this legislation but with prior legislation wouldn't need a correction. It could be done by good, competent lawyering.

I would also suggest that one of the things that probably happened in this closing is that the religious organization and the owner of the property, because it was taxable property, probably did have a discussion through their lawyer about, Wait a second, can we delay this closing until such time as we can push the closing back for a period of time so that we could qualify for a property tax exemption, transfer the property, and then ask for the exemption.

My guess is, Madam President, that as often happens in deals negotiated by lawyers with clients with competing interests, they reached an agreement. And the agreement was, We're going to transfer it on X date, with everybody knowing that the religious organization would miss the taxable status date for that year and would have to pay property taxes.

My guess is, Madam President, it may have even been a factor in the determination of the offering price for the property that the religious organization was going to pay the back taxes or pay the taxes prospectively.

My point is simply this, Madam President. All of these transactions occur, they occur with lawyers representing clients, they come in and do a transaction which results in taxation for an otherwise taxable-exempt entity, and under those circumstances the dynamics of the negotiating process are such that in all likelihood, if there's good lawyering, that's taken into account in the purchase and sale price, in the cost of the transaction.

If there's bad lawyering and a lawyer doesn't advise the religious organization that they can either delay or accelerate the closing date to avoid having to pay property taxes, then why should we be in the position of bailing out not just a religious organization, which by law is entitled to it, but a lawyer who represents

them who doesn't have the ability to see that paying property taxes is going to be a cost to the religious organization?

The last thing I'll conclude is I find it fascinating that Senator Hannon's bill was in the house in the year 2000. I think it's a wonderful bill. I think it's a bill that, my gosh, Madam President, if I had the ability to move to discharge the Hannon bill and bring to the floor, I would do that now, because it's time for us to have a debate about the Hannon bill.

Now, it may not be submitted to the house yet. I would hope that Senator Hannon submits the bill. I would be willing to take Senator Hannon's bill, put my name on it, give it a number and see if it could be brought to the floor of this house, so that we can forever put to bed this lingering problem that only seems to crop up in Nassau County about religious organizations having to pay real property taxes.

As you know, Madam President, we have eliminated the ability of any member of this house to bring a motion to discharge, to

bring that debate before the house even though everybody in this house knows that it's time that we had it. I would just suggest, Madam President, that the rules we've constructed that constrict debate, the rules that we've constructed that constrict the ability to bring a bill like the Hannon bill to the floor are misguided.

And there couldn't be a better demonstration of the misguided nature of those rules than this very debate. Because we'll continue to have it, Senator Balboni, every time one of these bills comes up until we find a way to bring a solution to the problem.

That bill that Senator Hannon sponsored last year that should be responsored by him again. Until we find a way to bring that bill to the floor, we will be left with the labor of trying to figure out who told what to whom when, the old Richard Nixon dilemma of who knew what when involved in real property transactions.

I think it's frankly a waste of our time to get into that detail. Let's cure the problem. Let's have a debate on the Hannon

bill. Maybe if Senator Hannon does put it in, maybe, Lord knows, I would try to move to discharge it and be greeted with a motion that I'm out of order. But then maybe we could have a debate, maybe parenthetically, about the merits of the Hannon bill, which we know will solve this problem for everyone in this state.

Madam President, consistent with my past votes, I'm going to vote no. I don't think this kind of bailout for lawyers in Nassau County is a good idea. The religious organization, we don't know enough about the terms of the transfer to know whether the economics of it are such that by doing this change we may be altering what everybody knew were the economics at the time.

I wish this house would consider the Hannon bill. I'll continue to vote no on all of these bills until we do.

Thank you.

THE PRESIDENT: Senator Balboni.

SENATOR BALBONI: Madam President, I have sat through four or five different debates when Senator Dollinger has

taken it upon himself to rail against the system as if there was some corrupt practice on behalf of the many religious institutions that have brought about the petition for relief that is presently before us.

And that is what this is. This is a petition for relief from a religious organization that by our laws, and by our Constitution, we have decided should benefit from an existence without taxation.

And though Senator Dollinger has had no great concern for the individual parties that have presented this petition, and in his attempt today to try to find some fingernail of relevance to this particular issue he is now defaming the attorney who was involved on behalf of this religious organization -- what I am thrilled about, Madam President, is that we have not named that attorney today, because I assure you, Senator Dollinger, that that individual really wouldn't appreciate being referred to as having committed malpractice.

I would offer to the gentleman that perhaps he should consider that this

individual is not just my constituent, but it's a constituent of all of us, from a collective perspective, as representatives of the State Senate.

Madam President, this particular bill before us is no different than the other petitions that we've received by religious organizations who are entitled to the proceeding that we have today because they have asked for it. And what Senator Dollinger never does is he never says what the alternative should be. If you missed the date, should you lose the money. That's the basic question.

That is the question that is before us today, not whether or not the closing was done properly, not whether or not the individual attorney knew the terms of the Tax Law and was familiar with the Not-for-Profit Law or the religious exemption clause, but, rather, whether or not this organization deserves this type of consideration and perspective.

This is the same type of consideration that you would give to your

constituents. Your vote is simple. And I know that you try to rail against the system from a systemwide perspective. But I would ask you this, Senator Dollinger. Would you say no to this organization? Would you say, I'm sorry, you don't do it the way we want you to, and I've got so many other things, so many important things in Albany to discuss, I don't want to be bothered with this particular piece of legislation? Isn't that a little of a harsh result on behalf of the Lubavitch organization?

I would ask you that you would ask yourself that question. Your no vote is entirely appropriate from a systemic basis. But please, try to lay off the people that are trying to earn a living.

Thank you, Madam President.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: I wonder if the sponsor would yield for a couple of questions.

THE PRESIDENT: Senator, will you yield?

SENATOR BALBONI: Yes, I will,

Madam President.

THE PRESIDENT: You may proceed.

SENATOR STAVISKY: Madam President, I would like -- I'm curious about 267 Guinea Woods Road in the Village of Old Westbury. Is this going to be a synagogue or a parsonage residence for the clergy?

SENATOR BALBONI: Madam President, in way of response, allow me to put into the record a letter I received on October 24, 2000, by the Rabbi Aron Konikov of the Chabad Lubavitch of Old Westbury:

"As a religious organization, the Lubavitch is seeking a property tax exemption for this location. The property is utilized for several purposes. There is a separate chapel, with its own ark and Torah, which is used for Sabbath services on alternate weeks. The premises are also used for Friday night Kiddush and meetings of the Board of Trustees. Finally, a portion of the premises is used for my residence."

SENATOR STAVISKY: Thank you. I have a couple of other questions, Madam President, if the Senator will yield.

THE PRESIDENT: You may proceed.

SENATOR STAVISKY: The sponsor's memorandum in support states that the fiscal implications include the cancellation of unpaid taxes, fines, penalties, and interest. Can you tell us approximately what that amounts to, how much revenue is -

SENATOR BALBONI: Approximately $13,000.

SENATOR STAVISKY: $13,000.

Madam President, I have one last question, and that concerns the question - and I asked you the same question when you had a similar bill for another religious institution about two or three weeks ago. Why are all of these bills involving Jewish organizations in Nassau County?

SENATOR BALBONI: Senator, I don't understand the basis for your -- the premise for your question.

SENATOR STAVISKY: I haven't seen any exemptions from real property tax from other parts of the state.

SENATOR BALBONI: Madam President, through you, how long have you

searched? Because I know in the past 10, 15 years there've been lots of organizations that have come and asked for this kind of relief.

SENATOR STAVISKY: Because we've just seen -- Madam President, through you, on the bill.

Thank you, Senator.

It seems to me that we are exempting religious institutions based upon a hardship. The memorandum says this bill would remedy the hardship suffered by the Chabad. I am sympathetic to the religious institutions, obviously. I have a great many friends who are active in the Lubavitch movement. But this is a hardship of their own making. They could have purchased the property to coincide with the tax season, and they did not. They then come to the Legislature and ask for relief, as they have every right to do.

I'm going to vote for the bill, but I am still not satisfied as to why there's something in the Kiddush wine that seems to affect only Jewish institutions in Nassau County.

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: This was not what I was going to say or ask. But I think we might be getting out of hand in terms of religious institutions at this point.

I have always felt that there should be a standard throughout the state for religious institutions and nonreligious institutions that are applicable to all. But I would not quibble whether one is a Jewish institution or a Catholic or Greek Orthodox or Protestant or a Muslim or a Buddhist institution. And I would have preferred that these standards be applicable in Nassau County, New York City, upstate New York.

Nonetheless, even though this institution was not precise in following the directions of the application that it should have, there were other institutions throughout the state to do the same, and I would therefore vote for it -- questioning, however, why we cannot have a bill that applies to all these institutions.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, would Senator Balboni yield for a question.

THE PRESIDENT: Senator, will you yield?

SENATOR BALBONI: Yes, I would.

THE PRESIDENT: You may proceed.

SENATOR SKELOS: At some point during the session, we see a number of reconveyance bills from New York City with home rule messages. Do you know why all these bills pertain to New York City?

SENATOR BALBONI: No, I don't, Senator. And it's funny. As you bring that up, I recall all my years in the Legislature, every time those reconveyance bills arrive on the floor, I voted for every single one. Because I believe that those people deserve the relief that was being offered in terms of that legislation.

Thank you, Senator Skelos.

THE PRESIDENT: Senator Dollinger.

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

It's always encouraging to engage in spirited debate with my colleague from Nassau County. He has said that this

religious organization is entitled to this exemption. And I would say to you, Senator Balboni, the answer to that question is no, they are not entitled to it.

And why are they not entitled to it? For the same reason that anybody who fails to file their income taxes on April 15th are not entitled to the protection of the Tax Laws. They failed to perform a duty that has to be performed on a specific date.

And I'll give you even a better example, Senator Balboni, and then I'll yield to a question. I bought a house on the 15th of May. I paid $26,000 less than the property was assessed for in my hometown community. All I had to do was take my real property contract to my local assessment board, and I could prove that a willing buyer will paid a willing seller less money than what the property was assessed for.

My wife said, "You're going to do that, aren't you?" I said, "Absolutely. I'll do it, I know that day, I'm sure of that, I'm a lawyer. It's the third Monday in June."

When I went on the third Monday of

June, I was told, "It's the third Monday in May, you dunce." And at that point I didn't have a right, under state law, to get the property tax deduction, because I had missed the filing date.

And I said, "But wait a second. I'm absolutely entitled to this. I can prove that the property is worth less than what it's currently assessed for."

My friend the assessor looked me in the eye and said, "You're absolutely right. I'll give it to you next year when you file on time."

Madam President, that's why we have deadlines. That's why this house has deadlines in its rules. That's why we have deadlines in most of the things we do in our lives. As the President knows, we have deadlines in our judicial system, we have deadlines for lawyers. Lord knows I'm under a couple of pressing ones right now.

But nonetheless, these are the deadlines. We have times under which you must do something or your rights evaporate. Call it a statute of limitations, call it whatever.

This is a classic instance in which a religious organization failed to meet the statute of limitations and now they come to us to ask that they get that relief.

One of the points that I tried to make earlier -- which, with all due respect to Senator Balboni, I think he missed -- is that a good lawyer would look at this at the time of transfer and say, Wait a second. As part of the transaction, we want a credit for the property taxes that we're going to pay.

And my guess is, Senator Balboni, if this was closed by a good lawyer acting on behalf of this religious community, he got a credit at the time of closing for these taxes. And now what they're attempting to do is to recover the taxes twice. They got a credit for it at the time of closing, and now they want a second credit.

With all due respect, Madam President, I understand Senator Balboni's fervid advocacy for this religious organization. I have never suggested that that's not the right thing for him to do. What I have suggested is that the right thing

for all of us to do is to obviate the need to do this in any other place in this state.

Let's do the Hannon bill. It's passed the Assembly four years in a row. It's clear that it will become a chapter. All it needs is a little nudge from this house to come up on the floor. And I will guarantee to anybody who wants to sponsor it, it's like karaoke on the other side. Come up to the bill, speak to the bill, put the bill on the floor. I will do my best to provide 25 votes. We only need six more. It will become a law.

And all of Senator Balboni's advocacy, which is -- again, I don't doubt for a second this is what he should be doing for his community. But if that advocacy could be bottled in favor and provided to the Hannon bill, we'd have a statewide solution. The assessors, by the way, don't like it. But we'd have a statewide solution for this problem. We wouldn't have to saddle our lawyers with having to go through the gyrations at the time of closing to figure out all these credits.

And I would suggest that the harsh

result that Senator Balboni is now talking about if we don't pass this bill will never happen anyplace else in this state. It's the right thing to do. Let's do the right thing and do it now. Bring up the Hannon bill and make it law.

SENATOR BALBONI: Are you done?

SENATOR DOLLINGER: I am.

SENATOR BALBONI: Madam President, will the Senator yield?

I know it was a filibuster, but would you yield anyway?

THE PRESIDENT: Senator, do you yield?

SENATOR DOLLINGER: Madam President, I believe under the rules I'm not required to yield because I'm not the sponsor of the bill and I can't be called on to respond to any questions. So under those rules, Madam President -

THE PRESIDENT: Do you choose to yield, Senator Dollinger?

SENATOR DOLLINGER: I do not, Madam President.

SENATOR BALBONI: Fine.

THE PRESIDENT: Senator Paterson.

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

SENATOR BALBONI: Madam President, I do yield.

THE PRESIDENT: Senator, you may proceed.

SENATOR PATERSON: Senator, I want to go over a few points with you. And if the institution, the religious institution had filed on time and at that time claimed the tax credit, they would have still gotten the tax credit, and they also would have gotten the exemption. So even though it appears to be a double payment in lieu of the taxation, it really is not. This is what they would have been -- this would have been allowable to them under the statute anyway. Isn't that correct?

SENATOR BALBONI: Madam President, through you. Senator Paterson, if your question is whether or not they would have been entitled to this same amount if everything had been done on time and therefore no extra money has been paid, you're

absolutely correct.

However, I cannot answer the fact that they would have been given the exemption. Because as you know, under the terms of our law, we give the county assessor the right to make the determination that they are in fact eligible, which is a three-step process that we've talked about many times beforehand.

And that's what I was trying to point out to Senator Dollinger, that he was wrong when he stood up and he said we are entitled -- that are they entitled to the exemption, yes or no. He doesn't know if they are, and neither do I, because neither one of us are in the position to actually determine whether or not they're qualified to get the exemption.

And that's all this legislation does. It says to the county assessor: Make a determination. We give you the ability to move the tax assessment date backwards or forwards, depending on what you think is the appropriate thing to do. Because as we all know, we treat religious institutions differently than we treat individuals. Which

is again why Senator Dollinger was wrong in saying that this is in fact the same case that he was doing.

And lastly, lastly, this is also not something you can brush over by saying that the people who are selling the property they should have gotten a credit from. There's nobody to get a credit from. Which is again why Senator Dollinger was wrong.

So that's what -- I appreciate your question being able to point that out.

SENATOR PATERSON: Senator Balboni -- Madam President, if Senator Balboni would continue to yield.

SENATOR BALBONI: Yes, I would, Senator Paterson.

THE PRESIDENT: You may proceed, Senator.

SENATOR PATERSON: Well, there's so much wrong in the world, Senator Balboni, and it's all attributed to Senator Dollinger. I don't even know where to start.

SENATOR BALBONI: He's a nice guy.

SENATOR DOLLINGER: But wrong.

(Laughter.)

SENATOR PATERSON: Let's go back to the issue about the deadline. The deadline really doesn't influence one way or the other the determination of exemption, does it, Senator Balboni?

SENATOR BALBONI: You are absolutely correct, Senator Paterson.

SENATOR PATERSON: I've been right twice. I'm starting to become afraid.

Senator, on the issue of the actions of the lawyer -- I don't know if you know, but I'm Senator Dollinger's lawyer, and -

SENATOR BALBONI: My condolences.

SENATOR PATERSON: I don't think that you actually interpreted what Senator Dollinger said correctly.

What I heard him say was not that the lawyer had -- he didn't even imply that the lawyer had engaged in any malpractice. What he said was that we didn't know one way or the other. And that we didn't know didn't even relate to failure to practice. We didn't really know what was in the contemplation of

the attorney and even really of the entity.

But what I think he was saying was that his solution to put this in a -- to create a scenario where this could be solved other than through individual legislation in either way would actually have been a better way to do this, so we didn't have to actually take the responsibility for ourselves for what it is that we don't know.

Now, if the Senator would yield for a question, Madam President.

THE PRESIDENT: Senator, do you yield?

SENATOR BALBONI: Yes, Madam President, I will yield.

THE PRESIDENT: You may proceed.

SENATOR PATERSON: Senator, I'm not entirely convinced on one aspect of this type of law-making that it might not be a good idea to do these cases on a case-by-case basis.

Do you have any information or any inclination to agree with me on that?

SENATOR BALBONI: Sure. I think.

(Laughter.)

SENATOR PATERSON: Madam President, to Senator Balboni. Pray elucidate.

SENATOR BALBONI: Okay. Is there a question? I'm sorry, Senator Paterson.

SENATOR PATERSON: The question is, since we haven't created a process by which these cases would be handled through the type of legislation that others have proposed, my point is, there might be some reasons not to do it that way. And I'm inclined to consider them, and I wanted to know if you are.

SENATOR BALBONI: Senator Paterson, if you're saying that -- and notwithstanding other members' of the house protestation that there is not a statewide law in effect right now -- that this bill does present the only remedy for this church, for this synagogue, and therefore it considered by the house, I would agree with you on that premise.

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

SENATOR BALBONI: I do so, Madam President.

THE PRESIDENT: You may proceed.

SENATOR PATERSON: Madam President, what I'm saying is that this is the only remedy that stands right now, but that there might be some reasons why, if we had a statewide law, they might be overbroad and might not accommodate the values of case-by-case scenario. And I wanted to know if that was something that would be a reason to continue the system as we have now. That's my question.

SENATOR BALBONI: Madam President, I had lots of coffee today, and I think I'm paying attention and listening. I don't understand the premise of the question. I apologize. Perhaps -- could you put this in writing for me? Send me a memo on this?

SENATOR PATERSON: Madam President, let me try one more time.

We have not changed the law. We have not changed the law to adopt a statewide statute such as others have advocated in this chamber today.

SENATOR BALBONI: Agreed.

SENATOR PATERSON: If we were to change the law, isn't it possible, Senator, that the law would be so overbroad that even the law itself would not accommodate some of the ministerial aspects of governance in our -- in some of our tax rules, such that it would make it actually more difficult for institutions such as the one that you're advocating for through this bill today to get the relief that they are seeking?

SENATOR BALBONI: Yes, I would agree with that.

SENATOR PATERSON: Thank you.

SENATOR BALBONI: There's an exception to every rule.

SENATOR PATERSON: Right. Thank you. Madam President, if the Senator would yield for one last question.

THE PRESIDENT: Senator, will you yield for a final question?

SENATOR BALBONI: Yes, Madam President.

THE PRESIDENT: You may proceed.

SENATOR PATERSON: Senator, if we

were to adopt that statewide law, would you care to list what some of these exceptions might be?

SENATOR BALBONI: That's why it's best handled on a case-by-case basis. Because I don't know what the exceptions could possibly be. There's a whole host of different exceptions, fact patterns, parties, situations that might not lend itself to a statewide approach.

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

I'm going to vote for the legislation. And I think that there are times that a case-by-case basis actually serves us well. And I thought I would point that out, because up to this point it has seemed almost unanimous around here that that's the direction that we have to go. It -- it might be.

But before that point, I think we would have to be scrupulously careful to make sure that we've included as many possibilities whereby some of our religious institutions not be overburdened by going through a process

where we might not have properly listed all of the aspects of their particular case.

We've had about three or four bills in here, Madam President, just in the last couple of weeks, where we added on -- in fact, last Wednesday I believe that Senator Bonacic had a piece of legislation where we originally passed it in 1995 and it had to do with the use of bodily fluids and other objects in the correctional facilities, the misuse of it, and we were attaching criminal penalties to it. He came back here last week with essentially the same bill, but just adding a couple of other items which the courts have not seen fit to accept because they weren't listed in the bill.

Now, I think that a statewide approach is a good approach, and for somewhat of a different reason. But if we do adopt the statewide approach, I'd like to admonish all of us here that it's not just a matter of taking this legislation and writing it on a statewide basis. It's one where we would have to come up with as many of these types of exceptions, such as we see here today, to

actually list.

In the end, the reason -- I think the statewide approach is specific to just what I consider to be a contradiction in this whole process. If we're saying that religious institutions are special and we're going to grant them protections that are special, then for us to attach geographic locations to those areas that are going to get special treatment, in my opinion, is patently ludicrous.

Now, your religious institution better be in the right place at the right time, or you're not going to get that special protection. And since I thought the nature of attaching the word "special" to "religious institution" is a concept that's spiritual, I didn't know that we had particular locations of a geographic nature where the spirits hang out and the rest of us in the state apparently don't have that kind of connection.

I think it is very important to the integrity of this system that we do adopt a statewide approach, even if we have to make sure that it is specific and detailed so as to accommodate all the problems that our

religious institutions have. But I think it is very important to do it lest we not open ourselves up to a feeling that there are things even more special than our religious beliefs.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Yes, Madam President. Will the sponsor yield for a question -

THE PRESIDENT: Senator, do you yield?

SENATOR BALBONI: Yes, Madam President, I do.

SENATOR ONORATO: -- from a nonattorney. I've been hearing all of this dialogue back and forth from all the lawyers in the house.

I'd like to ask a layman's question regarding the possibility of enacting a statewide piece of legislation giving the assessor of any community in the state the right to accept or reject it, give them, as we have done so many other times before, enabling legislation so that we wouldn't have to come back, they would make that determination as to

whether they want to grant the exemption or not grant it.

SENATOR BALBONI: Senator Onorato, I do not know the policy that is behind the original state law that required these fixed timetables. I don't understand why it was put into place. Maybe it has something to do with the home rule and the ability of the individual counties, through state legislation, to decide their own destiny. I do not know the actual impetus originally.

SENATOR ONORATO: Do you think it's possible, though, that we could enact such a piece of legislation giving the town or county assessors of every county in the state the right to do what we're doing here today, rather than having us come in here to do it on a case-by-case basis, enable them to do it and take it out of our hands?

SENATOR BALBONI: Madam President, through you, Senator Onorato, I believe it is possible. But I think that some concerns about that approach were raised very admirably by Senator Paterson -- once, of

course, I understood what the heck he was saying.

And I think that it is an approach that we should look at, but perhaps we need some more time to see if there's a way to draft legislation so as to take into account as many different exceptions and circumstances as possible.

SENATOR ONORATO: Thank you.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Through you, if the sponsor will yield for a few brief questions.

THE PRESIDENT: Senator, do you yield?

SENATOR BALBONI: Yes, I do, Madam President.

THE PRESIDENT: You may proceed.

SENATOR SCHNEIDERMAN: Thank you. I'm not completely clear, I might have been a little confused by the dialogue with Senator Paterson. And I'm not clear as to exactly where you stand as far as the different approaches to this.

Are you familiar with the Governor's proposal in 1997 when he said he did not want to routinely approve similar bills to this and proposed a task force of legislative, executive, and local government executives?

SENATOR BALBONI: Madam President, through you, I am familiar with that.

SENATOR SCHNEIDERMAN: Do you favor that proposal?

SENATOR BALBONI: Actually, you know, I -- Madam President, through you, I am -- at this point in time I don't have the proposal in front of me, so I'm not conversant the actual elements of the proposal. So I can't give you a yes or no.

SENATOR SCHNEIDERMAN: Through you, Madam President, it seems that there are three different approaches being discussed here today. One is what Senator Dollinger was speaking of, Senator Hannon's bill. The other is the possibility that doing this on a case-by-case basis might be the most prudent way to proceed. And the third is the

Governor's proposal.

Do you have a view as to which of those would be the most beneficial way for us to proceed?

SENATOR BALBONI: Madam President, through you, I do not at this time.

But I will tell you that regardless of which proposal or approach this house would seek to choose, I would still advocate that this particular measure that's before us now deserves your support. Because otherwise, this religious institution is going to be out in the cold. And I think we have the opportunity here to help them continue their religious mission.

SENATOR SCHNEIDERMAN: Through you, Madam President, I appreciate that. I guess my question is since it is before us and we are discussing this, just because you're doing a plea bargain for a client you have doesn't stop you from attempting to reform the plea bargaining procedure prospectively.

And my question is, since the issue has been raised, you have articulated fervently -- perhaps a bit aggressively, but

I'm sensitive to those things -- but I think that the issue is joined. And it's a good time for us to figure out what we're doing.

I personally think Senator Hannon's bill makes sense. I don't know that we need another commission for this. But I'm curious if having achieved a certain amount of expertise -- I guess this one congregation, you're achieving expertise based on their situation.

But you don't have a view one way or the other on those three approaches?

SENATOR BALBONI: No, I don't. Madam President, through you.

SENATOR SCHNEIDERMAN: Okay, thank you. Through you, Madam President. The only other question I have is -

THE PRESIDENT: Senator Paterson, why do you rise?

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

THE PRESIDENT: Senator, will you yield?

SENATOR SCHNEIDERMAN: Yeah,

maybe for one question.

THE PRESIDENT: All right. You may proceed, maybe, with one question.

SENATOR PATERSON: Senator Schneiderman, I have a proposal for this. And I would call it the fourth proposal.

What I'm suggesting is that the issue of whether or not these cases should be handled on a statewide basis is one that really accommodates the actual -- what really accommodates what would be the actual way of handling it. In other words, a process. And that's what the Governor's task force was suggesting, that there needs to be process so we don't have to do this on a piecemeal basis.

Now, given the consideration that on a case-by-case basis there are separate and distinct aspects of the operation of these religious institutions, I would see why sometimes there might be a case-by-case basis. So my argument is that that's a discussion that was resolved by the Governor's task force.

What I'm saying is this institution that Senator Balboni told us has a mission and

we want to help them, and they're special because we give a certain credence to that kind of work beyond the work of other organizations and beyond the -- what the individual taxpayer, like Senator Dollinger's case described -- if that's the case, isn't it true that if this institution moved about 20 miles from where they are, they couldn't get any protection right now, special though they may be?

SENATOR SCHNEIDERMAN: I'm not sure what you're referring to. What is the 20-mile move you're proposing? I'm afraid that would lead the Lubavitch of this particular area uncared for.

SENATOR PATERSON: Well, it's 20 miles away from Brooklyn, it's 20 miles away from Queens.

SENATOR SCHNEIDERMAN: I think Queens, yes. No, I understand.

Senator Paterson, my response to you is this. I don't -- I think that you're raising another issue which is encompassed within this notion or this idea that the Governor advanced, that we really need to have

a comprehensive view of how to achieve alternative means to resolve these sorts of tax issues.

It comes up all the time. Senator Skelos raised the issue with regard to parallel issues in New York City. And I think the concern is this. It's not that this community is any better or any worse than the other applicants for this sort of legislation.

The question is, when you have special bills, there is an impression created that some institutions have the ability to get their Senator to take their particular case and get it done and other institutions may not be so politically connected, so attuned to things. And that's the reason that a lot of people have troubles with this approach.

I think the question of tax equity between New York City and areas outside of New York City is a much more complex issue. Which I would hope that we would take up, because New York City does contribute more to the state than it takes out, even though it does have a tremendous number of people with extraordinary needs for social services and

educational purposes. Although Senator Balboni's county of Nassau contributes -- is even in worse shape as far as the balance of payments to the state. So I don't mean to suggest that they're not.

But I think that that is another issue that should be addressed. I must say I am persuaded by Senator Dollinger's argument on the Hannon bill.

But let me just address one more question to the sponsor, if I may, through you, Madam President, and then we can proceed to discuss this on the bill.

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

SENATOR BALBONI: Yes, I will, Madam President. Thank you.

SENATOR SCHNEIDERMAN: I just - before I speak on the bill, I am concerned about the issue of civility here. And you've been here for some time. Have you ever observed Senator Dollinger to refuse to yield to a question since you've been here?

SENATOR BALBONI: No, I have not.

But at the same time, let me

disabuse you of a notion, Senator. This particular religious institution is not, quote, politically connected. They do very, very good work in their community. You know how they got this bill? They sent me a letter. You know how everybody gets their bills? They send me a letter.

And the other notion I wish to disabuse this entire house of is that this happens to be Jewish organizations is absolutely not true. We are doing bills for Greek Orthodox, for Baptists, for a whole host of different religious organizations. So it's not just Jewish communities in Nassau County that are seeking this kind of relief.

So on those two very important points I wish this matter to be crystal clear.

SENATOR SCHNEIDERMAN: Thank you.

Madam President, that does raise a few more questions, if the sponsor will yield.

THE PRESIDENT: Senator, do you yield?

SENATOR BALBONI: Yes, I do, Madam President.

THE PRESIDENT: You may proceed.

SENATOR SCHNEIDERMAN: Senator, you stated that this organization sent you a letter. Are you actually familiar with the work that this organization does in the community or the beliefs or anything about this congregation in particular?

SENATOR BALBONI: I don't know anybody in the congregation.

SENATOR SCHNEIDERMAN: Are you familiar with the work that they do?

SENATOR BALBONI: As a matter of fact, there are several neighbors of mine who belong to a Lubavitch organization in general. And many of them are familiar with the rabbi. I have not met the rabbi personally. But they have told me of the many charitable works that they do and the strength of this community in Old Westbury. It's very important in my district.

SENATOR SCHNEIDERMAN: And through you, Madam President, if some other congregation -- and this is really the point I was trying to make -- had the exact same situation but did not have neighbors who knew you or members of the congregation who knew

you, or similar congregations, and just didn't write a letter, they would not receive this type of relief, would they?

SENATOR BALBONI: Madam President, through you, that's not my - that's certainly not what I thought you meant by political connected. Being governmentally aware is different than politically connected.

Now, I can't answer that because I hope that at least in the Senate district I have the privilege of representing, that everybody who needs this relief realizes that they can contact me. I hope that's the same for everybody's district.

Perhaps in your district it might be different. At least in my district I know that many people believe that they can get some response if they send a letter to my district office.

SENATOR SCHNEIDERMAN: Through you, Madam President, I think the people in my district contact me. Whether I have the same luck as you in getting it to the floor may be a different issue.

The point I'm making is not to

suggest any sort of level of corruption regarding political connection. But it's simply that in the absence of something like Senator Hannon's bill, we do have uneven treatment of organizations in similar circumstances. There's nothing sinister about it.

Some organizations assume that when they miss a deadline, they miss the deadline. Other organizations may inquire. And -

SENATOR BALBONI: Madam President, will the gentleman yield to a question, please.

THE PRESIDENT: Senator, will you yield?

SENATOR SCHNEIDERMAN: Certainly.

THE PRESIDENT: You may proceed.

SENATOR BALBONI: Senator Schneiderman, can you detail for us in this house any organization that you know of that is similarly situated as this organization and has not been able to receive any benefit from the Legislature?

SENATOR SCHNEIDERMAN: Through you, Madam President, no. Because they

haven't come to our attention. That's my point.

But you've identified the fact that this organization is here because they sent you a letter. And all I'm suggesting is that a more comprehensive approach, instead of relying on the initiative and awareness of each individual organization to contact their legislator, would be an appropriate response.

Not that there's anything wrong with them sending a letter. Not that there's anything wrong with you bringing this here. But that this sort of piecemeal approach I think inevitably -- and I don't have some particular group to cite, because obviously if we knew about the group, we'd be trying to get them the relief. But this inevitably leads to treatment of similarly situated organizations differently.

Thank you. Through you, Madam President, on the bill. I think that the issue that's raised here is a significant issue. We have a -

THE PRESIDENT: Senator Duane, why do you rise?

SENATOR DUANE: Thank you. If the Senator would yield.

THE PRESIDENT: Senator Schneiderman, do you yield?

SENATOR SCHNEIDERMAN: Certainly.

THE PRESIDENT: You may proceed.

SENATOR DUANE: Thank you, Madam President.

Do you agree with me that it seems ironic that the sponsor appears to be so shocked that we would not agree to help out this community when in fact we are agreeing with him that we do think that a group in his community should be helped out?

SENATOR SCHNEIDERMAN: Well, I'm not sure I would describe the sponsor as shocked. Perturbed. Irritable. Over-caffeinated, by his own admission. I'm not sure "shocked" would be the proper term.

But I do take your point, Senator, that what we're doing is -- I think we're here in support of his fine efforts, with the exception of a few people who stake their principles on procedural issues on bills such as this, like Senator Dollinger. Most of us

are supportive of this.

I think we are trying to come up with a way so that if there -- if the Senator who succeeds Senator Balboni is not as alert, is not as sensitive to the issues of his district -- say it's someone who doesn't respond to letters from constituents, is a neglectful senator. That fact should not prevent this congregation or another congregation from obtaining relief down the road.

We should not require that every Senate district be dependent on the skills, talents, and whims of the individual Senator for obtaining this type of relief.

SENATOR DUANE: If the Senator would continue to yield, please.

THE PRESIDENT: Senator, do you continue to yield?

SENATOR SCHNEIDERMAN: Yes, thank you.

THE PRESIDENT: You may proceed.

SENATOR DUANE: I want to give you a somewhat hypothetical situation, Senator, and see if maybe you could help me

out with the odds on it. Supposing there was a group in your district that needed similar kind of help to this. What do you think the odds would be that the Majority conference would permit that to come here to the floor under your sponsorship for a deserving group like the Senator -- the sponsor of this legislation has?

SENATOR SCHNEIDERMAN: I don't know, Senator. I think that I -- I took heart from the fact that Senator Balboni just stated that the way every group gets an exemption like this is to write his office a letter. So I do plan to also have them write letters to Senator Balboni, in the hopes that that may be of some benefit to them.

It is quite difficult for Senators in the Minority and for the organizations in the districts we represent to get bills to the floor. It has become more difficult. I don't know -- I hope that that will not continue, and I hope that we will be able to adopt a system in this house where the constituencies of individual Senators are not penalized just because of the party that Senator belongs to.

But I think that it is undeniable that it is more difficult to obtain relief like this if you're a member of the Democratic Party in this house than if you're not.

SENATOR DUANE: And if the Senator would yield for a final question.

THE PRESIDENT: Senator, do you yield?

SENATOR SCHNEIDERMAN: Yes.

THE PRESIDENT: You may proceed.

SENATOR DUANE: I'm wondering, Senator, whether you would join me in reaching out to the sponsor of this legislation to see if he will work with us to fight within his conference to make sure that all bills get out here on the floor.

SENATOR SCHNEIDERMAN: I've reached out to the fine sponsor of this bill on various occasions. I would be happy to reach out with him again, and hope that his fervent advocacy for this kind of a relief for a deserving congregation is something that he would like to see acted upon in other parts of the state.

SENATOR DUANE: Thank you,

Senator.

Thank you, Madam President.

SENATOR SCHNEIDERMAN: Thank you.

Madam President, I think I'm on the bill.

I think that this is -- the question of a piecemeal approach versus a comprehensive approach I think in this area is tremendously important. And I urge the sponsor of this piece of legislation that this is not a question of any suggestion of improper conduct on the part of the Lubavitch in Nassau County.

The fact of the matter is we do not have and we have the option to have a system that really, as Senator Dollinger said, obviates the need for this sort of piecemeal legislation.

I do think that in addition to advocating for these individual groups, it would be worthwhile for this house to take some time, and for the sponsor to take some time, to push for the comprehensive approach. I personally like Senator Hannon's bill, although I heard Senator Paterson's points and

I understand that there are alternative approaches. But I think that I have not yet heard a good argument against the comprehensive approach.

And I think that we should not be dependent, as I said, on the awareness of an institution that it should send a letter to their state Senator or to the competence, sensitivity, and ability of that Senator. I mean, Senator Balboni's office, you know, he just said it. You send him a letter, you get action.

And, you know, maybe some sad day there will be someone representing your district who does not hold to those high standards, who neglects the community. Perhaps a victim of sloth, greed, corruption, avarice, lust. And in those circumstances, we shouldn't punish the constituencies. Every group should be treated similarly.

I will support this bill, but I think it is time for us to take a comprehensive approach.

Thank you.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Just a point of order. I -- again, just to remind the presiding officer, I think the rules require that the presiding officer canvass the house. I'd simply ask for compliance with the rules that I voted against.

THE PRESIDENT: Thank you, Senator Dollinger. As you know, last week I did state that. So I appreciate the reminder.

Does any other member wish to be heard on this bill?

Then the debate is hereby closed.

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: First of all,

Madam President, I wronged Senator Balboni during the debate, and I'll apologize. First of all, he was correct about the rules. I had spoken -

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Yes. If I could ask Senator Dollinger to speak from his chair.

SENATOR DOLLINGER: Be glad to, Madam President.

Madam President, the -- I was -- I wronged Senator Balboni twice, Madam President. First of all, I misinterpreted the rules. He was correct, I had previously spoken, and therefore I was subject to questioning. And I apologize, Senator Balboni, I should have taken your question.

Secondly, I want to make it absolutely clear. If Senator Balboni has concluded that I accused him of being politically connected to this organization, or them to him, and that somehow brought them to this chamber, I did not intend that. In fact, I believe I said just the opposite.

I think Senator Balboni is doing

exactly what a member should do. He was presented with an issue, he looked for a solution, he got them the right solution. The problem is that this organization did that governmental connection that he talked about, which again is all part of our process.

But the point that Senator Schneiderman made is the perfect one, which is what do we do for all those people who are not governmentally connected who are told by their lawyer, Sorry, you missed the tax status date, you can't get an exemption. Under those circumstances under our current law, they have no out. They don't know enough to come to us. They don't know how to get the process started on their behalf.

And therefore, we take those who are just as deserving as this congregation but don't have access to the knowledge or understanding of government to get relief. That's not fair. I've advocated that it be changed.

The last thing I would say, Madam President, is that, Senator Balboni, there is a reason why we have a cut-off taxable status

date. Because in order to maintain the integrity of real property taxes, there must be a date on which an assessor knows exactly how much taxable property there is in the community. Because he uses that, determines the amount of revenue needed by government, divides it by the available tax base, and that's how we come up with a tax rate that is set out to property-tax payers. The taxable status date is -

THE PRESIDENT: Senator Dollinger, how do you vote?

SENATOR DOLLINGER: I will, Madam President.

-- is the critical ingredient -

THE PRESIDENT: Your time has elapsed, Senator. That's why I'm asking.

SENATOR DOLLINGER: -- in calculating real property taxes.

THE PRESIDENT: Senator, I'm trying to -

SENATOR DOLLINGER: I will vote in the negative, Madam President.

THE PRESIDENT: Senator, I'd appreciate it if you would let me finish my

sentence, please.

SENATOR DOLLINGER: I apologize.

THE PRESIDENT: I was notifying you by asking you for your vote that your time has elapsed.

SENATOR DOLLINGER: Thank you, Madam President. I vote in the negative.

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

Senator Duane, to explain your vote?

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

I'm going to vote yes on this legislation. But I've now been here for almost three years, and we have voted on an enormous number of these taxation bills for organizations that didn't get their paperwork in on time.

And I don't know whether that means that there are lots more of them that aren't able to go through the rigors of the paperwork and don't know how to reach out to their Senator and Assembly member, but it seems to me that this is actually something which

should be taken out of our hands.

This is something that requires administrative review. It's inappropriate that a group has to depend on their elected representative. I don't think that there's anything wrong with it, but I think the appearance is very, very problematic.

And I think in the spirit of reforming how our state works, I think the best possible process would be to level the playing field and put into effect an administrative review so that every organization in the state is treated the same way.

I'm going to vote yes on this, but with a plea that we really, instead of spending time discussing these specific instances and where people are standing when they speak on the floor, that we actually put our whatever it is to the wheel and make it so that we don't have to have these bills come before us and there's an administrative remedy for this problem.

Thank you, Madam President. I'm voting yes.

THE PRESIDENT: You will be recorded, Senator Duane, as voting in the affirmative.

Senator Paterson.

SENATOR PATERSON: Madam President, I'm voting yes as well, with just this admonition.

We know that there are decision-making capacities that are vested in the majority parties of both houses of the Legislature. And we grant that as part of our system. It's the system we work under.

And for most pieces of legislation, or most groups seeking some kind of reconveyance or some type of treatment where a ministerial inability to file at the deadline is granted, that we award that to groups, and it's up to each individual member to find a way to get the groups in their district that protection.

But religious institutions have a different standard. We grant them the privilege -- in a sense, we take their word for it. We understand their mission, the seriousness of their mission and the faith of

their mission. And so we grant that protection.

In this case we should do that, as Senator Balboni pointed out. But what I'm saying is when it comes to these specific types of cases of the special consideration we give to religious organizations, we should do it on a statewide basis, almost in the unanimity that we do it in the vote that we're going to see here of the house. We shouldn't put them through having to have a Senator intervene.

And it's for that reason that I think that not only should we say yes in our vote for this bill but for all those institutions that might have the same problems and might come before us this year.

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

Senator Onorato.

SENATOR ONORATO: To explain my vote, Madam President.

I too am going to vote in favor of this bill. And I want to commend Senator

Balboni for doing the only possible right thing that there is at the moment.

But I would suggest that for the future that we do look into ways and means of providing each county and city of the state that has the right to assess taxes to make their own decision as to what taxes they wish to forgive, including the City of New York, so that we don't have to come up here begging to have somebody's home saved to give the City of New York permission to allow them to pay back taxes.

Here, we're looking for somebody to be forgiven for taxes. In the cases of in rem procedures, we're asking for permission for them to pay back taxes. So let's adopt an all-encompassing legislation that will protect all of the taxpayers of this state once and for all, without coming to the Legislature.

I vote yes.

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

The Secretary will announce the results.

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

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 163, by Senator Morahan.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 163, by Senator Morahan, Senate Print 833, an act to amend the Education Law, in relation to certain BOCES programs.

SENATOR PATERSON: Explanation.

THE PRESIDENT: Senator Morahan, Senator Paterson, I believe, has requested an explanation.

SENATOR MORAHAN: Yes, Madam President.

Last year we passed two bills, this being one of them, one that was motivated by a home rule from Rockland county which allowed the county to bond to set up a distant

learning program within the county.

This bill passed this house last year, but it did not get through the Assembly. It was late in the year. And we have reintroduced it this year so now that the county has the ability to bond, they will be now eligible to go into a contract with the school districts, coordinated through BOCES, so they can create a distant learning center in the County of Rockland.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, I'm just a little unclear. If Senator Morahan would yield for a question.

THE PRESIDENT: Senator, do you yield?

SENATOR MORAHAN: Yes, I do.

THE PRESIDENT: You may proceed.

SENATOR PATERSON: Senator, does the purpose of this legislation relate to a particular school district?

SENATOR MORAHAN: No, sir. All school districts within the county.

SENATOR PATERSON: Senator -- I'm sorry, Madam President, if the Senator would

yield for a question.

SENATOR MORAHAN: Yes.

THE PRESIDENT: You may proceed.

SENATOR PATERSON: Perhaps it doesn't apply to a specific school district. I think my question was not stated correctly. Are you aware of any school districts affected by this that encouraged you to propose the legislation?

I'm really interested in the details of the actual circumstances that could come up and how this cures it.

SENATOR MORAHAN: I'd like to ask the Senator a question for clarification.

SENATOR PATERSON: Certainly, Madam President.

SENATOR MORAHAN: Senator Paterson, are you asking me how we came about to have this bill in front of us? Is that what you're asking?

SENATOR PATERSON: I'm sorry, Madam President, would the Senator repeat that.

SENATOR MORAHAN: Yeah. Are you asking me how this bill became a bill? In

other words, what developed to make this a request of the Legislature?

SENATOR PATERSON: Essentially, that's the question. What I'm interested in is not necessarily what -- what was the catalyst for your writing the bill. What I'm interested in is an example or circumstances that would merit this kind of protection.

SENATOR MORAHAN: Oh, okay. Fine. Well, more as to how it would work.

The school districts within Rockland County, for example -- I believe this is like a leading-edge kind of approach to education -- if we had in one school four or five students that wanted one subject but not enough to create a class, and we had another school district within the county that had additional students that wanted to have that class, and that they could go around to the districts, and if they could create that class under the auspices of BOCES, then that class could be run from a central point for the students in the various districts without incurring the cost of doing an individual class in each school district.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, if Senator Morahan would continue to yield.

SENATOR MORAHAN: Certainly.

THE PRESIDENT: You may proceed.

SENATOR PATERSON: Madam President, Senator Morahan really has a good idea. And what it is is it's a supplemental situation where, if there are certain services not available in a particular district, that we might be able to create a link and provide the needed ability of the student to receive services from another district.

But the reason I asked him was there a specific district in Rockland County or somewhere around that that caused him to write the bill is because it is an idea that I think is important enough that we might want to do it statewide.

So my question to Senator Morahan is, why don't we just create a scenario where we can do this bill for all the residents of New York State?

SENATOR MORAHAN: Well, that

could be done, of course, Senator. However, this bill is a little bit unique in that the county is the one that's going to fund it. And therefore this county, using its funds through the bonding process, will do the initial layout to build the infrastructure.

If you're saying to me that the Education Law ought to be changed so this sort of technique could be used around the state, I don't question that to be a bad idea. That may be a good idea.

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

SENATOR MORAHAN: Yes, Madam President.

THE PRESIDENT: You may proceed.

SENATOR PATERSON: So then -- and I can understand this -- this is an idea that the county is willing to fund. In other words, this is ready to go. We don't have to wait -- we might do it later on for the residents around the state, but we can do this right now because the county has approved the money for this. Is this correct?

SENATOR MORAHAN: That is correct. It's my understanding that the request last year on the home rule was to allow them to pass the bond and to float the bond for this purpose.

This certainly could serve as a pilot for others to emulate.

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

SENATOR MORAHAN: Yes, I do, Madam President.

THE PRESIDENT: You may proceed.

SENATOR PATERSON: Madam President, my question is not the same question, but it goes back to what was the gist of my original question.

If the county has gone to this extent to appropriate financing for this type of a project, I would have thought that there was some specific cause, something that gave the county this idea. In other words, if this was general, it might have been something that the county might have encouraged their local legislator to put a bill in.

But this is sounding to me like it's somewhat specific. And I just wanted to know if Senator Morahan had any information about what issue arose that might have caused the county -- it might not have been Senator Morahan, but the county -- to think that we might need to do this.

SENATOR MORAHAN: Madam President, it seems that the County of Rockland, when I served there as a legislator, had developed a distant learning committee, if you will, to look at the education process within the county. The county legislators sponsored that effort. County legislators at the conclusion of that process decided that this is what they wanted to do. And therefore, they sent a request here to the State Legislature asking us to give them the permission to bond for the project and asking for permission for BOCES and other school districts to enter into a contract with the county to effectuate the programs.

We passed the first bill and the second bill in the Senate. The Assembly passed the first bill, enabling the bonding,

but they didn't get through the second bill. And therefore, we're resubmitting the bill so that it can be -- give the fruition, if you will, to the programs that they envision.

I think it is, as you say, new technology, a new concept. And maybe it's a credit to Rockland County for their forward thinking in the area of education. This is one of several initiatives that I've heard that they've embarked on. Others are still in the process.

SENATOR OPPENHEIMER: Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, just one final question if Senator Morahan is willing to yield.

SENATOR MORAHAN: I'm willing to yield.

THE PRESIDENT: You may proceed.

SENATOR PATERSON: Senator, I just want to ask you about the contract between the county and BOCES. Is BOCES involved in any of the payment, or is the county paying and the state would reimburse

the county?

SENATOR MORAHAN: The bill would allow these programs to be aidable, so that the school districts and BOCES could submit for aid from the state. And therefore they would be paying that back to pay off the bond, through the contract process.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: I'm very familiar with BOCES. And I'm having a little trouble here trying to understand a couple of things. So if the Senator would yield for a question.

SENATOR MORAHAN: Yes, Madam President, I yield.

THE PRESIDENT: You may proceed.

SENATOR OPPENHEIMER: BOCES has a very extensive distance learning setup now. All the BOCES I know provide distance learning. I don't understand how this is different. In this case, they'll be providing it to the county. I guess I'm -- I don't understand -- why isn't BOCES doing this now, is my question.

SENATOR MORAHAN: Yes, I've been informed that BOCES can do this now, but they cannot do contracts with the school district to do the same sort of thing.

SENATOR OPPENHEIMER: Through you, Madam President. Don't the BOCES all at present have contracts with school districts?

SENATOR MORAHAN: Yes, they do, but these bonds are to build a separate building just for this particular program.

SENATOR OPPENHEIMER: Through you, Madam President, if the Senator will yield.

SENATOR MORAHAN: I'll yield.

THE PRESIDENT: You may proceed.

SENATOR OPPENHEIMER: Does not your BOCES already have an established space? I mean, our BOCES have campuses.

SENATOR MORAHAN: Well, let me say this. This bill is being requested for and by the County of Rockland and the BOCES and the school districts. Now, all the details of the program known to them may not be fully laid out in the bill.

SENATOR OPPENHEIMER: I guess,

Senator, I'm questioning why a building is needed.

SENATOR MORAHAN: Well, that's for them to decide. I don't ask them why they needed a building, why they have to use a new building. There may be an infrastructure problem. That may be the number-one concern of theirs. This just allows them to do what they think they want to do.

SENATOR OPPENHEIMER: Okay, through you, Madam President. The monies that we will be supplying through this bill will go towards a capital to pay off the -- to help with the bonding for the building?

SENATOR MORAHAN: No, how it actually works is the school districts and BOCES -- BOCES, actually, will be contracting, as I understand it, with the county. And the school districts, in their contracts to BOCES, okay, will be paying BOCES, and BOCES will be contracting with the county on a rental or whatever their arrangement is.

The schools, in turn, will put in for aidables, state aid for the programs. That should be the money that would be used to

pay back the bond. I believe they can get anywhere from 36 percent up.

SENATOR OPPENHEIMER: Through you, Madam President. Is this only a different circumstance because we're not dealing with children ages five through 18? Is that the difference in this bill, that we're dealing with an adult?

SENATOR MORAHAN: No, this is - we're dealing with the regular student population as well.

SENATOR OPPENHEIMER: I'm still confused, but I'm going to try and work this out. Thank you, Senator.

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Through you, Madam President, would the Senator yield.

SENATOR MORAHAN: Yes, Madam President.

THE PRESIDENT: You may proceed.

SENATOR LACHMAN: What would be the population cohort of students that would have access to these sites?

SENATOR MORAHAN: Well, any district, any school district that wants to

contract with BOCES to do this would be their population.

I don't have the specific population numbers, and I don't know that they're applicable to the bill.

SENATOR LACHMAN: All right. Madam President, would the Senator continue to yield.

THE PRESIDENT: Senator, do you yield?

SENATOR MORAHAN: Yes, Madam President.

THE PRESIDENT: You may proceed.

SENATOR LACHMAN: Would this apply to any students who are taking home learning instruction? Would the distance learning be available to these children in their homes who cannot go to these sites outside of their homes?

SENATOR MORAHAN: Unless the school is providing that, the school district is providing that, I don't think that it would be available to private, you know, parents just to have their children enroll in it, no. I believe it would have to go through the

school district. If the school district includes it, then it would be available for them.

SENATOR LACHMAN: So some children -- Madam President, may I continue?

So some children that go under home learning and cannot, for physical or emotional reasons, be in a school setting would not be able to participate in distance learning at these sites?

SENATOR MORAHAN: Senator, I don't know that I know all the answers to your question. But let me see if I understand the question.

You're asking if some children who are now being educated through the public school system at home would have access to this center or have access to the services provided by the center.

SENATOR LACHMAN: Cannot physically go to these sites.

SENATOR MORAHAN: Okay. The sites would be in the school districts. I don't know what arrangement the school district would make from the school to home,

whatever their -- you know, I don't know what they have now as far as electronic or any technical, technology devices that would help them do that other than send a tutor to school or send the homework home.

So I don't know that there's any change there, sir.

SENATOR LACHMAN: Madam President, if the Senator continues to yield.

SENATOR MORAHAN: Yes, I do.

THE PRESIDENT: You may proceed.

SENATOR LACHMAN: Senator, are you aware of the fact that Empire State College and Regents College, which has recently changed its name to Excelsior College, have specialized in the area of distance learning and one of their major endeavors is to reach young adults at home who cannot, for a variety of reasons, attend classes? Now, has this school district at all been in consultation with these experienced college endeavors to provide distance learning to a large cohort of a population that needs it?

SENATOR MORAHAN: I don't know if

the school districts in my county or the County of Rockland have been in touch with those people. No, I don't know that.

SENATOR LACHMAN: On the bill, Madam President.

I'm in favor of this bill. I'm a strong proponent of distance learning. But the dimension, I think, of distance learning as you describe it could be enhanced with, one, a cooperative endeavor with either Empire State College or Excelsior, formerly Regents College. And they have made major improvement in learning through reaching young adults, young people who have to be home.

Now, these can be people in their late teens who have to be home for physical reasons or young mothers who have to take care of children who cannot leave their home to take courses and yet are able to take courses through distance learning without attending sites outside of their homes.

And this is patterned after the British Open University system, which has made major, major improvement in the education of teenagers and young adults in England.

So I would suggest that you as the representative, Senator, from this county bring this information back to your BOCES and your school district.

Thank you. I will vote yes on the bill.

THE PRESIDENT: Senator Morahan.

SENATOR MORAHAN: I just want to respond to Senator Lachman.

Sir, I'd be very happy indeed to bring back your suggestions. While I have not asked them that question or those questions or pointed that out to them, I'm normally hesitant to tell, if you will, administrators who are expert and professionals in this particular very important field of the development of our children.

But I would be delighted, because I think what you say has much merit. I will make sure that they have that information, that they're aware of those programs. Maybe they're just a little impatient. Maybe they just want to get ahead of the curve.

But thank you, Senator.

SENATOR LACHMAN: Madam

President, through you, just an explanation of what I was saying. Senator, I didn't want you to tell them, I just want you to suggest it to them.

And as a former administrator, I can tell you we are not the font of all wisdom in education.

Thank you kindly.

THE PRESIDENT: Senator Brown.

SENATOR BROWN: Thank you, Madam President. Through you, would the sponsor yield for a question.

THE PRESIDENT: Senator?

SENATOR MORAHAN: Yes.

THE PRESIDENT: You may proceed.

SENATOR BROWN: As I understand it in listening to this, then, it appears that one of the reasons for this bill, Senator, is to provide this cutting-edge programming, this distance learning programming, but at the same time to allow the county to finance a new building that will house the distance learning activities. Is that correct?

SENATOR MORAHAN: That's my understanding, Senator, yes.

SENATOR BROWN: And do you know at this time, Senator, what it will actually cost to construct the facility?

SENATOR MORAHAN: I'm not the fellow who is going to be constructing it. No, I don't know.

You know, they could very well be using the money, besides the building, for all the infrastructure that would be needed to put the technology in place. That's probably the greatest part of the expense. Truly, they may use some available space.

SENATOR BROWN: Through you, Madam President, would the sponsor yield for another question.

SENATOR MORAHAN: Yes, ma'am. Yes.

THE PRESIDENT: You may proceed.

SENATOR BROWN: So this enables, then, the county to finance the building of the distance learning facility for BOCES and the -

SENATOR MORAHAN: Senator, would you suffer an interruption? Let's just put it this way. To finance the construction of the

facilities, whatever that may include.

SENATOR BROWN: Okay.

SENATOR MORAHAN: Okay?

SENATOR BROWN: -- and to finance the construction of the facilities and then to have the school district and BOCES work together on providing the programming and to have the facility reimbursed at the current available state rate through the school district?

SENATOR MORAHAN: Yes. Yes.

SENATOR BROWN: Through you, Madam President, would the sponsor yield for another question.

SENATOR MORAHAN: Yes, Madam President.

THE PRESIDENT: You may proceed.

SENATOR BROWN: That current state rate, is that the 84 percent rate?

SENATOR MORAHAN: It could range. I don't know what it is specifically in this district. But the minimum would be 36 percent. And it depends on the land, wealth, et cetera, et cetera, all the other formulas which I think takes a bit of an

expert to figure out.

And they're all school districts. Some districts get aid at a different level than others because it goes across various school districts. So each school district has its own aidable reimbursement.

SENATOR BROWN: Through you, Madam President, would Senator Morahan yield for another question.

SENATOR MORAHAN: Yes, Madam President.

THE PRESIDENT: You may proceed.

SENATOR BROWN: Senator, have you been informed of what students would have access to these programs and how they would be structured at this time?

SENATOR MORAHAN: Well, I would imagine any students who are eligible in the school district that want the particular programs. Or if it's a group of students who develop a program they want, anyone would be eligible, you know, depending on what the program consists of.

SENATOR BROWN: Thank you.

On the bill, Madam President.

This is a good bill that I'm going to support. As Senator Paterson was saying when he spoke, it does sound like this is the kind of thing that could be done statewide. Distance learning is going to be an important way for people to learn in the future.

I would certainly like to see more distance learning facilities be developed across the entire state. I know that in my own community, Buffalo and Niagara Falls, Grand Island, City of Tonawanda, there are a number of applications that I could think of where students or people who want to return to school could use the state-of-the-art distance learning facility. So perhaps through the construction of this facility in Rockland County there will be lessons that can be learned for other parts of the state to be able to replicate this model.

Thank you.

SENATOR OPPENHEIMER: Oh, Madam President -

THE PRESIDENT: Senator Duane was next.

SENATOR DUANE: Thank you, Madam

President. On the bill.

I was going to vote in favor of this legislation. But, you know, it's a good thing that we're having debates on the floor because that's really enlightened me into - or I should -- well, it's enlightened me as to why it is that it's so important that we have debates on the floor.

Because I'm not at all enlightened about what this bill is going to do. The only things I heard were, "oh, probably" and "maybe" and, "oh, that's a suggestion" or, "well, I think that could be the case" or -- I mean, it just -- on and on.

I mean, I don't understand what happened in the Education Committee, because people who were in the Education Committee don't even really seem to understand what's happening with this bill either.

I can't in good conscience vote for this because any of the questions that I think are really important to this bill have not really been addressed here. I think that a bill like this needs to have a much more thorough hearing in the committee. Things

that were suggested are things which we should talk to the advocates and the people who are going to be directly impacted by this legislation. They should have a chance to testify as to why they do or do not want to have this legislation. I think that we need that so that when the bill comes to the floor, we all have an idea about exactly what it is that's going on with it.

As I say, you know, when I read the bill, it was my intention to vote for it. But now, after what I can only call a very fuzzy sort of discussion about it, I'm not going to vote for it, because I don't think it's ready to -- it's certainly not ready to come to the floor. Nobody really seems to know enough about this bill. And it's a good thing that we had this debate on the floor. Otherwise, I would have just voted for it without having the appropriate information, which I still don't have.

So I'm going to vote no on this. And I'm embarrassed that we're even voting on this today, Madam President.

THE PRESIDENT: Senator

Oppenheimer.

SENATOR OPPENHEIMER: If the Senator would yield.

SENATOR MORAHAN: I yield.

THE PRESIDENT: You may proceed.

SENATOR OPPENHEIMER: I think I'm trying to focus in on what my problems are trying to understand this.

I guess I don't understand why the county is getting involved. In my case, where we live, in the Southern Westchester BOCES area, we have 12 buildings that are the campus of Southern Westchester BOCES. These 12 buildings had no participation in county funding. They were funded through the BOCES construction. Why are we bringing the county in to construct the BOCES building? That's my question.

SENATOR MORAHAN: Because the county, through its legislature, the school districts, through their superintendents, BOCES, through their superintendent, have asked us for the ability to do what they think they want to do to educate the children in the County of Rockland in a different manner.

Now, while I'm responding to you, I'll also respond to Senator Duane with the maybes and the probablys and those sorts of - that sort of phraseology around these debates.

I don't micromanage, I legislate. I respond, I don't dictate. I try to help and not to hinder. If in my considered judgment the county requests, through home rule and other supporting documentation, that this is an event, this is an enterprise, this is a joint venture that they, in their wisdom, being responsible to their taxpayers, want to enter into, and the school districts and BOCES think it's a good idea and they want to do it, they have been entrusted with the local tax dollars, with the responsibility to educate our children, therefore, this legislator will try to get done for them what he can. And that's why we're here.

All of the screws and all of the bolts and all of the nails and all the planks are not for me and I don't believe for this Legislature to hammer out. That may be a difference of opinion, it may be a difference of style. I'm not going to debate down to the

last bolt and screw and nail how they're going to do the implementation.

This will either be successful or it won't. I believe it will. I believe it's advanced technology. I think it's forward thinking. I congratulate the legislature of Rockland County for having the foresight and the courage and the willingness to take on this particular project that's nowhere anything else State of New York, to my mind.

SENATOR OPPENHEIMER: Oh, that's not true.

SENATOR MORAHAN: Not in this form, not in this partnership.

And I hope that addresses my philosophy to you. And I don't know that I can answer all of the questions that you bring forth.

SENATOR OPPENHEIMER: Senator Morahan, I just want to assure you I understand that this is being done because you feel, and I probably agree with you, that it's a right thing to do. It doesn't seem harmful.

I'm just trying to understand how this came about, because surely a lot of our

BOCES have distance learning and extensive distance learning. And I'm just trying to understand why this distance learning is any different from all other distance learnings in the existing BOCES that I'm familiar with.

I have another question, if the good Senator will yield.

SENATOR MORAHAN: Yes, ma'am.

SENATOR OPPENHEIMER: And I think you're doing a fine job for your constituents, and you're doing exactly the right thing. So please don't question my goodwill, even though I do have very specific questions about why this is happening, because I have not seen it happen in any of the other BOCES.

Now, in your justification - remember, I asked you earlier if this was just for children, because BOCES takes care of preschoolers as well as through 12th grade. And here in reading the justification -- the reason I asked that question, in reading the justification it says that the construction, equipping of the facilities is designed for the interactive, instantaneous communication between county sites.

And that was why I'm questioning, again, is this not for adult learning? Because county sites are not school sites, they're not educational sites. The county site, to me, would indicate adult learning.

SENATOR MORAHAN: You could be very well correct on who's going to be the recipients of the education. I believe whatever -- now, let me say it this way.

BOCES now has adult education programs. Okay? Whether that's tied in from their point of view -- that may be their programs, and maybe that's what they will do. I don't think it's been laid out by the county or the distance learning advocacy group specifically to bar or exclude anyone.

And if BOCES now gives its adult education around the county or at its site, maybe now they can use this technology so people won't have to travel so far to get to the BOCES center, that they can do it from other local sites that are owned by the county.

I don't know that the county in this terminology means county-owned property.

It could very well mean that, because it has a capital "C" as I see it. But it says other locations, school district locations. It's very broad in its application, Senator.

SENATOR OPPENHEIMER: Thank you, Senator. I have one last question. Do you have an idea -- through you, Madam President -

SENATOR MORAHAN: I yield.

SENATOR OPPENHEIMER: Do you have an idea of the fiscal impact of this bill?

SENATOR MORAHAN: The only fiscal impact other than the statable aid would be absorbed by the county. In other words, as I said before, if the programs are aidable through the state education system, they could get anywhere from 36 percent up, depending on how it's structured, in what district, what their aid is. The rest of the bond is being floated by the taxpayers. They will have to work that out themselves.

SENATOR OPPENHEIMER: Okay. Thank you, Senator.

SENATOR MORAHAN: You're quite welcome, Senator.

SENATOR OPPENHEIMER: On the bill.

This is a departure from what I have seen in the past as far as the funding formula for BOCES. I find this interesting, and I support the bill, even though it's not something that has been my common knowledge before.

One of the services BOCES does offer is distance learning, which provides students with training through videos and computers. One such distance learning program is located at the Hamilton-Fulton-Montgomery BOCES, where they have an extensive distance learning program for seven different school districts. This system has been meshed with the 12-site BOCES distance learning network already in place here in Albany. And it's also in the Schenectady and Schoharie region. And in this network, there's daily courses that are offering advanced accounting for college credit and for human development.

So I mention this because there is a vast network which is being developed in our state which will deal with student and adult

learning through video, through long distance networking. And it is certainly a very beneficial thing for our citizens, and they will be able to learn in a variety of settings. They will not have to travel distances to get to the BOCES center. And I think it's the way we have to be going in our state.

The only thing I was questioning the sponsor on was the unusual methods of financing this. But I support the bill, and I think it is the right direction.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you. Madam President, I think the question was answered. But if the Senator will yield, just for me to be sure.

SENATOR MORAHAN: I yield.

THE PRESIDENT: You may proceed, Senator.

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

I thought I heard you, in the final answer to Senator Oppenheimer's question, say

that it was taxpayers' dollars. I'm assuming, then, that the bond is being floated by the county and it's not a state bond.

SENATOR MORAHAN: That is correct.

SENATOR HASSELL-THOMPSON: Okay. Thank you. That was my own question.

SENATOR MORAHAN: You're welcome, Senator.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Does any other member wish to be heard on this bill?

The debate is hereby closed.

Read the last section.

Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Stachowski, to explain your vote.

SENATOR STACHOWSKI: Madam President, briefly to explain my vote.

I listened to most of the debate,

and actually I had no problem with this bill before the debate started. And I think I understand what they were saying, but I'm still trying to figure out in my head whether it's a better deal if the county floats the bond rather than the school district, even though the school district gets a great deal right now with the building funds from the state, and it's -- the money for the classes offered are going to pay off the bond.

And I'm not sure quite sure how that all works, but I'm going to give the sponsor the benefit of the doubt, and hopefully that it's wishful thinking -- I mean that it's forward thinking, and hopefully that it's a program that will work out well and maybe other counties will offer to help out school districts or their BOCES programs to enable school districts to put together advanced learning labs that maybe they can't quite fit in right now and don't need a whole building for.

And maybe the county can provide that in various places in the state after this one is successfully done and they see the

so-called pilot project. It may be something that everybody will want to copy -- hopefully, it will be -- and not something that isn't better than things we can do currently in the Education Law.

So with that in mind, I will vote yes on this bill.

Thank you.

THE PRESIDENT: You will be so recorded as voting in the affirmative, Senator.

Senator Duane, to explain your vote.

SENATOR DUANE: Thank you, Madam President.

Really, I can sum up my explanation in one word: What?

I vote no.

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

The Secretary will announce the results.

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

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Please call up Calendar Number 195, by Senator LaValle.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 195, by Senator LaValle, Senate Print 2082, an act authorizing the Office of Real Property Services and the Commissioner of Education.

SENATOR DOLLINGER: Explanation, please.

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

SENATOR LAVALLE: Madam President, this bill requires the Office of Real Property Services and the Commissioner of Education to conduct an analysis of the impact that a special equalization rate would have upon the Riverhead School District for the purposes of computing state aid to education.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, if Senator LaValle would be kind

enough to yield for a question.

SENATOR LAVALLE: But of course.

THE PRESIDENT: You may proceed.

SENATOR PATERSON: Senator, the equalization rate of towns within a school district obviously varies around the state. So in a sense, I'm going to ask you the same question that I previously asked Senator Morahan. Would this not be a good idea to try this all around the state?

Or is it the case, as Senator Morahan described, that this is a situation that's already organized and is urgent so we would want to do this right now, whatever we do later on regarding the rest of the state?

SENATOR LAVALLE: Senator Paterson, under Section I think it's 1230 of the Real Property Law that we passed in I think it was 1992, we provided very specifically for a process that would allow for school districts to come before the Legislature to apply for special equalization rates.

And those circumstances would be for school districts that are property-poor

and have other circumstances. Riverhead School District, as well as other school districts around the state, are in more than one assessing unit. And the state aid formula is very, very complex.

As a matter of fact, in my prior life here as a staff member, whenever had you a school district that was in more than one town, you had to go to this special provision in the state aid formula that probably in this city only two or three or four people even know how it works.

But it causes -- because it is in more than one assessing unit, it causes parts of that school district to have problems. The problem, as I had stated in the bill, is, one, state aid to education, but, two, tax liability of the area.

And the equalization, the formula to get to that is to take the full value and divide it by the equalization rate, and you would get the tax liability in that particular area. So actually, equalization rate plays a part in not only how much aid a particular school district is going to receive, but how

the tax liability will be apportioned.

And here you have a situation that one part of this school district, the tax liability is playing a very disruptive role in the lives of the people that live in that area.

SENATOR PATERSON: Madam President, if Senator LaValle would continue to yield.

SENATOR LAVALLE: Yes.

THE PRESIDENT: Go ahead, Senator.

SENATOR PATERSON: Senator LaValle, the Riverhead School District has a majority in one county and has a smaller portion in the second county?

SENATOR LAVALLE: Senator, the Riverhead School District is wholly in the County of Suffolk. It is within three townships. It is within the township of Riverhead, the township of Brookhaven, and the township of Southampton.

SENATOR PATERSON: Okay. What I don't understand is that you then take the value of assessment from the three towns, you

then divide it by the percentage of the townships in the actual school district and you apportion that to get the actual equalization rate?

SENATOR LAVALLE: Senator, the reason we have this legislation before us is because, under law, equalization rates are defined as a municipal or town function. Here, we have three separate townships.

If we look at -- let's -- to make this simpler for our colleagues, if we look at the equalization rate in one of the towns - let's take Southampton. Okay? Southampton is, as a whole, taken as a whole, is a wealthy real property -- is real property-wealthy. A part of the town, Flanders, is not as wealthy as the rest of Southampton in its property values.

Because of the fact that the town of Southampton is one of three townships that went to full-value assessment several years ago, but then did not keep their tax rolls current -- and this is very important to the discussion -- the equalization rate then falls, drops.

And when that equalization rate drops, it plays havoc. Okay? It makes the tax liability on those people that live in Flanders inverse, higher. Okay? It also, in terms of the state aid formula, makes a false value. In other words, property -- it makes that section wealthier in real property than they actually are. The wealthier you are, the less state aid you receive.

So that's giving us both sides of the equation in terms of tax liability and state aid formula. Both of those playing together plays havoc.

Now, in terms of this legislation, we are asking the Office of Real Property Services to go in and do appraisals and do an assessment to simply see whether a special equalization rate will be of assistance.

Historically, when we created the first bill, we had nine school districts that were included and received special equalization rates, and thereafter we have broadened it to six other school districts. So currently, we have 15 school districts in the state of New York that receive special

equalization rates.

THE PRESIDENT: Senator Paterson, do you have another question?

SENATOR PATERSON: Yes, Madam President.

Under the legislation in 1992, the way it works, as I understand it, Senator, is that this district applies. And if we the Legislature see fit, then we would bring in the Office of Real Property Services, and some consultation with the Commissioner of Education, and they would then conduct a survey to see whether or not a change in the equalization rate would be appropriate.

As it sounds like it would be in this case, because of the fact that the tax rolls not being current, the added taxation in Southampton has hurt the Flanders area, which is in the actual school district.

SENATOR LAVALLE: Senator, I think the way it works is that in the first instance, we ask to do the study. If the study comes back in an affirmative way, the school district must then come back to this Legislature to be part of Section 1230.

So in other words, we do the study first. If a special equalization rate helps, then we put them -- then we give them a special equalization rate, and we must pass a second and separate piece of legislation to do that.

SENATOR PATERSON: Madam President, I stand corrected on that. And I thank Senator LaValle for that.

If the Senator would yield for one last question.

SENATOR LAVALLE: Senator, I'd be glad to. But as we get closer to the vortex of circumlocution, this area can become more and more complex to our colleagues. But I will be happy to yield.

THE PRESIDENT: You may proceed, Senator.

SENATOR PATERSON: We're getting closer to the vortex of circumlocution. You lost me long before you lost my colleagues.

Madam President, my question to Senator LaValle is, for the other areas around the state -- because I think your situation is well-stated, and I think that from your

explanation is in need of remedy. And I think this legislation will help provide it.

But for the other areas around the state -- and this is not an uncommon situation, where you have school districts that intersect townships -- the question I would have is, would they have to seek legislation to create some kind of change or relief to the equalization rate? Is that the process on the legislation in 1992?

And using your perspicacity, I'm sure that there'd be some way to work that out. So I wonder what your thought is.

SENATOR LAVALLE: Senator, yes, they -- this would be done. And as I had indicated -- and I actually misspoke, upon reflection. The first time I said that there were nine districts that went in and then added six more. What I meant to say is we started with nine districts in which we asked studies to be done, and six -- we started with 15, and six opted out, to give us the nine.

But the school districts would literally have to come to this Legislature, ask us to conduct a study, as I am doing. And

if that study showed that a special equalization rate would help -- because this Legislature, in its wisdom, said why should we punish the school districts and the taxpayers thereof because the township or townships have not kept their tax rolls current. In a perfect world, none of the school districts of this state should have to come to this Legislature, because they could deal with the problem simply by keeping their tax rolls current or being at full value.

That is the local decision to be made. Because local decisions are not being made, we in this Legislature are put in a position to protect our school districts and our taxpayers.

So yes, Senator, school districts around the state that would have the same problem would have to come in a two-step process before this Legislature.

THE PRESIDENT: Senator Breslin.

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

SENATOR LAVALLE: Yes.

THE PRESIDENT: You may proceed.

SENATOR BRESLIN: Through you, Madam President. What kinds of cost implications are there to a study by the Education Department?

SENATOR LAVALLE: Senator, that's a good question. Normally within a budget for the Office of Real Property Services, they allocate a sum of money, assuming that they will be asked to do a study.

This study, our guess is, upon checking, about $10,000 to do the study.

SENATOR BRESLIN: Again through you, Madam President, as it relates to the vortex of circumlocution, can we -- I'm sorry, I'll withdraw that.

Again through you, Madam President. Since the enabling legislation in the early '90s, how many studies have been conducted?

SENATOR LAVALLE: Other than the six that opted out, we don't know. I can't answer it.

SENATOR BRESLIN: Can you tell us -- again through you, Madam President - where those districts that opted out were.

SENATOR LAVALLE: Where were they? I can tell you that -- I can't tell where the districts are. I can tell you what the nine districts are. The nine districts are Amityville, Brentwood, Central Islip, Freeport, Hempstead, Roosevelt, Uniondale, Westbury, and Wyandanch. They're all included in Section 1230 of the Real Property Tax Law. Those the are nine districts that are included.

I cannot tell you the section that opted out. I don't know where they are.

SENATOR BRESLIN: And again through you, Madam President, all those districts appear -- I don't know the geography, but are they all -

SENATOR LAVALLE: They're Long Island districts, Senator.

SENATOR BRESLIN: Long Island. Is there something indigenous to Long Island -- again through you, Madam President -- that happens there that doesn't happen in the rest of the state?

SENATOR LAVALLE: Since we are a sole-source aquifer, it may be in the drinking

water. Other than that, I can't -

(Laughter.)

SENATOR BRESLIN: Again through you, Madam President, is there -- you have a particular expertise that we all respect, and I was wondering if the rest of the state is missing something in situations where they feel as though their school district is particularly prejudiced by something that happens with the taxying authorities within that school district that they are missing that you are taking advantage of.

SENATOR LAVALLE: Not at all, Senator. I don't know why other school districts around the state are not taking advantage of this.

But for years, in doing the state aid formula -- and those of the members who are on the Education Committee that are involved in the state aid formula, you know that there are a lot of confluences that come together to arrive at a dollar amount when we look at the computer run, the bottom line.

On Long Island, many times before it hits other parts of the state, meaning

upstate, we find that values change because of the growth and the fact that the assessors are not keeping their tax rolls current. Three townships in Suffolk County -- I can only speak to Suffolk. Nassau has a sole assessing unit. Suffolk has ten separate assessing units.

But the three towns -- the towns of Islip, Southampton, and Riverhead -- went to full value. I can only speak to Southampton and Riverhead. But soon thereafter, they never kept their rolls. After biting the bullet, making one of the toughest political decisions that local towns can make, they never kept their rolls current.

At the same time, you had values going up, skyrocketing, spiking. And they will spike down. Those kinds of changes are really not present in any other part of the state. Upstate has gone up and down, and it's been a more gradual slope up and a more gradual slope down. Long Island has been spiking up and down.

SENATOR BRESLIN: Through you, Madam President, thank you. On the bill.

I would briefly state that this law appears to -- the law enacted in the early '90s appears to give some flexibility to us as a Legislature to make some changes to what most of us feel is an unfair law which, under the formula which everybody agrees is rather complex, leads to some unsatisfactory and unfair conclusions and unfair and unsatisfactory amounts given to particular school districts.

And I think each of us in this body have particular school districts within our jurisdiction which we feel are being treated unfairly. And I think possibly this bill for the particular school district doesn't go far enough, and that we really should begin that overhaul of the entire school formula to address it in a total and a monumental way that will have a positive effect on all of New York.

Thank you very much. And I will be voting in the affirmative.

SENATOR OPPENHEIMER: Madam President.

THE PRESIDENT: Senator Dollinger

is next, I believe.

SENATOR DOLLINGER: Through you, Madam President, will the sponsor yield to just a couple of questions.

SENATOR LAVALLE: Yes.

SENATOR DOLLINGER: Senator, one of the lines in the memo that you have put in in support of this bill is that the consequence of the equalization rate in this part of Brookhaven is that that portion of the district looks wealthier than it actually is.

SENATOR LAVALLE: It's actually the town of Southampton, Senator.

SENATOR DOLLINGER: Okay. My question is, is the converse of that true? Is it true that the remainder of the town, which is not in this school district, actually looks poorer than it would otherwise appear from the point of view of paying its real property taxes?

And the reason why I ask you, Senator, is because, as you properly point out, there's been enormously complex adjustments of rates. And if it appears as though the Riverhead School District looks

wealthier because it has a portion of a very wealthy community, the poorest portion, my question is, can you do this in isolation or would you have to look at the equalization rates and the wealth factor of the remainder of Southampton as well? Does that look poorer than it would otherwise and therefore it gets more money?

SENATOR LAVALLE: Senator, I'm not sure whether the Office of Real Property Services, when they do their sampling, would look at that portion of the town of Southampton that is outside of the Riverhead School District. But if they did, they would see why there's an equalization problem.

And I have actually been at community meetings with the supervisor of the town who actually said that the problem that is caused to the people of the Flanders portion of Southampton is because, when you look at the town as a whole, outside of Flanders property values are far higher than in the town, thereby showing this distortion that we are trying to correct.

SENATOR DOLLINGER: Correct.

Through you, Madam President, if Senator LaValle will continue to yield.

SENATOR LAVALLE: Yes.

THE PRESIDENT: You may proceed.

SENATOR DOLLINGER: That was the point I was trying to make. You have a community, let's say it's cut in half, just for demonstration purposes. Half of it is poor, the other half of it is very wealthy. They're all in the same assessing district. So when you come up with an equalization rate for the town, you combine those 50 percent poverty and 50 percent wealth, you come up with a ratio which applies to every property for purposes of taxing it for town taxes, and you come up with the same equalization rate for school taxes, which is then part of a confluence of different rates that go into a multijurisdictional school district.

That's why my question, through you, Madam President, is is the effect of the equalization rate to make the rich part, the wealthier part, look poorer because it's combined with the poorer, and then are they paid, in essence, more in school aid that they

wouldn't be justified?

I'm just trying to get at, are we doing a transfer of school aid from a district that actually has more wealth but is regarded as poorer because it happens to be in a jurisdiction that has rich and poor, and are we increasing the value in a portion of the district that's poor? My question is just to know is this a trade-off, or is this kind of a new money deal.

SENATOR LAVALLE: Senator Dollinger, you put us right smack in the vortex.

But here -- let's go back. Section 1230 of the Real Property Tax Law was created because, in law, the only assessing unit that we had was a townwide unit, okay, a municipal unit. What we are doing here is taking a very small portion, a very small portion of that town, and we are looking at whether we not use the town's equalization rate because the rest of the town is far wealthier but we need the special equalization rate for just that small portion of the town.

What exacerbates, just again, the

problem for the formula is that there is a special state aid formula when a school district is in more than one township or more than one assessing unit. And when I tell you complex, Senator, it is complex.

SENATOR DOLLINGER: Through you, Madam President. I couldn't concur with Senator LaValle more, which is why I raised the question of whether, you know, when you start to have the same equalization rate for two pieces of property, one's in a, quote, poorer school district, or what appears to be a wealthier school district, and the other one is right across the street and yet in a different school district, those questions of the equalization rate -- or both in the same community -- this is one of those hodgepodges at the vortex of our real property conundrum in this state.

And that's why I was just trying to figure out whether it's a district that appears to be wealthier but is actually poorer, it might be next to a district that appears to be poorer but is actually wealthier.

My final question, Madam President, through you, is the solution to this problem, Senator LaValle, a requirement that our local communities like the town of Southampton perform a biennial or triennial -- once every three years, once every two years - reassessment, property revaluation, so that the equalization rate stays as close to 100 percent as possible?

SENATOR LAVALLE: Senator, if we were to look at a magic bullet, what you just offered this body would be that magic bullet, not only for the town of Southampton but literally all of our townships throughout the state that do not keep their rolls current. And that's the key to the whole -- this whole issue.

SENATOR DOLLINGER: Correct.

Through you, Madam President, on the bill.

I want to say that if I ever have to go down into the vortex of locution with anyone, I'll take Senator LaValle with me. He seems to take this very complicated -- and this is as complicated as we get -- problem of

multijurisdictional school districts that overlap into several communities and that have that horrible thing called equalization rates -- Senator LaValle knows it's a wonderful thing. It's often thrown about by lawyers as sort of a symbol of intelligence that "I know what an equalization rate is."

Frankly, Senator LaValle, I've never met anybody who really understands it. I'm still waiting to find them. It's like looking for the Holy Grail as lawyers.

But, Madam President, I would just -- I just want to emphasize one thing. I'm going to vote in favor of this because I think the people of Riverhead, Senator LaValle's constituents, should have a fair crack at the exception that we created under the Education Law to create a school-district-wide assessment.

But in doing so, Senator LaValle, the only caution I would have is that the silver bullet that I just talked about really is the solution. What we ought to do is require all these taxing jurisdictions to once every two or three years keep their property

valuations up to date.

As I'm sure Senator LaValle knows, the most famous case from the Court of Appeals originated on Long Island as well. The property tax issue of requiring revaluations and reassessments finds its origin in Long Island. Whether it's in Nassau or Suffolk, there is some aversion to recalculating property values and doing full, propertywide assessments.

And the only concern I have about this bill in voting for it, Madam President, is that we may be encouraging them ever so slightly not to do it. And I would just suggest that while the people of Riverhead need this -- or should at least have a chance to have access to this exception, I would hope that our friends in Southampton, Brookhaven, and Riverhead would not get the idea that they can allow their property tax values to be unevaluated, or to be -- failure to revalue them on a once every two, once every three year basis.

Because, Senator LaValle, this is where, as you know, property taxes for schools

are 75 percent of the property taxes that they raised on those assessments. And I agree with you, it's almost unconscionable that a town would sit there for some reason, would not undergo revaluation when the problem is that the people who are most punished are the people who end up as the unfortunate people in Flanders do, paying a higher percentage in real property taxes and getting less state aid as a consequence.

They're getting a double whammy, and it's all because the town is not doing what I think is its first and foremost job, and that is to make sure that all of its property taxes are paid on a fair, equalized, 100 percent value.

I'll vote in favor of the bill.

And thank you, Madam President.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: If the Senator would yield.

SENATOR LAVALLE: Yes.

THE PRESIDENT: You may proceed.

SENATOR OPPENHEIMER: I find it

rather astounding that Southampton did a reval and didn't throw it into a computer to keep it current. It sounds very dopey to me. But be that as it may, they didn't do it.

So -- and here's a question that I'm just trying to sort out. The communities that you mentioned that get this special assistance seem to be larger than Nassau. And I thought Nassau was on a -- I thought because there's a single jurisdiction that does the valuation, that they were on a 100 percent and that they had categorized and -- am I right or wrong?

SENATOR LAVALLE: I can't speak to Nassau, but I don't believe they are at full value.

SENATOR OPPENHEIMER: I see. Well, that about answers the question. Then they aren't at full value, and that's why we have these exceptions.

SENATOR LAVALLE: I believe, Senator, that the head of their Office of Real Property in Nassau County has made that recommendation. But I do not believe that they are at that juncture as we speak.

SENATOR OPPENHEIMER: The County of Westchester is always citing Nassau as the example of a single jurisdiction, because we are so many jurisdictions -- about forty in Westchester -- and it has been very difficult for us to move ahead.

Actually, I don't have any more questions. I'd just like to talk on the bill.

SENATOR LAVALLE: Thank you.

SENATOR OPPENHEIMER: The fact is that we have many school districts in Westchester County that go into three and four townships and villages, with very similar problems to those mentioned by Senator LaValle. And I think I may take a closer look at some of these jurisdictions now and see if this legislation might not be applicable to them.

What we tried to do three years ago in the County of Westchester -- and we had everyone signed on, all these 40 jurisdictions, and the state was with us, and we passed it in this house -- was to go to countywide revaluation. Because it is so confusing. My village, for instance, is at

8 percent of true value, which is ridiculous. We haven't been reassessed in 65 years.

And this is a particular problem in Westchester County, where we have seven of the worst 10 valuations, as far as being separated from true value, of any place in the state.

And that silver bullet would be really the answer. And if the state could stand behind it and say, This is a requirement that we are going to put down on the entire state, that the whole state move to true value, what a blessing that would be for some of my communities.

So I support this bill, and I will be looking into its possible application for several of the school districts within my Senate district.

THE PRESIDENT: Senator Schneiderman.

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

SENATOR LAVALLE: Yes.

THE PRESIDENT: You may proceed.

SENATOR SCHNEIDERMAN: Thank you.

I just want to make sure I understand how this situation abutting the beautiful banks of the vortex of circumlocution came about.

Was the statute in 1992 passed before these towns went to full valuation, or was it after? Before or after these school districts -- there was a statute passed in 1992 that enumerated -

SENATOR LAVALLE: Section 1230.

SENATOR SCHNEIDERMAN: -- these districts.

Section 1230. Was that after they had changed their valuation system?

SENATOR LAVALLE: No.

SENATOR SCHNEIDERMAN: It was before?

SENATOR LAVALLE: Yes.

SENATOR SCHNEIDERMAN: So at that time, then, how -- and you may have answered this before, but I must say I'm -

SENATOR LAVALLE: Senator, let me just -

SENATOR SCHNEIDERMAN: I'm puzzled as to how this list came about in relation to that issue.

SENATOR LAVALLE: The districts that are included in Section 1230 of the Real Property Tax Law are districts that have special equalization rates for school purposes.

SENATOR SCHNEIDERMAN: Right.

SENATOR LAVALLE: Does that answer your -

SENATOR SCHNEIDERMAN: Yes. Through you, Madam President, that's sort of my setup question.

These are not the only school districts in the State of New York, though, that have special equalization rates.

SENATOR LAVALLE: Yes, they are.

SENATOR SCHNEIDERMAN: They are.

SENATOR LAVALLE: Yes.

SENATOR SCHNEIDERMAN: Okay. And is that something that was -- how did this particular list come to be in this provision in Section 1230?

I'm asking this because it does occur to me, as Senator Oppenheimer has mentioned, that this doesn't seem to be a problem that's necessarily unique to Nassau

and Suffolk counties. And at the time this Section 1230 was enacted, were other districts in other parts of the state contacted to see if this might be an issue?

SENATOR LAVALLE: I can't tell you that, Senator, whether they were contacted.

But obviously these districts were all Long Island school districts. They are all districts that are property-poor school districts and, because of the formula, were districts that were being hurt in terms of receiving their fair share of state aid.

And so they realized that -- and I think it was Senator Johnson, as a matter of fact, that may have passed this legislation, as I recall. But I think the districts got together, as part of their negotiations in that period of time, feeling that they were being discriminated against in terms of the aid that they were receiving.

Beyond that I can't tell you, other than districts, as you know, Senator, have representatives that are part of the School Boards Association, Superintendents

Association. And I know that if District X gets something, and it could be in the Eden School District in Western New York, that I hear about it from my school districts.

So I would say to you that school districts are aware that these provisions are available to them.

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

The reason that I'm curious about this is because we are dealing -- and sooner or later we are going to be having to deal in a very substantial way with the reformation of school funding formulas. The issue of districts that are property-poor or feel they're discriminated against in various ways, as a result of the Campaign for Fiscal Equity case, will be coming to us. Whether with an appeal or after the appeal, it is going to be an issue that is coming up.

And this does seem to be an approach that has something to commend it. So I'm curious as to whether other districts have -- and you may or may not know the answer -- have attempted to get this sort of

treatment and failed, or if other alternatives have been developed since 1992.

I don't know if you know or not, but this is something that does strike me as something that could be a part of some of these reformations that are called for in the wake of Justice DeGrasse's decision in the Campaign for Fiscal Equity case.

SENATOR LAVALLE: I don't know, Senator. I can't answer your question.

SENATOR SCHNEIDERMAN: Okay, thank you. Madam President -- excuse me, Madam President. I don't want to interrupt any corporal punishment.

On the bill.

THE PRESIDENT: You may proceed.

That was the gavel, sir.

SENATOR SCHNEIDERMAN: Oh.

I'd like to thank the sponsor for his answers in this extremely complicated area. I think that what this really speaks to is the tremendous work that is ahead of us in dealing with the question of fair funding for all school districts in this state.

And the question of districts that

have within them extremely wealthy communities and poor communities is one that really did - was not addressed in any great detail in the Campaign for Fiscal Equity decision or, as far as I'm aware, in the submissions to Justice DeGrasse, but it is a tremendously important issue.

I don't know that this particular approach is the best way to go, but it certainly is a way to deal with the very difficult issue. If you have a property-poor school district with wide fluctuations in property values, putting aside the issue of not keeping the rolls current, this is something that we are going to have to address.

And I am going to attempt to find out if there are other districts around the state, through the School Boards Association, perhaps, that have looked at this, have tried this, because I think it is an interesting approach.

And I thank the sponsor for his patience as we roll around the vortex of circumlocution, which I think is actually the

name of a discotheque in my district. But I appreciate the Senator's use of the term.

Thank you. I will vote in favor of the bill.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: If the sponsor will yield for one or two questions, please.

SENATOR LAVALLE: Yes.

SENATOR STACHOWSKI: Senator, I know that this would bring the values more to date. But one question that's been bothering me a little bit is equalization rates are usually roughly about a year behind, if not a little longer.

Even with the older information, it would be better than what they have now, is that what the purpose is?

SENATOR LAVALLE: Senator Stachowski, you're absolutely right. The delay in the process is because of the samplings that they take.

And what we're doing here is to say to the Office of Real Property Services: Just

focus on this one little place in the state and do some samplings now and give us back a reaction as to whether a special equalization rate will help or hurt the district.

We may find that the snapshot that is taken at the point in time that they take it may not be beneficial. A year ago, this would have been very helpful to the school districts, and particularly the Flanders portion of the Riverhead School District.

But you're absolutely right, that it moves the sampling process, the appraisals, on a fast track.

SENATOR STACHOWSKI: Thank you. Mr. President, briefly.

It makes sense. I know that currently E&A rates are a year behind, at least. There's always some question as to how accurate they are, even though, quote, unquote, everyone is using 100 percent value, which is questionable in a lot of areas.

If this does a snapshot, I can understand the reason to pursue it. Hopefully, it will be beneficial. And for that reason, I'm going to support this bill.

ACTING PRESIDENT MEIER: Does any other member wish to be heard on this bill?

Debate is closed.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR DOLLINGER: Mr. President, I'm going to vote in favor of this bill.

And I commend Senator LaValle both for a cogent explanation and for his continuing efforts on behalf of his constituents to make sure that they get whatever benefit we have in the system and have designed for them to get to.

I look upon Senator LaValle's advocacy the same way I do my colleague Senator Balboni's, in pitching for a change available that we -- a process that we have available for the good of his community. In

that case a not-for-profit group; in this case, a school district.

I however want to make it clear that I do have a tempering caution about this, and that is that this is another bill that will give an incentive, rightly or wrongly, for towns not to assess at current value and not to keep their values current. Senator LaValle is well aware of the problems that have occurred on Long Island that have led to Court of Appeals decisions by the legion to require communities to update their property values.

By taking this step, we may actually be encouraging towns not to do it. And I would just suggest that we either have to come to the conclusion that we're going to bite the silver bullet and force towns to do it every two or three years or extend to every school district the ability to establish their own equalization rate so they can -- give to school districts the ability to valuate properties for their own tax purposes.

The lion's share of real property taxes that are collected in every jurisdiction

are school property taxes. And I would suggest we have an enormous interest in seeing a statewide solution to this problem, not one on a school-district-by-school-district basis. I'm not suggesting this is the wrong thing to do. I'm suggesting that the better thing to do is for us to attend to the problems inherent in real property taxes across the state.

I'll vote aye, Mr. President.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

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

ACTING PRESIDENT MEIER: We have some substitutions, Senator.

SENATOR SKELOS: If we could make the substitutions at this time.

ACTING PRESIDENT MEIER: The

Secretary will read the substitutions.

THE SECRETARY: On page 10, Senator Marcellino moves to discharge, from the Committee on Children and Families, Assembly Bill Number 5141 and substitute it for the identical Senate Bill Number 115, Third Reading Calendar 50.

On page 14, Senator Marcellino moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 5960 and substitute it for the identical Senate Bill Number 782, Third Reading Calendar 127.

And on page 18, Senator Hannon moves to discharge, from the Committee on Health, Assembly Bill Number 4386 and substitute it for the identical Senate Bill Number 2821, Third Reading Calendar 187.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: I move we adjourn until Tuesday, March 27th, at 11:00 a.m.

ACTING PRESIDENT MEIER: On

motion, the Senate stands adjourned until Tuesday, March 27th, at 11:00 a.m.

(Whereupon, at 5:35 p.m., the Senate adjourned.)