NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

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11:09 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT BALBONI: 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.)

ACTING PRESIDENT BALBONI: Today the invocation will be given by the Reverend Peter G. Young, of the Blessed Sacrament Church in Bolton Landing.

REVEREND YOUNG: Let us pray.

Dear God, as we gather in this beautiful 80-degree day, with the budding flowers and the trees, we are reminded of Your regenerative power and the renewal that You offer to all of our great people in New York State.

May we again accept this love and again grow with You and be able to serve You, in Your name, now and forever.

Amen.

ACTING PRESIDENT BALBONI: Reading of the Journal.

THE SECRETARY: In Senate, Monday, April 23, the Senate met pursuant to adjournment. The Journal of Sunday, April 22, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President. On behalf of Senator Bonacic, please place a sponsor's star on Calendar Numbers 231 and 298.

ACTING PRESIDENT BALBONI: The bills will be starred.

Senator Kuhl.

SENATOR KUHL: Are there any

substitutions at the desk?

ACTING PRESIDENT BALBONI: Yes, there are.

SENATOR KUHL: If there are, could we make those at this time.

ACTING PRESIDENT BALBONI: The Secretary will read.

THE SECRETARY: On page 23, Senator Saland moves to discharge, from the Committee on Children and Families, Assembly Bill Number 4203 and substitute it for the identical Senate Bill Number 1834, Third Reading Calendar 255.

SENATOR CONNOR: Point of order, Mr. President. I just heard that Senator Saland moved to discharge. I thought we abolished motions to discharge.

ACTING PRESIDENT BALBONI: The chair recognizes the Minority Leader.

SENATOR CONNOR: For my point of order, which I already stated.

ACTING PRESIDENT BALBONI: On your point of order.

SENATOR CONNOR: Yes.

ACTING PRESIDENT BALBONI: The

rules of this house were adopted and amended so as to affect motions to discharge that were for the purposes of circumventing the committee process and bringing a bill to the floor for a vote and passage.

This is not the purpose of this particular motion. Therefore, the rules as amended and adopted do not impact this particular motion.

SENATOR CONNOR: If I may say briefly, Mr. President -

ACTING PRESIDENT BALBONI: Senator Connor.

SENATOR CONNOR: -- I'm from the strict constructionist school of legislative interpretation, and I read the rules and they say what they say. I suggest that they be perhaps drafted better next time, because I don't think presiding officers or courts should have to engage in such liberal interpretation.

But I guess I'm just a conservative, Mr. President.

(Laughter.)

ACTING PRESIDENT BALBONI: Thank

you for that opinion, Senator Connor.

The Secretary will continue to read.

THE SECRETARY: On page 25, Senator Balboni moves to discharge, from the Committee on Local Government, Assembly Bill Number 5691 and substitute it for the identical Senate Bill Number 2867, Third Reading Calendar 303.

On page 26, Senator Farley moves to discharge, from the Committee on Transportation, Assembly Bill Number 6570 and substitute it for the identical Senate Bill Number 1992, Third Reading Calendar 323.

On page 29, Senator McGee moves to discharge, from the Committee on Judiciary, Assembly Bill Number 3960 and substitute it for the identical Senate Bill Number 3722, Third Reading Calendar 360.

And on page 30, Senator Padavan moves to discharge, from the Committee on Judiciary, Assembly Bill Number 3995B and substitute it for the identical Senate Bill Number 3747, Third Reading Calendar 361.

ACTING PRESIDENT BALBONI: The

substitutions are so ordered.

Senator Kuhl, why do you rise?

SENATOR KUHL: Yes, Mr. President. At this time could we adopt the Resolution Calendar, with the exception of Resolution Number 1400.

ACTING PRESIDENT BALBONI: The motion is to adopt the Resolution Calendar, with the exception of Resolution Number 1400. All those in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT BALBONI: All those against, nay.

(No response.)

ACTING PRESIDENT BALBONI: The Resolution Calender is adopted.

Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President. I hereby give notice as required by Rule XI of the current Rules of the New York State Senate that I will move an amendment to Rule XV, relating to the ethical standards of officers, employees, and members of the New York State Senate.

ACTING PRESIDENT BALBONI: The

notice is hereby received, and it shall be filed in the Journal.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT BALBONI: Senator Kuhl.

SENATOR KUHL: Yes, now could we adopt Resolution Number 1400 and have the title only read.

ACTING PRESIDENT BALBONI: The Secretary will read.

THE SECRETARY: By Senator Trunzo, Legislative Resolution Number 1400, memorializing Governor George E. Pataki to proclaim May 14 through 18, 2001, as School Transportation Personnel Appreciation Week in the State of New York.

ACTING PRESIDENT BALBONI: Senator Trunzo.

SENATOR TRUNZO: I would just like to open up this resolution to all members of the Senate, if they so wish to be on the resolution, and adopt it.

ACTING PRESIDENT BALBONI: Senator Trunzo, as is the custom of the house,

we will leave the resolution open for cosponsorship. Anyone who wishes not to be on it, please notify the desk.

The question is on the resolution. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BALBONI: Opposed, nay.

(No response.)

ACTING PRESIDENT BALBONI: The resolution is adopted.

Senator Kuhl.

SENATOR KUHL: Also, Mr. President, I believe there's a privileged resolution by Senator Montgomery at the desk. Could we have the title of that read, and I move for its adoption.

ACTING PRESIDENT BALBONI: The Secretary will read.

THE SECRETARY: By Senator Montgomery, legislative resolution commending the Brooklyn Club of the National Association of Negro Business and Professional Women's Clubs, Incorporated, upon the occasion of its

34th Annual Founders' Day Awards Luncheon.

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

(Response of "Aye.")

ACTING PRESIDENT BALBONI: Opposed, nay.

(No response.)

ACTING PRESIDENT BALBONI: The resolution is adopted.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President, could we announce that there will be an immediate meeting of the Education Committee in the Majority Conference Room, Room 332.

ACTING PRESIDENT BALBONI: There will be an immediate meeting of the Education Committee in the Majority Conference Room, Room 332.

Senator Kuhl.

SENATOR KUHL: Could we have the noncontroversial reading of the calendar, please.

ACTING PRESIDENT BALBONI: The

Secretary will read.

THE SECRETARY: Calendar Number 12, by Senator Volker, Senate Print 200, an act to amend the Penal Law -

SENATOR CONNOR: Lay it aside, please.

ACTING PRESIDENT BALBONI: Lay aside that bill.

THE SECRETARY: Calendar Number 82, by Senator Volker, Senate Print 1094, an act to amend the Real Property Tax Law.

SENATOR CONNOR: Lay it aside.

ACTING PRESIDENT BALBONI: Lay that bill aside.

THE SECRETARY: Calendar Number 148, by Senator Morahan, Senate Print 832, an act to amend the Family Court Act.

SENATOR CONNOR: Lay it aside, please.

ACTING PRESIDENT BALBONI: Lay that bill aside, please.

THE SECRETARY: Calendar Number 170, by Senator Volker, Senate Print 1912, an act to amend the Executive Law.

SENATOR CONNOR: Lay it aside,

please.

ACTING PRESIDENT BALBONI: Lay it aside.

THE SECRETARY: Calendar Number 196, by Senator Seward, Senate Print 2131, an act to amend the Town Law.

SENATOR CONNOR: Lay it aside.

ACTING PRESIDENT BALBONI: Lay aside that bill.

THE SECRETARY: Calendar Number 201, by Senator Marchi, Senate Print 2953, an act authorizing -

SENATOR CONNOR: Lay it aside.

ACTING PRESIDENT BALBONI: Lay aside that bill.

THE SECRETARY: Calendar Number 217, by Senator Kuhl, Senate Print 1772 -

SENATOR CONNOR: Lay it aside.

ACTING PRESIDENT BALBONI: Lay aside that bill.

THE SECRETARY: Calendar Number 277, by Senator Skelos, Senate Print 427 -

SENATOR CONNOR: Lay it aside.

ACTING PRESIDENT BALBONI: Lay aside that bill.

THE SECRETARY: Calendar Number 284, by Senator Alesi, Senate Print 1136 -

SENATOR CONNOR: Lay it aside.

ACTING PRESIDENT BALBONI: Lay aside that bill.

THE SECRETARY: Calendar Number 286, by Senator Kuhl, Senate Print 3071 -

SENATOR CONNOR: Lay it aside.

ACTING PRESIDENT BALBONI: Lay aside that bill.

THE SECRETARY: Calendar Number 305, by Senator LaValle, Senate Print 1208, an act -

SENATOR CONNOR: Lay it aside, please.

ACTING PRESIDENT BALBONI: Lay aside that bill.

THE SECRETARY: Calendar Number 320, by Senator Saland, Senate Print 3612 -

SENATOR CONNOR: Lay it aside.

ACTING PRESIDENT BALBONI: Lay aside that bill.

THE SECRETARY: Calendar Number 355, by Senator McGee, Senate Print 3185 -

SENATOR CONNOR: Lay it aside.

ACTING PRESIDENT BALBONI: Lay aside that bill.

THE SECRETARY: Calendar Number 356, by Senator McGee, Senate Print 3188 -

SENATOR CONNOR: Lay it aside.

ACTING PRESIDENT BALBONI: Lay aside that bill.

THE SECRETARY: Calendar Number 361, substituted earlier today by Member of the Assembly Lopez, Assembly Print Number 3995B -

SENATOR CONNOR: Lay it aside.

ACTING PRESIDENT BALBONI: Lay aside that bill.

THE SECRETARY: Calendar Number 374, by Senator Seward, Senate Print 2406 -

SENATOR CONNOR: Lay it aside.

ACTING PRESIDENT BALBONI: Lay aside the bill.

THE SECRETARY: Calendar Number 385, by Senator Libous, Senate Print 2862 -

SENATOR CONNOR: Lay it aside.

ACTING PRESIDENT BALBONI: Lay aside the bill.

Senator Johnson, that completes

the reading of the, so to speak, noncontroversial calendar. What be your pleasure?

SENATOR JOHNSON: It's certainly a misnomer, yes. Thank you, Mr. President.

Now may we have the controversial reading of the calendar.

ACTING PRESIDENT BALBONI: The Secretary will read.

SENATOR JOHNSON: If you can start with Calendar 201.

ACTING PRESIDENT BALBONI: The Secretary will read Calendar 201, by Senator Marchi.

THE SECRETARY: Calendar Number 201, by Senator Marchi, Senate Print 2953, an act authorizing the New York State Urban Development Corporation.

SENATOR CONNOR: Explanation.

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

SENATOR MARCHI: Mr. President, we have the felicitous opportunity for advancing a great initiative in the City of

New York. We've had some very dutiful and productive efforts exercised in Washington, especially by Senator Moynihan.

And this addresses the question of the development of the combined Penn Station and the Farley Post Office into one great center, which will be probably the most important nexus of transportation facilities in the world -- certainly in the United States, and I would imagine in the world. It facilitates access to the remotest corners of the earth and centralizes services in a very exemplary way.

I have a very fine letter of support, memorandum in support, by - subscribed here by Anthony Piscitelli on behalf of the City of New York, who has invested $25 million in this as part of a larger nexus of participation. And there is not one penny from any area of this state that's involved in it.

I'll just read this rather rapidly, on the provisions that the City of New York has outlined, which is expressive of the $25 million that they themselves invested in

this, as being ultimately extremely important to the people of this state. I hope also my colleague Senator Duane, who is on -- is noted as a member of the -- or notified of the action taken by the local control board in getting the -- clearing their responsibilities under the terms of this act.

And this legislation will permit the Urban Development Corporation to issue bonds or notes in an amount not to exceed $155 million and the Pennsylvania Station Redevelopment Corporation, PSRC, a subsidiary of the UDC, the Urban Development Corporation, to borrow up to $160 million from the United States Department of Transportation or other federal agency and to accrue unpaid interest as permitted by the Transportation Infrastructure to Finance an Innovative Act - which I will refer to as TIFIA, parenthetically, for the purpose of financing the design, construction, and rehabilitation and development of the portion of the James A. Farley Post Office Building into a modern transportation and commercial center, also known as the Pennsylvania Civic Project.

The debt service upon such bonds or notes shall be secured by -

ACTING PRESIDENT BALBONI: Can we please have it quiet so we can hear the distinguished Senator's explanation of the bill.

Thank you, Senator.

SENATOR MARCHI: Thank you, Mr. President.

The debt service upon which such bonds and notes shall be secured by or payable from will include revenues derived from leasing, retailing, advertising and other operations of the Pennsylvania Station Civic Project. Such bonds and notes shall not be general obligations of the UDC nor of the PSRC and shall be payable solely from the Pennsylvania Station Civic Project revenues.

The existing Penn Station facilities are currently overcrowded, inadequate to handle projected growth in ridership, which is now over a half a million a day, and will include the projected growth of improvements which will be enormous, also considering that it brings you right into

contact with the airports that you will be leaving on.

The Pennsylvania Station Civic project will provide improvements of the existing transportation facilities for Amtrak, the Long Island Railroad, New York City transit riders as well under the TIFIA program.

The senior financing component of the project must have an investment grade rating. The importance of New York, even though that we are not directly affected fiscally, financially, or any ultimate residual responsibility, is the fact that our taking this action today will inure to the credit of this house and the New York State government, and that this will be of immeasurable value in the promotion of the sale of bonds to give this activity.

This Pennsylvania Civic Project will provide improvements to the existing transportation facilities for Amtrak, the Long Island -- and to be eligible for funding under the TIFIA, the senior financing component for the project must have an investment grade

rating.

We will be providing the very best, the very best that -- in terms of performance and expectations in bringing this to a happy conclusion. Issuing nonrecourse UDC bonds backed primarily by annual payments from the Port Authority will provide the prerequisite rating.

In addition, the New York City Economic Development Corporation, on behalf of the City of New York -- this is the City of New York, the New York City Council, and the Mayor of the City of New York -- entered into a funding agreement with the Pennsylvania Station Redevelopment Corporation for $25 million, and this allocation is staggered over the life of the project.

So we have an exceptional event taking place that will result in a beautiful, beautifully designed adaptation of existing facilities and the improvements that are made thereon to accommodate, to accommodate the activities that will be taking place there and the expedited treatment and operation of passenger travel, making this an objective

that will be noticed around the world. And the lessons learned therein will be imparted around the world.

So really, it's not so much our credit for proceeding with this legislation, although we deserve our measure of it, but it's the earnestness and the quality of UDC's presence in this operation and the assurance that it extends to the beneficial intervention by a subscribing public out there.

So I invite your consideration. There are not many questions to be answered here, because we've had expressions from labor, from every quarter of the compass, all attesting to their support of this, stretching all the way from Washington to here. So that it's a joyous event for all of us to be united in its support.

ACTING PRESIDENT BALBONI: Thank you, Senator Marchi, for that explanation.

Senator Smith, why do you rise?

SENATOR ADA SMITH: Thank you, Mr. President. Would the esteemed Senator from Staten Island yield for a few questions?

ACTING PRESIDENT BALBONI:

Senator Marchi, would you yield for a question?

SENATOR MARCHI: Oh, from my senior member on my committee?

ACTING PRESIDENT BALBONI: Senator Smith, the Senator yields.

SENATOR ADA SMITH: Thank you very much.

Senator Marchi, did you know James Farley?

SENATOR MARCHI: I knew James Farley very well.

SENATOR ADA SMITH: And what did you -

SENATOR MARCHI: And I remember at the Alfred E. Smith dinners we would be locked into -- once I missed the entire dinner because we were locked into a personal colloquy. But he was a very good friend of mine, and I believe somewhat related even to our Senator. But you knew of Senator Farley.

SENATOR ADA SMITH: Thank you -

SENATOR MARCHI: Well, Postmaster Farley.

SENATOR ADA SMITH: Would the

Senator continue to yield?

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

SENATOR MARCHI: Certainly.

ACTING PRESIDENT BALBONI: The Senator continues to yield.

SENATOR ADA SMITH: I note that there are six members of the board, two appointed by the Governor, two appointed by the Mayor, and two appointed by the appropriate federal agencies.

Have any of these board of directors been appointed yet?

SENATOR FARLEY: That I don't know. I don't think so. This will sound the clarion call to action on every part.

As a matter of fact, there's a serious -- the reason we're advancing this now, the Assembly will be taking it up during the course of the day in their committee. Mr. Gottfried, I believe, is the sponsor there. And hopefully we will be able to have this bill delivered by the end of the week.

SENATOR ADA SMITH: Thank you.

Would the sponsor continue to

yield?

SENATOR MARCHI: Yes.

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

SENATOR MARCHI: Yes, Mr. President.

ACTING PRESIDENT BALBONI: The Senator yields.

SENATOR ADA SMITH: Thank you.

Could you possibly tell me what is the projected or estimated completion date? Do you have any idea?

SENATOR MARCHI: Well, the given estimated completion date by -

SENATOR ADA SMITH: I'm sorry, Mr. President, I can't hear.

SENATOR MARCHI: The answer to the question about the estimated completion date, they say 48 months, four years. I don't know if you can put that in the bank or not. But, I mean, they have every -- every single reason to give this expeditious concern and full implementation.

SENATOR ADA SMITH: Just a couple of more questions. Would the Senator

continue?

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

SENATOR MARCHI: Yes.

ACTING PRESIDENT BALBONI: The Senator continues to yield.

SENATOR ADA SMITH: Would you have any idea how many jobs will be created with this project?

SENATOR MARCHI: I really don't know what the long term is. But the implementation has been a guesstimate, and I suppose it's the best estimate that we now have, is about 7600 -- 7,600 jobs. That's an approximation.

But certainly, again, we'll have an expanded population to -- well, to -- the implementation not only of the basic services that they are serving and extending, but the operation of the various facilities. There will be ancillary facilities for the people coming and going through, and that will be of great benefit. People will stop there to eat, be able to stop to do a lot of things, and to make purchases and -- so that that is an

expanded number. But I have no guesstimates as to that.

SENATOR ADA SMITH: Will the Senator continue to yield?

SENATOR MARCHI: Yes, certainly.

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

SENATOR MARCHI: Yes.

ACTING PRESIDENT BALBONI: The Senator yields.

SENATOR ADA SMITH: I have visited some sites such as the Greater Pittsburgh Airport, which has an expanded retail operation, some of the other states also. Will this be the same kind of facility when it is completed?

SENATOR MARCHI: Well, conceptually. You've got to remember that Staten Island has a bigger population than Pittsburgh. But considering that we're the nexus of about 15 million people, when you take in Connecticut and North Jersey, I mean that area alone, plus expedited transportation for people around the country that travel by rail or buses or anything else that finally

hooks into a connection, gives you an idea - well, you see a tiny micropreview of what will this be when it's fully implemented relating to your experience in Pittsburgh.

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

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

SENATOR MARCHI: Certainly.

SENATOR ADA SMITH: Recently, a few years ago, we were privy to the new, faster Amtrak train that will go from -- I know from New York to Buffalo and make it quicker for us to come to Albany for those of us who may want to take the train.

SENATOR MARCHI: Right.

SENATOR ADA SMITH: Will this new facility be able to accommodate that train and the additional passengers that will be probably taking the train because -

SENATOR MARCHI: That will be one millimeter, one tiny percentage of 1 percent. Consider the total impact -

ACTING PRESIDENT BALBONI:

Senator Marchi -- Senator Marchi, could I interrupt for just one second, please. Ladies and gentlemen in the chamber, please pay attention to the two well-spoken but soft-spoken individuals who are on the floor discussing a very important matter. Please give them your attention; please take conversations outside.

Thank you, Senator Marchi. Please proceed.

SENATOR MARCHI: Most -- most assuredly.

SENATOR ADA SMITH: Thank you very much. Would the Senator just yield for two more questions?

ACTING PRESIDENT BALBONI: Senator Marchi, would you please -

SENATOR MARCHI: I yield for two more questions. Or however many you may have.

SENATOR ADA SMITH: Thank you very much.

Senator Marchi, have they completed a finance plan? Because from what we've discussed previously, there was a large amount of money that was not yet there for this

project. Have they -

SENATOR MARCHI: Well, there are various sources contributing to this. The City of New York has invested or will be investing, during the term of the elapsing in the construction, $25 million. But there are inputs coming from Washington, from various sources. So it's multifaceted.

And there are 250 million in federal grants and appropriations -- and I mentioned that Senator Moynihan played a very significant role in that development; 155 million in Empire SDC bond revenues secured by leases; 140 million from the U.S. Department of Transportation alone, secured by leases; 125 million from the U.S. Postal Office; 40 million from federal highway and NSTA; 35 million, MTA; 25 million, New York City, and 20 million line of credit secured by leases. Nothing -- no -

SENATOR ADA SMITH: Thank you.

The last question is, has a developer been selected for this project?

ACTING PRESIDENT BALBONI: Senator Marchi, do you yield to one last

question?

SENATOR MARCHI: Staubach - Roger Staubach's group. And it's scheduled to open 2004.

SENATOR ADA SMITH: Thank you, Senator Marchi.

Mr. President, on the bill.

ACTING PRESIDENT BALBONI: Senator Smith, on the bill.

SENATOR ADA SMITH: I'm very pleased that this is finally coming to fruition, and I'm hopeful that the Assembly will take this into consideration this week. And I look forward to being there with Senator Marchi when the ribbon-cutting actually takes place and the building is ready and we can board the trains and come to Albany in a faster manner.

ACTING PRESIDENT BALBONI: Thank you, Senator Smith.

Senator Onorato, why do you rise?

SENATOR ONORATO: Mr. President, would the sponsor yield to one question for me, please?

ACTING PRESIDENT BALBONI:

Senator Marchi, do you yield to a question?

The Senator yields.

SENATOR ONORATO: Senator Marchi, this is going to be an approximately four-year project, and I'm sure that the current tenants that in there, some of them are going to have to shut down their operation while this takes place. I'm concerned, will the current tenants that are going to be displaced, will they have first option to get back into the facility again, or is this going to negate all of the current leases that are operating at the station now?

SENATOR MARCHI: We don't have any direct report on that. But I'm certain that every effort will be to accommodate.

The post office is in there, but they're voluntarily relocating, so they'll solve their own problem. There does remain a problem of dimensions, the specifics of which I'm not acquainted with. But I'm sure that every effort will be made to minimize serious dislocations.

SENATOR ONORATO: Thank you.

ACTING PRESIDENT BALBONI:

Senator Duane, why do you rise?

SENATOR DUANE: Thank you, Mr. President. Would the sponsor please yield?

ACTING PRESIDENT BALBONI: Senator Marchi, do you yield?

SENATOR MARCHI: Yes.

ACTING PRESIDENT BALBONI: The Senator yields.

SENATOR DUANE: Thank you.

I believe the sponsor referenced this before, but I was wondering if we could clarify in whose district the project is.

SENATOR MARCHI: It's in your district, Senator. And I'm aware of that.

SENATOR DUANE: And through you, Mr. President, if the sponsor will continue to yield.

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

SENATOR MARCHI: Yes, certainly.

SENATOR DUANE: I'm wondering if the sponsor reached out to the Senator in whose district this project is going to be completed.

ACTING PRESIDENT BALBONI:

Senator Marchi.

SENATOR MARCHI: No, I didn't - in response to the Senator, I didn't -- the bill was entrusted to me because I was chairman of the committee that had -

SENATOR DUANE: I'm sorry, I can't hear.

SENATOR MARCHI: I said I did not go beyond the parameters of the request that I received from those who were sponsoring this bill. It was -- it's a State Department bill, and no further instructions.

Certainly I made reference to you earlier. And I am very proud that you're a member of that. And I noticed your name on the notice list for the environmental impact statement circulated by the -- your community board.

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

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

SENATOR MARCHI: Yes, certainly.

ACTING PRESIDENT BALBONI: The

Senator yields.

SENATOR DUANE: I'm wondering if the sponsor mentioned to the State Department -- I think he said State Department, although I'm not sure why they're -

SENATOR MARCHI: Yes, it is. I received -- this is a department bill.

SENATOR DUANE: -- if he mentioned to them that he wasn't the Senator from that district but that in fact I was the Senator from that district?

ACTING PRESIDENT BALBONI: Senator Marchi?

SENATOR MARCHI: No, I didn't mention that. I assume that the -- there was a request on the part of the Finance Committee, because they said that this involved a financing of a substantial amount. And they said no, that they couldn't do - that this did not fall within their purview, because the State of New York is not involved fiscally.

But obviously there is a very important factor, which I'd be very happy to

extend to you by letter or any other way of your participation in the resolution of this.

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

SENATOR MARCHI: I'm chairman of the Committee on Authorities, Commissions, et cetera, et cetera.

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

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

SENATOR MARCHI: Yes, I do. I will.

SENATOR DUANE: I just understood the sponsor to say that there was no state involvement in this. But I think that that's not correct. I'm wondering if maybe the sponsor might want to restate the state's involvement in this project.

SENATOR MARCHI: There is no - none of the funding for the activities that are going to take place, Madam President, are the responsibility -- in fact, there's a

disclaimer -- let's see.

Such bonds -- and I quote directly -- "Such bonds and notes of the Urban Development Corporation and the Pennsylvania Station Redevelopment shall not be the debt of the state and the state shall not be liable thereon, not shall they be payable out of any funds of the state. And such bonds and notes shall not be the general obligation of the UDC Corporation nor of the Pennsylvania Station Redevelopment resulting from the operation of the James A. Farley building or facilities or to or associated with the James A. Farley building, including Pennsylvania Station."

They are subject to -- there could be a review by, what is it, the Public Authorities Control Board, which probably one of the reasons I was -- I initiated that board many years ago. Many, many years ago.

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

THE PRESIDENT: Senator Marchi, will you continue to yield?

SENATOR MARCHI: Yes, Madam

President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: I'm confused in that we are here on the floor of the New York State Senate voting on an act authorizing New York State UDC to issue bonds. Does that not then imply that the state is involved?

SENATOR MARCHI: Well, there are MTA funds. There are -- there are -- you can conjure up something, but there's no direct involvement. You could never bring action against the State of New York for any part of this indebtedness.

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

THE PRESIDENT: Senator Marchi -

SENATOR MARCHI: Yes.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Then if the sponsor could please tell me why it is that we're actually voting on this on the floor of the New York State Senate today.

SENATOR MARCHI: Well, that's a question I asked -- the very first question I asked, Madam President: Why do we need a bill, really? Since we described with untelling accuracy the -- just what it provides for in an affirmative fashion.

On the other hand, offering this with the imprimatur of the State of New York for something of this dimension to take place without the review and a statement by this - of the State of New York, without even any notice that it has happened, it's an enormous presence that we will have, and one that may be invoked for other ancillary purposes and just the ordinary administration of law.

And the saleability of bonds which will be enhanced by a positive action by this house and by the Assembly, who are now taking on their committees and will be reporting this -- the passage of this bill and substituting this or whatever the arrangement is for final passage.

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

THE PRESIDENT: Senator Marchi -

SENATOR MARCHI: Yes. Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: I'm frankly wondering how the sponsor would feel if I brought a bill to the floor about something that impacted his district and if I did not in any way consult with him on that.

SENATOR MARCHI: Well, I respect every vote you take, whether I agree with you or not, because I respect you as a human being and a colleague and a member of this Senate. So, I mean, you start out with that advantage over any question that's raised.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Madam President -- and I apologize for interrupting my colleague Senator Marchi. But I believe the issue is whether or not this body will pass this bill which authorizes the Urban Development Corporation to issue the bonds. It's not about courtesy or respect, which we

know Senator Marchi has, or about Senator Duane and his feeling offended.

I'd appreciate, Madam President, from the chair, if we would stick to the topic and stick to the issue before the house.

SENATOR MARCHI: Thank you, Senator. I mention this because -

THE PRESIDENT: Senator, your point is -- Senator Marchi, if I can - Senator, I have to rule on this point, please.

Senator Fuschillo, your point is well-taken. And I will remind Senator Duane to keep your comments germane, your questions germane.

Senator Marchi, you may proceed.

SENATOR MARCHI: Well, I just wanted to point out that I am sensitized - from any other member, it might have been a little gratuitous. But he lives in that district.

THE PRESIDENT: Senator Marchi, I apologize; I'm going to have to interrupt you again.

Senator Paterson, why do you rise?

SENATOR PATERSON: Madam

President, with all due respect, I don't understand the point of order. I understand the point, but I don't understand that that's a point of order, that talking about a facility that's in Senator Duane's district - he's just objecting that he wasn't consulted. It relates directly to his vote. It's directly germane to the discussion. And he has the right to say that.

If we're going to get to a point where people can't talk about what's going on in their own districts, I think we're going down a real slippery slope.

I just want to suggest that no point of order was even raised. Now, a point was raised, which, you know, you can agree with or disagree with. But I think that we should not be restricting Senator Duane's opportunity or right to discuss a facility that's in his district. If anything happens to that facility, it's Senator Duane who's going to get asked about it by his constituents. I think it's directly germane to the subject.

THE PRESIDENT: Senator Paterson,

there's no question that Senator Duane's questions germane to the bill under consideration are pertinent. When he asks how Senator Marchi feels, that is not pertinent.

And as far as Senator Fuschillo raising a point, that's a matter of semantics. He stood to raise a point. And I did not rule Senator Duane out of order, I gave him an informal reminder to keep his remarks germane.

Senator Marchi, you may proceed.

SENATOR MARCHI: Well, I think the proposition has been stated generally.

SENATOR DUANE: Madam President.

SENATOR MARCHI: And I understand, and I want to point out that the correspondence I've had has been circulated also to your office, so you were not unaware that this was taking place.

So -- but be that as it may, I think we have a tremendous opportunity here, Senator. And our objective is narrowly defined to give this the propitious beginning so that they can get on with the funding of the project. We're not here to debate, although I -- as a protagonist, I've very

openly manifested my support. But I'm reflecting the general support that exists as I've seen it expressed to me.

THE PRESIDENT: Senator Duane.

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

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

SENATOR DUANE: Thank you.

As I think most people in this body know, I have the utmost respect for my colleague on the other side of the aisle, and I have in fact indicated that to him time and time again.

Which is why I raise the issue, because I think every once in a while we all need to be reminded that we are responsible for state actions in our districts. It would be the unwise elected official who would say, Gee, I had no control over that, I didn't even know it was coming up, there's really nothing I can do about it, you'd better go chat with my colleague X. There is probably no more unacceptable response to a constituent than to say that.

And to have to acknowledge that consultation, in as august a body as the New York State Senate, did not take place is frankly, I think, beneath what this body has in the past and I hope in the future will stand for.

I would hope that my colleagues on both sides of the aisle would understand the significance of an action which impacts their district but of which they really have no control over or consultation on.

Frankly, I've never heard of such a thing in the United States Senate where something that directly impacted a state would pass that body without a tremendous amount of consultation with those Senators who actually represent that state. I don't think that we in the Senate should be held to any other standard besides that.

Had I been consulted on this, I would have raised a number of issues. As many of you probably know, because many of us actually have our mail processed at this building, the mail will have to be processed elsewhere. So had I been consulted on this, I

would have questioned what the United States Postal Service's plans were for the processing and the offices that are presently in that building. Where is it going to go? Where is all of that processing going to go?

Already, in the district that I represent, there are two postal facilities this have been plunked down in the middle of residential neighborhoods. Are we going to get another huge postal facility in the area of our residential neighborhood? Are we going to be inundated with truck traffic and traffic of people going to and from the postal facility? Right now that facility is very conveniently located to the Lincoln Tunnel, so it makes a lot of sense that it's located where it is. If you move it a few blocks one way or the other, the unbelievable, death-defying, choking traffic that already exists will probably be made worse.

What are the plans for where this traffic is going to go? Is that part of what UDC's mandate is? Or is UDC too busy just floating back-door bonds, which is what they usually do?

You know, I have a bill in this house which would restore the commuter tax. And what would that do? That would allow New York City to pay as it goes for things like building the Farley Station or building a Second Avenue subway. We wouldn't have to depend on back-door borrowing and shift the burden onto our children and grandchildren. All of this could be paid for as we go if we had the commuter tax back.

I know, I know, people say, No new taxes. But I submit this is not a new tax. This is reinstating a tax which should never have been gotten rid of. That would allow people in New York City to pay for things themselves. They wouldn't have to depend on the State of New York to pay. All the people of the state of New York wouldn't have to pay, only people who actually use the services in New York City.

But let's go back to what's happening here. I can just see it. Trucks rumbling all over the neighborhoods because they can no longer go to the Farley Station. Did anyone raise that with UDC? Did anyone

raise with UDC where all of this traffic from the busiest post office in the world is going to go? Where's it going to go? On the low-rise residential streets of Hell's Kitchen, Clinton, or Chelsea? Where is it going to go when it gets off the Lincoln Tunnel if it's not going to go to this facility anymore?

Already the postal facility has built two behemoth facilities in Chelsea. We're choking to death in our district, choking to death. Is that what's going to happen? Maybe it would be a good idea to put the postal facility in the Bronx and bring jobs to the Bronx. Maybe that's where it should go, in a transportation hub, for instance, in the Bronx.

Do we know where it's going to go? No. The only thing that this is doing is focusing on refurbishing this building to make it a train station. I'm not opposed to that. That's a good idea. But you can't do that in a vacuum. You have to figure out where all of this traffic and where all of this mail is going to be processed. That's an important

issue.

Had I been asked, I would have raised that issue. And I think everyone here could acknowledge that these are good issues. Who here would allow a huge facility to be plunked down in their district, replacing another facility which brings in tons and tons of traffic? Would you like to have that dumped in a residential neighborhood in your districts? I don't think so. Do you think you'd like to be asked about that? I think so. I really object to that. I object that things are done in our districts and we're not consulted on it.

I also object that the power for the people of the City of New York to pay as they go on building a Second Avenue subway or building a beautiful new train station was taken away arbitrarily when the commuter tax was removed. I would urge people to reconsider that to and to reinstate the commuter tax to give autonomy to the people of the City of New York.

I've talked to countless suburban residents who say, You know what? We don't

mind, we don't mind paying a little bit less than half of 1 percent to help New York City, because everybody knows that New York City is the hub of the financial well-being of the entire metropolitan area, indeed the tristate area.

To have had that taken away from us is just an outrage. We could have used that money to refurbish this train station instead of doing back-door borrowing. Whether it's on the state or the national level, it's wrong to do that kind of thing.

You know, the people who use our transportation system, the people on the Long Island Railroad will be able to use this refurbished train station, and that's great. And I'm for that. The people that use the train that come here to Albany will be able to use that, and the northern suburbs, and that's good. But you know what? A lot of people also will be getting off at Grand Central Station and stuffing themselves onto the Lexington Avenue line. Pardon my language, but we have an expression about the Lexington Avenue line: Hell couldn't be any hotter.

It's hot, it's crowded. Anyone that comes down on Metro North and has to get on the Lexington Avenue line, they suffer. And now there's going to be a link made on the Long Island Railroad so that people can get off at Grand Central Station too and they're going to stuff themselves onto the Lexington Avenue line too. So now we're going to have tens of thousands of miserable commuters from Long Island being stuffed onto the very same train that miserable commuters from Metro North are stuffing themselves on. Not to mention the people that live in the Bronx and Manhattan that depend on that train. So what do we need? A Second Avenue subway.

Now, the voters in the State of New York -- I wouldn't say in their wisdom, but whatever -- they decided not to fund the transportation bond act. So how are we going fund this? You know how we could do it? With the commuter tax. We could pay as we go. Believe me, $500 million a year would go a long way towards, year by year, building a Second Avenue subway so that the poor commuters from the entire metropolitan area

would not have to stuff themselves on the Lexington Avenue line.

Let's look at the big picture. All right, so we're building a nice new train station. I'm for that. That's very good. But what about the people that are actually traveling into that train station? Why are we going to stuff them onto trains? Let's improve our transportation infrastructure. Not just the stations, but the infrastructure. Why are we just without any thought about where we're going to put all this truck traffic and mail handling that's going to go on, why are we just building this new station and not deciding what we're going to do with all the trucks and the traffic -

ACTING PRESIDENT MARCELLINO: Excuse me, Senator -- just excuse me, Senator, for one second.

Could we just have a little quiet in the house, because it's really very difficult to hear. The stenographer is having trouble keeping an accurate record. Thank you.

SENATOR DUANE: I'll speak

louder, Mr. President.

(Laughter.)

ACTING PRESIDENT MARCELLINO: No, no, please. I take back everything I just said.

SENATOR DUANE: I believe I've made my point.

To not take into account people who actually live in a neighborhood on what the impact of a project like this is going to cause, to not look at the long-term impacts, whether or not this is the kind of facility that we -- the mail facility is not the kind of facility we should relocate to the Bronx. Or to Staten Island, although I don't think we should put in this Staten Island without talking with the Senators from Staten Island on what the impact would be there.

And what about give back autonomy to New York City residents and commuters so that we could build a better transportation system so it's not just the stations that we're focusing on but indeed we're focusing on the transportation system that gets them into those?

And I would invite all my colleagues on both sides of the aisle to join me in trying to get a reinstatement -- not a new tax, but a reinstatement of the commuter tax.

Thank you.

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

SENATOR FUSCHILLO: Mr. President, there will be an immediate meeting of the Civil Service and Pensions Committee in the Majority Conference Room, Room 332.

ACTING PRESIDENT MARCELLINO: There will be an immediate meeting of the Civil Service and Pensions Committee in Room 332.

Senator Stavisky, do you wish to be heard on this bill? You're on our list.

SENATOR STAVISKY: No, I don't wish to be.

ACTING PRESIDENT MARCELLINO: Senator Onorato is not with us. Is there any other Senator wishing to be heard on this bill?

Senator Hevesi, why do you rise?

SENATOR HEVESI: Thank you, Mr. President. Just very briefly.

ACTING PRESIDENT MARCELLINO: Senator Hevesi, on the bill.

SENATOR HEVESI: On the bill.

Senator Duane's comments here are the perfect illustration why you must have better coordination and consultation when you are authoring a piece of legislation that is going to affect the district of another Senator.

And we just heard a series of concerns, some of which I was not familiar with myself, from Senator Duane about the impact that the legislation that's before us is going to have. And it is -- it's not only wrong and does a great disservice to this body of which we're all a part, it will result, this lack of consultation, in public policy that is deficient. Because, as Senator Duane pointed out, had he been consulted, he would have brought to the attention of UDC and others who are working on this issue some of the very important questions that we heard, particularly the horrible congestion which I

myself can attest to.

So while I -- I'll support this legislation because I think it's a good bill, and I have the greatest respect for Senator Marchi, who is not only exceptionally respectful, but he is very solicitous of the opinions of others in this house, irrespective of their political affiliation. I would respectfully submit to everyone here that in the interests of public policy, if nothing else, if we can't put ourselves above the; partisanship, in the interests of public policy, please consult with another member of this house regardless of their party affiliation so that we may produce for the residents of this state, regardless of their party affiliation or where they reside, the best product as a consequence of what we do in this house.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Any other Senator wishing to be heard? Seeing none, read the last section.

I'm sorry, Senator Marchi.

SENATOR MARCHI: Just to conclude.

ACTING PRESIDENT MARCELLINO: Senator Marchi, on the bill.

SENATOR MARCHI: No, I appreciate the sentiments expressed by Senator Duane and Senator Hevesi. These are matters that we should have. We had passed something like this last year, but it was not -- it has some defects that we had to eliminate. But all of this had been raised.

And Senator Moynihan, of course, was available and had paved that way, and there was no mystery about where it was going and what was going to happen.

But I certainly want to compliment Senator Duane for the very courageous and forthright message that he sent out, because it hurts. And it would if it happened to the innards of any district where the population is densely populated. And he himself advanced the very reasons why we should be voting for it.

At this point, we're not disposing of the argument, but we are paving the way for

the marketability of bonds and the setting of the infrastructure in place. The rest is going to take place and has already been put into place by those who were involved in this effort, stretching from Washington and the whole country to here.

So I appreciate his sentiments and his feelings. You know, I'd be screaming too. I remember when they proposed to put the Narrows bridge through Staten Island. It was a very wonderful thing, and I realized that it had to be done, but there were a lot of people hurting and saying -- my friend Senator Conklin on the other side, I don't think there's anybody here that remembers that far back, but we had a titanic seesaw on that one.

In any event, this bill is anxiously awaited by the Assembly. It's going to be passed -- it's going to be reported today and probably passed tomorrow and sent to the Governor.

And I believe that some of the best arguments made in favor of this bill were made in conjunction with statements made by Senator Duane in the course of debate. So . . .

ACTING PRESIDENT MARCELLINO: Thank you, Senator Marchi.

Read the last section, please.

I'm sorry, Senator Dollinger.

SENATOR DOLLINGER: Mr. President, just to explain my vote.

ACTING PRESIDENT MARCELLINO: Senator, can we read the last section and then we'll get to the voting.

SENATOR DOLLINGER: Sorry.

ACTING PRESIDENT MARCELLINO: Thank you.

Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

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

SENATOR DOLLINGER: Thank you, Mr. President, ever so briefly.

The man who embodies dignity in the New York State Senate, John Marchi, should not have to bear or defend in any way the

indignity that has unfortunately become customary in this chamber, and that is that only Republican members carry bills that affect things in Democratic districts.

I understand the ire of Senator Duane. I share it myself, I have shared that myself. I don't know why, in a chamber where we have a rule that requires civility, we tolerate the absolute discourtesy of not allowing Democrats on bills that affect their districts.

Senator Marchi, I would apologize for that rule that seems to be the dominant rule in this chamber, except I didn't author it. And it seems to me that if the chamber had real dignity, real courtesy, and real civility, what Senator Duane endured no one should have to endure.

And I'll just say this, Mr. President. If someday this side takes control of this chamber, I will never allow that to happen. I consider that the rudest thing that could be done.

I vote aye.

ACTING PRESIDENT MARCELLINO:

Senator Dollinger recorded in the affirmative.

Senator Paterson, to explain his vote.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Paterson, to explain his vote.

SENATOR PATERSON: Structurally, I not only can't oppose this bill, I think it's an excellent bill, very much in compliance with the type of legislation that my friend Senator Marchi has offered for years.

However, I don't know that this was really an issue about members and the effect of things happening in the districts of others. I do think that this is an issue that involves really what is so important in the legislative process, the respect that we have for each other's districts and each other's constituents. It's Senator Duane that in many ways would have to answer for what goes on here. He seemed properly outraged by it. I think we all have to understand his feeling.

And I almost never do this, but in this particular case I'm going to vote no, Mr.

President, with the full understanding that this could be worked out. But it seemed to me that somewhere and at some point Senator Duane should have been consulted or talked to about what's happening in his neighborhood. His constituents, they don't understand all of the interesting applications of the Senate and the interesting ways in which we interact. They're going to come to his office and ask him if anything goes wrong.

So I'm going to vote no, not on the merit of the bill, but just on what is really the defect in the process that inures to the detriment of all of us when we start treating some of us this way. And it wasn't one person that did it, it's really something that's just gotten out of hand and -

ACTING PRESIDENT MARCELLINO: Senator Paterson, how do you vote?

SENATOR PATERSON: I vote no, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Paterson will be recorded in the affirmative.

Senator Connor, to explain his

vote.

SENATOR CONNOR: Yes, Mr. President, thank you.

I really thought this debate would take five minutes, and it's taken nearly an hour. And it's because, in its infinite wisdom, the Majority brought this bill out first.

My staff prepared a lot of questions. They did miss the fact that this was a project in Senator Duane's district. I think everything we've heard speaks for itself. Had I gotten back out here, frankly, a minute sooner, we'd be on a slow roll call.

I vote no, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Connor will be recorded in the negative.

Announce the results, please.

THE SECRETARY: Those recorded in the negative on Calendar Number 201 are Senators Connor and Paterson. Also Senator Montgomery. Ayes, 53. Nays, 3.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, would you please call up Calendar Number 148.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 148, by Senator Morahan, Senate Print 832, an act to amend the Family Court Act, in relation to authorizing restitution.

SENATOR BROWN: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Morahan, an explanation has been asked for.

SENATOR MORAHAN: Yes, Mr. President.

This is an act that would amend the Family Court Act, authorizing and allowing the Family Court to authorize restitution for medical and dental expenses in a juvenile delinquency proceeding.

ACTING PRESIDENT MARCELLINO: Senator Brown.

SENATOR BROWN: Thank you, Mr. President. Mr. President, through you, would

the distinguished Senator from Rockland County yield for a question?

ACTING PRESIDENT MARCELLINO: Senator Morahan, do you yield?

SENATOR MORAHAN: Yes, I do.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR BROWN: Thank you.

Senator, I understand that through this legislation we're trying to hold juveniles -

SENATOR MORAHAN: Excuse me, I can't hear you, Senator. Would you start again, Senator?

SENATOR BROWN: Certainly.

Senator Morahan, I understand through this legislation we're trying to hold juveniles responsible for their actions. And this would reimburse victims of juvenile crime for health and dental expenses.

If the person -- if the victim of a crime has medical coverage and the coverage fully covers some damage done to them by the juvenile, what would happen in a case such as that?

SENATOR MORAHAN: That would be at the discretion of the court. Districts would allow for the reimbursement if the court feels there's other remedies or if the court feels that the respondent is an indigent that doesn't have the wherewithal to do it, they have the discretion.

This just allows the court to add this to what's already provided in law, which is up to $1,500 in physical property. The thrust of this law is a fairness issue. If someone does damage and you can get repaired for a fence or a broken window or some other physical damage up to $1500, that may not occur. But somebody may have knocked out a couple of teeth, and this -- that's not covered. So we just feel that bodily harm is as important as property harm.

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

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

SENATOR MORAHAN: Yes, I do, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR BROWN: So the legislation provides for restitution of a victim's health costs incurred from the action of a juvenile, and it seems like it would be restitution for unreimbursed expenses. Now, in the case of -- now, is that correct, is it just unreimbursed experiences, or does the court have the complete -

SENATOR MORAHAN: Well, it's up to -- the court has the distinct -- it's up to $1,500 max. They already have that provision for physical property. Now we're just going to include -- for example, if there's no physical damage, we're now going to include - no property damage, we're now going to include physical damage.

It seems to me that would be the fair thing to do. If there's coverage -- you know, notwithstanding if there's coverage. That's a personal matter. I don't know that because you have coverage that a respondent or one who has committed an act of aggression ought to be off the hook, so to speak, just

because you have coverage. I think I would let the court play that out.

SENATOR BROWN: Okay. On the bill, if I may, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Brown, on the bill.

SENATOR BROWN: I want to thank Senator Morahan for responding to the couple of questions that I had.

I know that there's legislation that's presently on the books to hold juveniles responsible for property damage that they commit. This piece of legislation would, I guess, dovetail some legislation by Senator Saland which would hold juveniles responsible for damage that they do to an individual's person that would result in health and dental expenses. And through Senator Morahan's bill, it also adds a $1,500 limit to what the juvenile would have to pay in terms of restitution if they knocked some teeth out or if they broken an arm.

So I understand this much more clearly now after asking those questions, and I will be voting in the affirmative on this

piece of legislation.

ACTING PRESIDENT MARCELLINO: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. Would the sponsor yield for a question?

ACTING PRESIDENT MARCELLINO: Senator, would you yield?

SENATOR MORAHAN: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: The sponsor yields.

SENATOR MONTGOMERY: Yes, Senator Morahan, your bill covers minors from the age of 11 and up.

SENATOR MORAHAN: Ten.

SENATOR MONTGOMERY: Ten and up, thank you.

If he would continue to yield, Mr. President.

SENATOR MORAHAN: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: I believe he continues to yield, Senator.

SENATOR MONTGOMERY: Okay.

Senator Morahan, your bill in fact adds an additional $1,500. So that we're now talking about up to $3,000 in restitution that could be charged to a minor who is involved under this statute. Is that not the case?

SENATOR MORAHAN: That is correct.

SENATOR MONTGOMERY: Okay. Mr. President -- thank you, Senator Morahan. On the bill.

ACTING PRESIDENT MARCELLINO: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: I know that Senator Morahan's bill is similar to a bill -

ACTING PRESIDENT MARCELLINO: Excuse me, Senator.

Ladies and gentlemen, can we please take the conversations out of the chamber so we can hear. Thank you.

Senator.

SENATOR MONTGOMERY: Thank you, Mr. President. Just briefly on the bill.

This bill is similar to a bill that Senator Saland has, except that Senator Saland's bill does not in fact increase the

amount that would be required in restitution to $3,000, as Senator Morahan's bill does. His bill would simply include the issue of physical, medical and/or dental expenses.

So that's -- that was -- I supported Senator Saland's legislation. I believe that I did in committee. I hope that I did. If I did not, I will retract it when it's -- when I find out.

But I certainly cannot support this. We're talking about 10-year-olds and up, and we're talking about children who obviously do not have the capacity to pay in restitution. So we must consider who in fact is going to be paying this restitution. And it's the parents of these children and whether or not they're able to do it. What the consequences are, I'm not clear about that.

And so I must vote against this, because we're not really -- we're just simply raising the responsibility to a larger amount in order to accomplish what Senator Morahan wants. So I'm not opposed to the idea of including medical expenses, but I certainly am opposed to doubling it from 1500, that it is

now, to 3,000.

So I'm voting no, Mr. President.

ACTING PRESIDENT MARCELLINO: Are there any other Senators wishing to be heard on this bill?

Seeing none, please read the last section.

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

SENATOR MORAHAN: Mr. President, on the bill.

ACTING PRESIDENT MARCELLINO: Senator Morahan, on the bill. Excuse me.

SENATOR MORAHAN: I would just like to explain some of the provisions that may have been misinterpreted.

Juveniles today are not the -- the parents of the juveniles are not required to pay if the juvenile cannot. From what we have researched, about 80 percent of the juveniles make restitution that the court has authorized.

And as to the need issue or whether they are able to, that's at the discretion of

the court. The court will take in the circumstances. Obviously if someone doesn't have the compensation that they can do for restitution, and if the court feels that the incident doesn't require any -- normally require being put away or whatever, they can still give the probation or give the parole or give the release or the discharge as they see fit.

This just allows the court the discretion to increase that if the circumstances warrant it.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Please read the last section again.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 2. Senators Montgomery and Paterson recorded in the negative.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, will you please kindly call up Calendar Number 170.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 170.

THE SECRETARY: Calendar Number 170, by Senator Volker, Senate Print 1912, an act to amend the Executive Law, in relation to the Community Services Block Grant Program.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Volker, an explanation has been requested.

SENATOR VOLKER: Mr. President, this program, the Community Services Block Grant Program, has been in effect -- I'm just looking here -- since 1981, I believe. I was part of an agreement between the Assembly, the Senate, and the Governor. And I believe I'm the only one left who was part of that agreement, legislatively and staffwise. All the staffers, in fact, are gone too.

And it was a very difficult discussion, that we had people from the City of New York, we had people from the various community organizations involved. And basically the Community Service Block Grant funding proposal has remained the same, as I say, since 1981.

And this was one of the community services block grants that came out of the Reagan administration -- and is the real reason, by the way, a major reason why we have late budgets now. Because it was after we began and suddenly had this huge amount of billions of dollars of money from Washington, that the late budgets began, in the '84 cycle, because suddenly we had this new responsibility to distribute money to the various communities throughout the state that the federal government was giving to us. It's now in something like 30-some billion dollars. I forget what it is in total.

Now, that's not this. This is a very small portion of it. But this was part of an agreement that includes a whole host of people.

The problem with it -- there have been attempts to make changes to it over the years. The real problem with it is the best way to explode this whole agreement is to just do that. It was initially managed by the old Department of Social Services. And fairly recently, within the past few years -- and partly because the Social Services Department now has been rolled together with the Division for Youth and so forth into this agency, so it is now managed by the Department of State.

So this is a community services block grant. This is an extender for one year, as it has been extended. And the agreement back then was that we would do that to make sure that the process was kept under control. We've resisted attempts to change it by the mayors of the City of New York and by all sorts of people. So that's what this is.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Mr. President, would the sole survivor of the community services block grant negotiation be willing to yield for a question?

SENATOR VOLKER: Why, certainly.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR PATERSON: Senator, I really just have one question, and it's just that I would assume that studies have shown the effectiveness, if we've been doing this for twenty years.

SENATOR VOLKER: Right.

SENATOR PATERSON: But why doesn't the Legislature pass an extender that's longer than a year to the authority? This is the third time we've done it. I'm just wondering why we just don't give it longer life, rather than revisiting it as often as we have.

SENATOR VOLKER: I knew you'd ask that question, because that question has been asked a number of times.

The reason that we have done the one-year extenders since 1981 was that that was actually the agreement. That to make sure that the entire process operated in the way that was intended by the agreement, the agreement was that the best way to keep

control of it from the legislative standpoint was to only extend it for a year.

And that if some problems occurred in the distribution during that time, that the Legislature would then be in a situation where, if one house or the other house -- or, for that matter, I suppose, the Governor - had some huge objection to something that was occurring -- and I must tell you that there was some problems a number of years ago in the City of New York under a previous mayor who is -- two mayors ago, I think it was, with an attempt to take control of the process. And we resisted that.

And there was some glitches in the system, and we had a debate on this floor and on the floor of the Assembly as to the way the system is working, and we got it righted. Well, I think -- whether it was off or not, we got it righted. And one of the reasons was that we had this annual ability to extend it so that if it got out of track, we could actually hold it up and keep it from happening.

ACTING PRESIDENT MARCELLINO: Are

there any other Senators wishing to be heard?

Seeing none, please read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Bonacic.

SENATOR BONACIC: Mr. President, could you call up Calendar 320, please.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar 320.

THE SECRETARY: Calendar Number 320, by Senator Saland, Senate Print 3612, an act to amend Chapter 505 of the Laws of 1985.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO: If we could just hold one second, the Senator is on his way.

Senator Bonacic.

SENATOR BONACIC: Mr. President,

can we please call an immediate meeting of the Finance Committee in the Senate Majority Conference Room.

ACTING PRESIDENT MARCELLINO: There will be an immediate meeting of the Finance Committee in the Senate Majority Conference Room, Room 332.

Senator Saland, an explanation has been requested of your bill, 320.

SENATOR SALAND: Thank you, Mr. President.

This is a bill which extends the existing law with regard to the use of closed-circuit television for purposes of taking testimony of a vulnerable child witness. The bill is due to sunset in September of this year, September 1st, and this would expand it to the September 1st date in the year 2002. And the bill has been passed, the extender, on a number of occasions.

The initial legislation was introduced, I believe, or passed back in 1985. The Senate has on more than one occasion passed legislation permanentizing this

particular provision of the law. Unfortunately, as of this date, there seems to be still no interest on the part of the Assembly to permanentize it.

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

SENATOR BROWN: Through you, Mr. President, would Senator Saland yield for a question?

ACTING PRESIDENT MARCELLINO: Senator, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields for a question.

SENATOR BROWN: Senator Saland, who is it that makes the determination of whether the child is a vulnerable witness?

SENATOR SALAND: That is a determination that is based on a ruling by the court. There's an evidentiary standard that has to be made, has to be met, and the court will make that determination. The child in question would have to be a child of no more than 12 years of age.

And obviously the concern is - these are in sex offense crimes. The child has certainly been traumatized, to say the least, by the events that have him or her testifying. And the idea behind the closed-circuit television is to try and minimize compounding the trauma by avoiding the child having to be in open court in front of the person who is accused of being her assailant and in the scrutiny of the public eye, so to speak.

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

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR BROWN: Senator, I know that you're very expert in these matters. Do you know if there are any studies that have spoken to the success of closed-circuit television testimony versus actual courtroom

testimony? Is it more effective using the closed-circuit television?

SENATOR SALAND: I'm not aware of any. That doesn't mean that there aren't any. And certainly New York is not the only state that affords these types of protections to young witnesses in these particular instances. And there may well be. I'm not sure if New York has done them. They may well have been done by the Department of Justice or some other state.

Clearly, to the extent that even one child, but certainly more than one child is spared the kind of agony associated with having to be in a public forum and facing someone who has done some very horrible things to that child by way of sexual offense, that in and of itself I believe justifies it.

And the things that troubles me the most is not what we're doing; it's the fact that we merely have to do extenders when we should have long ago permanentized this.

SENATOR BROWN: Thank you, Senator.

ACTING PRESIDENT MARCELLINO:

Senator Paterson.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT MARCELLINO: Senator Paterson, on the bill.

SENATOR PATERSON: I'd just like to let Senator Saland know that I have legislation in that does exactly the same as what Senator Saland does, but makes it permanent. Now, I have this legislation copyrighted, I have a patent, and I also videotape of myself writing the legislation. But I would remove it, I'll throw it all out if Senator Saland at some point in the future would like to introduce this bill and make it permanent.

Thank you.

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

SENATOR GENTILE: Yes, Mr. President, if the sponsor would yield for a question or two.

ACTING PRESIDENT MARCELLINO: Senator Saland, do you yield?

SENATOR SALAND: Yes.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR GENTILE: Through you, Mr. President, if the Senator would respond, am I clear on this that the provisions that we're extending now are the exact provisions that the law now contains?

SENATOR SALAND: Yes, Senator.

SENATOR GENTILE: So through you, Mr. President.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He continues to yield.

SENATOR GENTILE: So that, Senator, the age limit for a child being found a vulnerable child witness would be age 12; correct?

SENATOR SALAND: Correct. There had been efforts to expand that beyond 12, but they have not been successful.

SENATOR GENTILE: Through you, Mr. President, if the Senator would yield.

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He continue to yields.

SENATOR GENTILE: Indeed, Senator, in this chamber just last week Senator Skelos had introduced a bill to amount amend this section of the law to allow a court to find a vulnerable child witness up to the age of 16.

And given the fact that we voted to pass that bill last week, I'm wondering why we now come back this week and pass the same extender of the current law that doesn't reflect what appears to be the will of the Senate to increase the age to age 16.

SENATOR SALAND: Your question certainly is appropriate and intriguing. I can only compliment Senator Skelos.

Our bill that we have done here in this house we have done on more than one occasion. And I think the kind of support that has been generated here certainly on our side of the aisle and your side of the aisle as well makes the policy statement by this

house that 16 is an appropriate age.

Our problem lies not within the confines of these four walls, our problem lies over on the other side of this floor within the confines of the four walls constituting the Assembly.

I would certainly welcome their coming on board, in which case I would be more than happy to amend this bill to expand the age to 16. But failing that increase in age, I think it's important that we take care of what the law currently permits, which are those vulnerable child witnesses up to age 12.

SENATOR GENTILE: Agreed, Senator.

On the bill, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Gentile, on the bill.

SENATOR GENTILE: I concur with Senator Saland a hundred percent, in that I believe that the law should reflect the fact that a vulnerable child witness can be a witness up to the age of 16. And I believe that's exactly what we debated and passed last week in Senator Skelos's amendment to this

section of the law.

I happen to agree with Senator Saland too, that in absence of a two-house agreement on the increase in the age from 12 to 16, we need to be sure that at least we pass the extender on the current law so that that will continue for child witnesses up to the age of 12.

However, having been a prosecutor and having been one of the first prosecutors in the County of Queens to use this section of the law on closed-circuit television in 1985, I can tell you from firsthand experience that this has been an invaluable tool for prosecutors to move forward on cases with young child victims and allowing young child victims to testify and testify in a way so that they would not have to be in the same room -- in the sexual abuse and sexual crimes, be in the same room as their -- as the defendant.

It's been held constitutional by several different court decisions. But I still believe that, based on my experience, a children can be vulnerable at the age of 13,

14, 15, 16, and maybe even beyond. So I would concur with your sentiments, Senator Saland, but also encourage the Assembly to look at the bill we passed last week that would increase the age limit from 12 to 16 and make this good bill, this good law a better law by passing it to age 16.

Absent that, I will support your legislation, Senator.

ACTING PRESIDENT MARCELLINO: Are there any other Senators wishing to be heard on this bill?

Seeing none, the debate is closed.

Please read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Alesi, what is your pleasure?

SENATOR ALESI: Mr. President,

would you please call Calendar Number 284, Senate Bill 1136.

ACTING PRESIDENT MARCELLINO: The Secretary will read Senator Alesi's bill. It's Calendar Number 284.

THE SECRETARY: Calendar Number 284, by Senator Alesi, Senate Print 1136, an act to amend the Vehicle and Traffic Law and the Insurance Law, in relation to devoting.

SENATOR ONORATO: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Alesi, an explanation has been requested.

SENATOR ALESI: Thank you, Mr. President.

This bill would require the Commissioner of Motor Vehicles to include in the prelicensing course for a driver's permit a component of education that deals with road rage.

ACTING PRESIDENT MARCELLINO: Senator Onorato.

SENATOR ONORATO: Mr. President, will the sponsor yield to a question?

ACTING PRESIDENT MARCELLINO:

Senator, do you yield?

SENATOR ALESI: I'd be happy to.

ACTING PRESIDENT MARCELLINO: He'll yield.

SENATOR ONORATO: Senator Alesi, what is the current curriculum on the alcohol and drug education component of the driving test?

SENATOR ALESI: The current curriculum would require that there be between four and five hours in the overall test and seven elements dealing with DWI or driving while under the influence of drugs.

SENATOR ONORATO: Through you, Mr. President, will the sponsor continue to yield?

ACTING PRESIDENT MARCELLINO: Senator, will you yield?

SENATOR ALESI: I'd be happy to.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR ONORATO: The Governor has introduced a program bill to establish criminal sanctions, mandate license revocation, and require successful completion

of approved defensive driving courses in order to deter, punish and educate motorists who exhibit road rage on our highways. Now, how does your bill differ from the Governor's program bill?

SENATOR ALESI: Through you, Mr. President, my bill is specific to the issue of education in the prelicensing exam dealing with road rage and is not as comprehensive as the Governor's program bill.

SENATOR ONORATO: Through you, Mr. President.

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

SENATOR ALESI: Yes, sir.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR ONORATO: Do you feel that we should create a different level of criminal sanctions for road rage, as proposed by the Governor?

SENATOR ALESI: Through you, Mr. President, that question is not relative to the bill at hand.

SENATOR ONORATO: Again through

you, Mr. President, will he continue to yield?

SENATOR ALESI: I'll continue to yield, Mr. President.

ACTING PRESIDENT MARCELLINO: He continues to yield.

SENATOR ONORATO: Are there not already penalties in Vehicle and Traffic Law that would punish certain acts of road rage, such as laws on vehicular manslaughter?

SENATOR ALESI: Through you, Mr. President, yes, there are penalties for all kinds of mishaps that occur as a result of vehicular misdeeds.

But I would point out to Senator Onorato that one of the ways to prevent these kinds of vehicular misdeeds is through education. We've learned with our efforts at educating people about the dangers of driving while intoxicated or under the influence of narcotics that those educational efforts have actually reduced and helped control the amount of accidents that we have on the road.

And so that by including a component on road rage, we can also hopefully reduce the amount of outrageous behavior

behind the wheel that we see as a growing problem in today's society.

SENATOR ONORATO: Thank you.

ACTING PRESIDENT MARCELLINO: Are there any other Senators wishing to be heard?

Seeing none, the Secretary will read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Rath.

SENATOR RATH: Mr. President, will you please take up Calendar Number 355.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 355, by Senator McGee.

THE SECRETARY: Calendar Number 355, by Senator McGee, Senate Print 3185, an act to amend the Local Finance Law, in

relation to authorizing.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO: Senator McGee, an explanation has been requested.

SENATOR McGEE: Thank you, Mr. President.

This is a bill to amend the Local Finance Law, in relation to authorizing issuance of bonds to finance certain flood relief expenses.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Mr. President, I just wanted to compliment Senator McGee on the -

ACTING PRESIDENT MARCELLINO: Before you do, Senator, if I could, it is a little loud. Thank you.

Go ahead, Senator.

SENATOR PATERSON: I just wanted to compliment Senator McGee on the bipartisanship that she sought on this legislation and ask her if she would yield for a quick question.

SENATOR McGEE: Absolutely.

ACTING PRESIDENT MARCELLINO: She yields.

SENATOR PATERSON: Mr. President, my question just relates to some of the municipalities that will be affected when we enact this legislation, where some of the damage was, and, you know, just more specifically where it will affect.

SENATOR McGEE: Through you, Mr. President, some of the counties affected in this particular bill would be Albany, Columbia, Montgomery, Rensselaer, Schenectady, and Schoharie.

ACTING PRESIDENT MARCELLINO: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, if the sponsor would yield for a couple of questions.

ACTING PRESIDENT MARCELLINO: Senator McGee?

SENATOR McGEE: Certainly.

ACTING PRESIDENT MARCELLINO: She yields.

SENATOR SCHNEIDERMAN: Could I

ask, is there any estimate of the amount of money involved in this?

SENATOR McGEE: No, sir, there wouldn't be any estimate.

And that the purpose of this bill is the fact that many municipalities are already in the middle of their budgets when these particular flood expenses arise. And they can issue bonds during that year, but the bill then calls for -- the law presently calls for them to be paying in the next year.

This bill asks to extend that out for a period of five years, to be able to pay those extraordinary funds that are caused by acts of Mother Nature.

SENATOR SCHNEIDERMAN: Through you, Mr. President. But in past years, I'm just trying to get a sense of what range of what expenses we're talking about. This must have come up in the past if it's something that we're seeking to address prospectively.

SENATOR McGEE: Actually, through you, Mr. President, the cost is in -- I can give you Rensselaer is to get $130,000 from the state for U.S. flood funds, $127,000,

$540,000. These are -- FEMA releases that $975,000 for storm damage relief. It's based specifically on whatever damage has been done.

So to give you a specific amount of money would be impossible to do, because not every piece of damage that's done by Mother Nature relates to the same financial status.

SENATOR SCHNEIDERMAN: And through you, Mr. President, if the sponsor would continue to yield.

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

SENATOR McGEE: Absolutely.

ACTING PRESIDENT MARCELLINO: Absolutely.

SENATOR SCHNEIDERMAN: Is there any reason why the state could not cover this directly to relieve the school districts of the burden of having to float and repay the bonds, since we do have a lot of money in the state coffers right now and we are actually looking at some serious challenges to the state's underspending on our schools? I mean, is there any reason other than the fact the state just hasn't done it in the past why the

state couldn't cover this cost directly?

SENATOR McGEE: Through you, Mr. President, I really can't answer that particular question. These are not things that happen on a daily basis. These are things that happen as a result of Mother Nature. Not every school district, number one, would have this issue. Number two, you would never be able to, I'm sure, appropriate a certain X amount of money because you would never have an idea of what that cost of money is going to be.

So I can't give you an answer on that except for the answer I just gave you.

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

ACTING PRESIDENT MARCELLINO: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I think this sounds like a completely prudent way to deal with this situation.

My only concern is that we are now, I think, entering a period of several years where we're going to be taking a very close look at the system of financing of school

districts in New York State, since the decision in the Campaign for Fiscal Equity case.

And I commend to the sponsor to take a look at some of the language in Justice Leland DeGrasse's decision relating particularly to problems of more rural school districts. Because in addition to needs in our urban areas, where we have severe underfunding for our own type of special needs, of lots of students who are not native English speakers, students with special learning needs -- there also is language there about facilities and the particular needs of rural districts.

I hope that we can move away from a situation where individual school districts have to float bonds in order to just maintain their facilities, since the state has a constitutional responsibility, as explicitly stated in this judge's decision not long ago, to maintain decent facilities for all the children of this state.

So I think this makes perfect sense given the state's failure to handle this thus

far, but I hope in the future it is something that we could address as we are dealing with this overall problem. I will be supporting the bill, and I hope that at some point, though, we can relieve these jurisdictions of this expense and obligation.

Thank you.

ACTING PRESIDENT MARCELLINO: Any other Senator wishing to be heard?

Seeing none, debate is closed.

Please read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Rath.

SENATOR RATH: Mr. President, there will be an immediate meeting of the Crime Victims, Crime and Corrections Committee in the Majority Conference Room.

ACTING PRESIDENT MARCELLINO:

Crime Victims Committee meeting will be in the Majority Conference Room immediately. That's Room 332.

Senator Rath.

SENATOR RATH: Mr. President, please take up Calendar 356.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 356, by Senator McGee.

THE SECRETARY: Calendar Number 356, by Senator McGee, Senate Print 3188, an act to amend the Local Finance Law, in relation to temporary alternative methods.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO: Senator McGee, an explanation has been requested.

SENATOR McGEE: Mr. President, this is a bill that quite resembles very much the bill that we last did. The one that we just got done doing was, as a matter of fact, flood. This particular bill deals with snow removal and ice removal incurred during a specific fiscal year for which a municipality has not budgeted that amount of money, it has

in fact put them into deficit mode. They are allowed to go out for bonds.

This bill will allow them to extend the period of bonding repayment to five years rather than put an exorbitant cost, an increase in taxes to cover that serial bond payment back in the next fiscal year.

ACTING PRESIDENT MARCELLINO: Any Senators wishing to be heard?

Senator Paterson.

SENATOR PATERSON: Mr. President, the explanation is satisfactory.

ACTING PRESIDENT MARCELLINO: Thank you. Debate is closed.

The Secretary will read the last section.

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

ACTING PRESIDENT MARCELLINO: Please call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Rath.

SENATOR RATH: One moment, Mr. President.

Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Rath.

SENATOR RATH: If you'd please take up Calendar Number 385.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 385, by Senator Libous.

THE SECRETARY: Calendar Number 385, by Senator Libous, Senate Print 2862, an act in relation to adjusting certain state aid payments.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Libous, an explanation has been requested by Senator Paterson.

SENATOR LIBOUS: Thank you, Mr. President. This would assist the school district of Greene to pay back to the state an overpayment in aid which they received.

The problem we have here is that the district does not the money to pay it all back in one payment. And what we've done here

is worked out something that we feel will be in accordance with the school district and also, Mr. President, in accordance with the taxpayers, so that they could rightfully pay the money back to the state but do it in a way that would be most appropriate for the school district.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Paterson.

SENATOR PATERSON: Mr. President, Senator Gentile had some questions on this bill, and he's in the Crime Victims Committee meeting in the Majority Conference Room.

I just want to point out that it's very difficult for members to be in committee meetings and on the floor at the same time.

But I'd like to ask the Senator to yield for a question.

ACTING PRESIDENT MARCELLINO: Senator Libous, would you yield?

SENATOR LIBOUS: Yes, Mr. President, I would be honored to yield for a question.

ACTING PRESIDENT MARCELLINO: The

Senator will yield.

SENATOR PATERSON: Senator, the overpayment that we're discussing took place during the calendar years 1992 and 1993, am I not correct?

SENATOR LIBOUS: That is correct, sir.

SENATOR PATERSON: Mr. President, if the Senator would yield, how has it taken nine years before we're just examining the issue at this point?

SENATOR LIBOUS: Well, Mr. President, unfortunately in government things sometime get put aside and not addressed, and that the bureaucracy tends to lose things. And that's the unfortunate thing.

But when it was found and it was brought to the attention of the school board and the school district, they recognized that there had to be some rectifying of the situation, and here we are.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

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

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

SENATOR LIBOUS: Mr. President, I'd be happy to continue to yield.

ACTING PRESIDENT MARCELLINO: He's happy to yield.

SENATOR PATERSON: Thank you, Senator. Would it not be more prudent to exact an interest penalty on the school district based on the amount of time that's accrued? Or if it's your pleasure, Senator, and you don't think that that's the right idea, can you just give the body some suggestions as to how to prevent this type of situation from occurring again?

SENATOR LIBOUS: Well, Mr. President, I respect Senator Paterson's question, but it is usually customary that we do not charge interest if the error was clerical and not intentional, and that seems to be the case here.

Certainly, Mr. President, we want to applaud the school district for trying to rectify this. I know that there have been some situations in the past where overpayments

have been made and, quite frankly, they have not been rectified and they have not been pushed to make them pay.

But I think this is very honorable by the district of Greene. And as their legislator, I'm here to try to help them and particularly the taxpayers so that the burden is not heavy on the tax base, and that's really what's important. And I think that this is very honorable because they're willing to pay it back at this time.

So, Mr. President, and to Senator Paterson, I'm not sure if there's any written policy that can take place. I think these situations are situations that need to be looked at on an individual basis as it pertains to the tax base in the school district.

SENATOR PATERSON: Thank you, Mr. President. This situation does seem rather unique. And I accept Senator Libous's explanation. If he would yield, I just have one last question.

ACTING PRESIDENT MARCELLINO: Senator Libous, you'll yield for one last

question?

SENATOR LIBOUS: Yes, Mr. President, I will yield for the last question.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR PATERSON: Senator, was it that the district was not aware of the overpayment, or was it just a factor that they were trying to find other remedies in order to end this problem and, exhausting those, came before yourself and us as the Legislature?

SENATOR LIBOUS: Mr. President, that's a fair question. And going back to what I said earlier, fortunately or unfortunately, all of these circumstances need to be looked at as individual cases. And in this case, the district believed that they were doing the right thing until the auditors basically came in and said, Hey, we've got a problem here, so this needs to be repaid. And that's what happened in this particular case.

And, you know, it's unfortunate that it took as long as it did. But again, we're here today to try to rectify it. And again, I think that's quite honorable.

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

SENATOR HEVESI: Thank you, Mr. President. Will the sponsor yield, please?

ACTING PRESIDENT MARCELLINO: Senator Libous, will you yield?

SENATOR LIBOUS: Yes, Mr. President, I will yield.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR HEVESI: Thank you. Through you, Mr. President, I fully understand the purpose of this legislation. Very well, in fact, because we've seen many pieces of legislation just like this. I think this is the first one this session. But certainly last session and the session preceding it, a number of bills just like this.

And it's always troubling to see this, because though it is justified -- and I certainly support this bill, because we don't want to disenfranchise the local school district and burden them as they attempt to repay money that should not have been given to them in the first place -- it raises the same

question every time.

So I will put the one question to you, Senator Libous, through you, of course, Mr. President. Has the State Education Department done anything to ensure that they are not making these overpayments for which we lose money as taxpayers because interest is not repaid when we remedy these types of situations?

SENATOR LIBOUS: Mr. President, certainly in these situations the fiscal reporting requirements are somewhat complex. And again through you, Mr. President, the State Education Department does have requirements that they have to go through.

But basically, these situations are caught through audits, through periodic audits. And I guess that, to me, is probably the best way. Maybe the State Education Department might want to do those audits more frequently. But then again, Mr. President, we might run into issues when it comes into manpower and looking at whether or not we have enough people to go out and do that.

But basically, Mr. President, that

these are done through the audits, and that's how they're discovered.

SENATOR HEVESI: Thank you, Mr. President. Will the sponsor continue to yield?

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

SENATOR LIBOUS: Sure will. Absolutely.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR HEVESI: I would respectfully suggest that the current procedures are deficient and that a local school board who has received -- that has received a substantial overpayment has by definition made a mistake in the amount of money that they've claimed from the state and therefore -- and in the case of the Greene Central School District, evidently it was several years' worth of overclaims.

And therefore, not only did the central school district, the Greene Central School District, make a mistake, but the State Education Department has made repeated

mistakes of simply accepting from local school districts the amount of money that they're claiming. And this has a real implication. Not that it takes up our time to pass a bill, but that we lose money when we do this.

So my question to you is, in this particular instance, wouldn't you agree that both the Greene Central School District and the SED made mistakes and in light of the history of mistakes being made by local school districts and SED that we should be doing something more than just correcting this one particular mistake and instead addressing the larger problem, which does have a negative impact?

SENATOR LIBOUS: Mr. President, today, of course, we are addressing the Greene district. And I'm not aware of other school districts that may have these problems. I'm sure, if they are, that local Senators would be looking to try to correct that.

Mr. President, I think Greene was somewhat unique. And Senator Hevesi brings up a good point, and I have great respect for Senator Hevesi. But I think it's twofold.

One is the school district that seems to in this case have been a little slow in responding maybe to the State Education Department.

But maybe Senator Hevesi and I might want to go on a fact-finding mission with the State Education Department to find out what their procedure is and how they look at these instances and why it takes so long for restitution.

So while it can't be addressed, Mr. President, in this piece of legislation, I would be very open to my colleague to try to see if we can get some answers from Commissioner Mills and those who run the State Education Department to see why the procedure is the way it is.

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

ACTING PRESIDENT MARCELLINO: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you, Mr. President.

What we just heard from Senator Libous was the perfect response. Because I

don't believe that Senator Libous should bear the burden of trying to defend a system that we know has been broken a little bit. I don't want to blow this out of proportion with hyperbole. But he's trying to remedy for a district that he represents, and I completely respect that and I'm going to support this legislation.

But I certainly will take Senator Libous up on his offer to further explore the problem here. But I would strongly suggest that, number one, whatever periodic audits the State Education Department is doing are insufficient, because they have not provided a deterrent effect or an effect that enables the local school districts to better manage their finances and more accurately report to SED the money that these districts believe they are owed.

And I would go a little further here in suggesting that our mechanism for remedying the problems that we have seen here aren't having an impact that's going to correct the problem in the future. Now, I don't want to be punitive with the school

districts, because their purpose is to educate children. And the more we disenfranchise them financially, the more we cut off our nose to spite our face.

However, the fact that we simply allow them to make these payments back to the state without any consideration of interest means that the people who have paid these taxes are essentially losing money by not having accrued any interest on it, and that additional money could have been spent on any other purposes. And it's not a tragedy, but it's not good government.

And so I would suggest that it's probably a good idea to have some disincentive for local school districts to overclaim. And the best way to do that is by creating equity in the remedy and requiring an interest payment or some kind of penalty when we have to go back and correct these mistakes.

But better to avoid that at all by making sure that the processes from the local school boards and the auditing and review of the State Education Department are done to a sufficient managerial level that we can avoid

these problems in the first place.

Having said that, though I wish we will move in that direction and I hope to work towards that, this is a good piece of legislation. There's no reason that the Greene Central School District should be harmed by having to make an aggregate payment of all the money that they've been overpaid. And so I support this legislation.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Any other Senators wishing to be heard?

Seeing none, debate is closed.

The Secretary will read the last section.

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

ACTING PRESIDENT MARCELLINO: There is a local fiscal statement on file.

Call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Rath.

SENATOR RATH: Mr. President, would you please take up Calendar Number 361.

ACTING PRESIDENT MARCELLINO: Will you please read Calendar Number 361, by Senator Padavan.

THE SECRETARY: Calendar Number 361, substituted earlier today by Member of the Assembly Lopez, Assembly Print Number 3995B, an act to amend the Real Property Actions and Proceedings Law.

SENATOR GENTILE: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Padavan, an explanation has been requested.

SENATOR PADAVAN: Mr. President, this legislation will allow the City of New York to continue, through June 30, 2004, to transform effectively abandoned buildings, many of which are in dangerous disrepair, a hazard to those who occupy them, and convert them into permanent affordable housing.

That part of the bill is an extender of existing law. There is one change in the bill from existing law that would prevent new owners of these so-called Article

7-A properties from taking advantage of rent restructuring prior to the rehabilitation that they are committed to provide.

That is the bill.

ACTING PRESIDENT MARCELLINO: Senator Gentile.

SENATOR GENTILE: If the sponsor would yield for a question.

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MARCELLINO: Senator Padavan yields.

SENATOR GENTILE: Thank you. Thank you, Mr. President.

Through you, Mr. President, I just want to be extremely clear about this. Because the problems I had with this bill when it was on the floor last year was the fact that there was a provision in there that, under the restructuring of rent, allowed this agreement with these buildings to override the Rent Stabilization Law, the Rent Control Law, and the Emergency Tenant Protection Act.

Now, what I just heard Senator Padavan just say, and I want should be very clear about this -

ACTING PRESIDENT MARCELLINO: Excuse me, Senator, for one second.

Senator Kuhl, why do you rise?

SENATOR KUHL: If Senator Gentile would suffer an interruption, I'd like to announce an immediate meeting of the Transportation Committee in the Majority Conference Room, Room 332.

ACTING PRESIDENT MARCELLINO: Thank you, Senator. There will be an immediate meeting of the Transportation Committee in the Majority Conference Room, Room 332.

I'm sorry, Senator Gentile. Please continue.

SENATOR GENTILE: Thank you, Mr. President.

Senator, I just want to be absolutely clear, and for our colleagues here in the Senate, that that provision that would otherwise override the Rent Stabilization and the Tenant Protections Act is no longer part of this bill that you're presenting today; is that correct?

SENATOR PADAVAN: When you say

"override," what do you mean?

SENATOR GENTILE: Well, in terms of the rent restructuring under the provisions of the bill as they appeared prior to today, allowed rent restructuring to take place.

SENATOR PADAVAN: Prior to the rehabilitation?

SENATOR GENTILE: Prior to the rehabilitation.

SENATOR PADAVAN: This precludes that. It does not preclude their making an application for an HPD loan to do the rehab. But that loophole has been dealt with in this bill. That's what I said before. It's an extender and a change that precludes the issue you raised.

SENATOR GENTILE: Through you, Mr. President, if the -

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

SENATOR GENTILE: So just to be very clear, Senator -

ACTING PRESIDENT MARCELLINO: Excuse me. I didn't hear an answer, Senator.

SENATOR GENTILE: Oh, I'm sorry.

SENATOR PADAVAN: Yes. Yes.

ACTING PRESIDENT MARCELLINO: He continues to yield.

SENATOR GENTILE: Through you, Mr. President, just to be very clear, then, any rent restructuring that would happen under these agreements with these abandoned buildings would be done through the regular rent stabilization provisions?

SENATOR PADAVAN: Well, that's always been the case.

But that section of the law -- I think it's Section 778 -- has been amended to preclude the rent restructuring prior to the rehabilitation. If that's what your question's all about. That's an amendment to the existing law.

SENATOR GENTILE: If the Senator would continue to yield, Mr. President.

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MARCELLINO: He does.

SENATOR GENTILE: Senator, also

in proposing these agreements with these abandoned buildings and the new owners, it doesn't mention anything about any involvement by the 7-A administrator or by the judge. Is there any provision by which the 7-A administrator or the administrative judge would have input into these types of agreements that the owner makes with the city?

SENATOR PADAVAN: Well, subdivision 10 of that Section 778 -- and the long title is Real Property Actions and Proceeding Law -- grants to the City of New York this authority. So therefore, the court need no longer be involved.

In dealing with the law that we have before us that's been in effect, it was extended in '99 -- not last year, but the prior year -- and which we wish to extend again, I'm sure we'd all agree there's a tremendous need for affordable housing. At the same time, we don't want people taking advantage of it by getting ownership, applying for rent restructuring, and not doing the rehabilitation work which was a commitment they entered into at the very beginning.

And that authority is there in existing law and is further enhanced by this new law.

SENATOR GENTILE: If the Senator would continue to yield for one more question.

SENATOR PADAVAN: One more question.

ACTING PRESIDENT MARCELLINO: He yields for another question.

SENATOR GENTILE: Thank you.

Through you, Mr. President, what role, then, would the 7-A administrator have once this agreement is in place, Senator?

SENATOR PADAVAN: Once the agreement is in place, then it comes under the authority granted to the City of New York, which gives the city permission to adjust the rents. Obviously HPD has the authority to enter into rehab loans and to see that the law that we're dealing with is enforced.

SENATOR GENTILE: Through the 7-A administrator.

SENATOR PADAVAN: Yes.

SENATOR GENTILE: Thank you, Senator.

On the bill, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Gentile, on the bill.

SENATOR GENTILE: I thank Senator Padavan for his responses.

While I would prefer to see some provisions by which the 7-A administrator would have a more direct and defined role in these agreements, I have to congratulate Senator Padavan and those who drafted this legislation for eliminating that portion of the bill which previously had allowed rent restructuring before any capital improvements had been made.

That was the provision that I think many of us on this side of the aisle voted against last year. I believe that Senator Padavan has seen the better of it and seen the light of it and now has taken that provision out of this new bill here, in the extender. And so I think this is now a bill that in effect will help rehabilitate buildings in the City of New York and at the same time not subject tenants to rent increases without the actual capital improvements being done.

So, Senator Padavan, you've changed my vote from a no to a yes because of the protections that you have given to tenants in this new bill. So I congratulate you, and I urge my colleagues to vote yes on this bill.

ACTING PRESIDENT MARCELLINO: Are there any other Senators wishing to be heard?

Seeing none, debate is closed.

Please read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President, would you now call up Calendar Number 286, please.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 286, by Senator Kuhl.

THE SECRETARY: Calendar Number

286, by Senator Kuhl, Senate Print 3071, an act to amend the Vehicle and Traffic Law, in relation to authorizing.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Kuhl, an explanation has been requested.

SENATOR KUHL: Thank you, Mr. President.

Currently in statute in the Motor Vehicle Code -- I think it's Section 3. Excuse me, 401 -- there's a provision for a special license for what we call a farm vehicle. But currently there is no ability for a farmer to take that farm vehicle other than 25 miles, if necessary, to a repair shop, operating the vehicle on its own power.

So a farmer is required, if he's going to go get his farm vehicle repaired or inspected, to actually load it on a flatbed and then take it to the repair shop and then load it back. It's a significant cost, really, and there's no need for it.

So this bill provides an exemption, another exemption to the statute which would

allow for a farm vehicle to be taken to a repair or inspection shop for its maintenance or annual inspection.

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

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

ACTING PRESIDENT MARCELLINO: Senator Kuhl?

SENATOR KUHL: Yes.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR DOLLINGER: Senator, what about the enforcement problem that this bill would occasion? That is, I can foresee that these vehicles would be on the road, they would be stopped because they either lack plates or they -- for some other reason.

How are the police supposed to determine -- I mean, don't we get into a proof problem here? Well, it's on its way to the repair shop. I mean, is there any requirement that they produce repairs? How do we deal with the practicality of enforcement?

SENATOR KUHL: Well, I've always found the State Police to be very understanding in situations like this, Senator. And I don't perceive that there would be an enforcement problem.

There is a special attachment to the farm license which designates its home location. And certainly you can easily monitor how far 25 miles is from that location. And if in fact a farmer were on his way to a repair shop, then I would expect fully that, you know, the state policeman could follow him there if he felt so inclined.

SENATOR DOLLINGER: Okay. Through you, Mr. President, if Senator Kuhl will continue to yield.

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

SENATOR KUHL: Yes.

ACTING PRESIDENT MARCELLINO: He continues to yield.

SENATOR DOLLINGER: What types of vehicles would be included in the scope of this legislation? We're talking about smaller pieces or pieces as big as combines and other

farm vehicles of significant size that would be on the highways?

SENATOR KUHL: Well, combines currently aren't registered, Senator, I don't believe.

What you're talking about is a motor vehicle under the definition of what a motor vehicle is. In the current law, it could be a semitrailer, tractor, anything, any size. There's no limitations on what a vehicle could be.

SENATOR DOLLINGER: Okay. Again through you, Mr. President, if Senator Kuhl will yield.

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

SENATOR KUHL: Yes.

ACTING PRESIDENT MARCELLINO: I believe he yields.

SENATOR DOLLINGER: My concern is that -- as I'm sure, Senator Kuhl, you being from Steuben County, would know even better than I, that difficulty oftentimes created with a large farm implement or vehicle on the highway taking up several lanes, most people

attempting to pass it.

Which is one of the reasons why we've been relatively sparse in our exemptions from the requirements under the Vehicle and Traffic Law with respect to farm vehicles being on the public highways, that they aren't by their nature creating a nuisance, but nervous drivers, impatient drivers getting around them, trying to pass, create the problems.

My question is, would this only apply to vehicles that in essence would otherwise be on the highways -- cars, trucks, semis, that type of vehicle? Or does this include a range of other farm-implement operating vehicles that would be on the highways?

SENATOR KUHL: The language in the bill, Senator, specifically says motor vehicle, trailer or semitrailer. That's the definitions that we use.

And it wouldn't -- and only for those vehicles actually who were registered as farm vehicles.

SENATOR DOLLINGER: Okay.

Through you, Mr. President, just on the bill, if I can.

ACTING PRESIDENT MARCELLINO: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I'm going to vote in favor of this bill. I take Senator Kuhl's explanation that this will involve vehicles that would otherwise be on the highways.

My concern in my questioning of Senator Kuhl was that, as I'm sure many of those of us who live in suburban or urban areas, often the experience of moving down a country road, a two-lane country road and running into the farm implement that's on the highway -- which at least in my experience as a suburban and urban driver, the drivers tend to get a little impatient because the vehicle isn't going at the normal speed, and the next thing you know you're trying to pass it on narrow roads.

That's one of the reasons why we have been somewhat reluctant to allow larger, oversized vehicles, especially farm implement vehicles, on the small farms and small narrow

streets and roads in our rural areas.

This bill, as I understand Senator Kuhl's explanation, will not apply. These will be motor vehicles that will need repairs. And under those circumstances, I don't think they pose the harms and the dangers that oversized vehicles could.

So under those circumstances, Mr. President, I'm going to vote in favor of this bill and would ask my colleagues to do likewise.

ACTING PRESIDENT MARCELLINO: Any other Senator wishing to be heard?

Seeing none, the Secretary will please read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Could we announce an immediate meeting of the Children and Families Committee in the Majority Conference Room, Room 332.

ACTING PRESIDENT MARCELLINO: Yes, we can. There will be an immediate meeting of the Children and Families Committee in the Majority Conference Room, Room 332.

Senator Duane.

SENATOR DUANE: Thank you. I'd like to have unanimous consent to be recorded in the negative on Calendar Number 201, please.

ACTING PRESIDENT MARCELLINO: Without objection, so ordered.

Senator Kuhl.

SENATOR KUHL: Could you call up Calendar Number 277, please.

ACTING PRESIDENT MARCELLINO: Calendar Number 277, the Secretary will read.

THE SECRETARY: Calendar Number 277, by Senator Skelos, Senate Print 427, an act to amend the General Business Law and the Town Law, in relation to dealers.

SENATOR DOLLINGER: Explanation,

Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Skelos, an explanation has been requested.

SENATOR SKELOS: Yes. Senator Dollinger, this bill would require secondhand dealers to obtain identification and keep a record thereof from anyone selling items to the secondhand dealer.

This information is extremely important to the police, in particular in recovering stolen merchandise. Similar legislation exists right now in the City of Albany, City of Buffalo, County of Westchester, and I believe in the City of New York.

SENATOR DOLLINGER: Through you, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Dollinger.

SENATOR DOLLINGER: If Senator Skelos will yield for a question.

ACTING PRESIDENT MARCELLINO: Senator, do you yield?

SENATOR SKELOS: Yes.

ACTING PRESIDENT MARCELLINO: He yields for a question.

SENATOR DOLLINGER: The list of municipalities that you've just described obviously had a local concern about this correlation between the secondhand dealers and the collateral loan brokers. Is there any evidence that there is an abundant problem in other parts of the state?

I assume this bill has statewide application. Do you have evidence that it other than in -- I understand in the municipalities affected. But in the other communities, is it needed?

SENATOR SKELOS: Mr. President, if I could respond, that's a good question. Really, by making this statewide -- and it would establish minimum standards, so local municipalities could adopt stricter standards within their own community -- there would really, in a sense, be a chain of control of these items where police could then go throughout the entire state and perhaps track down stolen items or, even better, catch the person that committed the crime.

SENATOR DOLLINGER: Okay. Through you, Mr. President, if Senator Skelos will continue to yield.

ACTING PRESIDENT MARCELLINO: Senator Skelos, do you yield?

SENATOR SKELOS: Yes, I do, Mr. President.

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR DOLLINGER: What has been the experience in the municipalities that have this with respect to the recordkeeping? By their very nature, secondhand dealers and collateral loan brokers are not necessarily, I would assume, the best recordkeepers. I mean, is there evidence that these recordkeeping provisions have been enforced and that they've have actually assisted police investigations?

SENATOR SKELOS: Well, if I could respond, Mr. President, the experience has been very good in the City of Albany, the City of Buffalo. We have not really received complaints from anybody about the legislation or its intent, and it seems to be working. And that's why we feel it would be -- the Town

of Hempstead, where I reside, has it, other townships throughout the state.

It seems to be working well, and we have not really received complaints about the legislation. Generally, when you put in a bill like this, if people are deeply concerned about it, you know that we will receive calls from them in opposition.

SENATOR DOLLINGER: Right.

A final question, if Senator Skelos will continue to yield.

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

SENATOR SKELOS: Yes.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR DOLLINGER: The bill contains an exception for not-for-profit groups. I assume that that relates to secondhand clothing sales at churches and synagogues. Is there any evidence that the benefit that you're trying to seek -- that is, assisting the police in providing greater recordkeeping -- that they should be included within this bill to -- I mean, I don't know

whether they are oftentimes a source of stolen property and that kind of thing as well.

SENATOR SKELOS: If I could respond, Mr. President, generally the thrift shops and hospitals are not the places where a person would bring a valuable watch or a valuable TV. Generally, it's -- quite honestly, it's clothes that people are looking to get rid of.

SENATOR DOLLINGER: Okay. Thank you, Mr. President. I have no further questions. I don't know whether anyone else on this side does.

ACTING PRESIDENT MARCELLINO: Any other Senators wishing to be heard?

Seeing none, the debate is closed.

Please read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first day of January.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MARCELLINO: The

bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President, could we go back to the beginning of the active list now, and call up Calendar Number 12 and then commence forward in regular order.

ACTING PRESIDENT MARCELLINO: Please read the calendar, starting with Calendar Number 12.

THE SECRETARY: Calendar Number 12, by Senator Volker, Senate Print 200, an act to amend the Penal Law, in relation to causing the death of a peace officer.

SENATOR DOLLINGER: Explanation, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Volker, an explanation has been requested.

SENATOR VOLKER: Mr. President, this bill came about because -- very honestly, because of the death of a police officer in New York City, Vincent Guidice. In fact, it was termed the "Police Officer Vincent Guidice Memorial Act."

What happened was that Patrolman Guidice responded to a domestic call and was attempting to quiet a domestic argument when one of the individuals became belligerent, and he attempted to arrest him. And there had been -- before he got there, there was a - some dispute between the parties, and some glass had been broken, including a mirror. And when Officer Guidice was wrestled to the ground, a piece, a large piece of glass pierced his thigh, I believe, and an artery, and he bled to death, and died.

The DA looked at the statutes and decided that although he could have tried to charge him with second-degree murder, he felt that the evidence really didn't warrant it. And the result was that the charges against the individual, the top charge that could be charged against the individual was a Class D felony.

Now, the feeling was that this kind of activity should warrant a higher potential penalty. So what this bill says is that when someone attempts to prevent a police officer, a firefighter, a paramedic or emergency

technician person from performing their duty, that -- and causes the death of that person, then the charge could be a B felony.

And it follows up on I believe it was a 1996 statute that we did that related to upgrading the penalty for assault on police officers, peace officers, firemen, and so forth, which means assault -- meaning that there was a serious injury or whatever -- to a C felony. And it follows right in line, C felony, B felony, and of course the A felony is reserved for the most egregious acts.

But in this case it would make the charge of manslaughter on this class of people be a B felony.

ACTING PRESIDENT MARCELLINO: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President. Will Senator Volker yield just to one question?

ACTING PRESIDENT MARCELLINO: Senator, will you yield for a question?

SENATOR VOLKER: Sure. Sure.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR DOLLINGER: Senator, I agree with the intent of this bill. And I certainly understand the very unique, highly unique circumstances which bring it about.

My question is purely a drafting one. On line 15 of the bill we use the phrase "a lawful duty." And I always get a bit nervous, Senator, when I see a term like that, because I think is that term defined someplace else, number one. And, number two, why put in the phrase "lawful"? What does -- that phrase has -

ACTING PRESIDENT MARCELLINO: Senator Dollinger, I don't mean to be rude, but every time you turn around, we lose sound.

SENATOR DOLLINGER: Thank you, Mr. President. Common courtesy and Senate rules, I understand, have some conflict, given our two respective -

ACTING PRESIDENT MARCELLINO: We understand that. But please speak to this chair.

SENATOR DOLLINGER: Yes, Mr. President.

My question is, in use of that

phrase "lawful duty," (A) is it defined elsewhere in the statute? And (B) is it intended to raise the standard of duty to some statutory authorized duty or is it a common-law term that just is used as a term of art? That's my question.

SENATOR VOLKER: Senator, I don't know. But -

ACTING PRESIDENT MARCELLINO: Read the last section.

(Laughter.)

SENATOR VOLKER: I don't really know, but I certainly will find out.

But I believe that -- well, I know what the intent was. The intent was to make sure that whatever act was being performed was in the ordinary course of that individual performing his or her duties. And I think the reason they put "lawful" is so that it wasn't just some -- something that might not be in a category of pursuing the kind of duty that fits in with their -- whatever their proper job was.

Now, I think the reason they put - as I say, that they put "lawful" was just to

make sure that there was -- that there was no question that whatever they were doing was in pursuing it, whether they got into a struggle or not.

In other words, if it was -- if they met on a street corner or something and a fellow was -- or the woman was a firefighter and they got into an argument or something that had nothing to do with their lawful authority, even though the guy tried to arrest them, that was because of some argument or something, that wouldn't exactly be in their lawful duty.

At least I think that's what was intend here, to make clear that they were performing a function that befits the office for which -- or not the office, but the type of job that they had. I mean, it's -- I suppose it's probably harder to envision somebody who walks up on the street and says to a police officer, Let's have a discussion, and the -- but it's possible. And that would not be, then, I suppose, a lawful -- it could be argued that that really wasn't a lawful duty. In other words, you could still arrest

the fellow, I suppose, but it wouldn't be covered by a Class B felony.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Volker would continue to yield just for a clarification question.

SENATOR VOLKER: Sure.

ACTING PRESIDENT MARCELLINO: Senator Volker yields.

SENATOR DOLLINGER: Do I understand it, then, that in your mind the use of the phrase "lawful" as an adjective describing "duty" would be a duty which under law is vested solely in one of these people -

SENATOR VOLKER: Yes.

SENATOR DOLLINGER: -- such as a police officer, a peace officer, a firefighter, that it is something unique about their professional legal responsibilities, it's in the act of doing that that this statute applies?

SENATOR VOLKER: Yes, I think that's what -- that's what I interpret it to mean. And I think that -- I know that that's what the drafter intended.

I will, by the way, look up and see whether there is a definition of that. But I think that the concern was, once again, that somebody could be in this class of people and yet not be performing a duty, get into this situation, and still the person would not be doing proper -- would -- could be arrested.

But on the other hand, you wouldn't have the same seriousness of the felony that would be involved here, and that would be something the DA would have to examine when he or she charged that person.

This is a serious offense. A Class B felony, quite obviously, is a very serious offense. And I think that was the concept here, that the person was one of these class of people who was performing his duties properly, or lawful duties, and was being obstructed from doing it and eventually was killed.

SENATOR DOLLINGER: Thank you, Mr. President. Just briefly on the bill.

ACTING PRESIDENT MARCELLINO: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I think

Senator Volker's description is important in the context of this bill, because whenever we are drafting and we use a phrase like "lawful duty," as Senator Volker is well aware, the courts of this state will narrowly interpret criminal statutes. Because we are restricting people's liberties by defining certain conduct that we will make unlawful and for which people will pay a substantial price in the loss of their liberty.

And I think that whenever we use a phrase like "lawful duty," my fear is always that some law clerk somewhere is going to look this up, with a 12-to-25-year sentence at stake, and say, Well, the police officer was out performing traffic control at Redwing Stadium or at Frontier Field in Rochester, New York. Is that part of their lawful duty? Is it something that only a police officer would do? The answer to that is no, because certainly private security officers could do that. And someone is going to say, Well, that's what he was doing when I interfered with the performance of that duty.

The point I'm making, Mr.

President, is that I'm going to vote in favor of this bill, but I do so because I hope that we've somewhat given a light to the courts of this state if at some time in the future this bill becomes law and some aggressive young law clerk says, Is it really lawful duty when they were doing X? I think Senator Volker's comments as the sponsor are going to be important to the courts in resolving that issue.

And, Senator Volker, I actually will be looking forward to find out whether we've actually defined the phrase "lawful duty" in our Penal Law or, for that matter, anywhere else in the law, because if we're going to use that term as a term of art, maybe we should put that definition in somewhere.

So I'll vote in favor nonetheless, Mr. President. I thank Senator Volker.

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

SENATOR HEVESI: Thank you, Mr. President. Will the sponsor yield?

ACTING PRESIDENT MARCELLINO: Senator Volker -- I'm sorry. Excuse me,

Senator.

Senator Kuhl.

SENATOR KUHL: I'm sorry to interrupt the debate. We'd like to announce an immediate meeting of the Local Governments Committee in the Majority Conference Room.

ACTING PRESIDENT MARCELLINO: There will be an immediate meeting of the Local Governments Committee in the Majority Conference Room, Room 332.

Senator Hevesi, please continue.

SENATOR HEVESI: Thank you, Mr. President. Would the sponsor please yield?

ACTING PRESIDENT MARCELLINO: Senator Volker, do you yield?

He yields.

SENATOR HEVESI: Thank you.

Through you, Mr. President, if I can draw the sponsor's attention to a sentence in the memorandum of support for this legislation. Specifically, in the second paragraph, the line that reads "Even though the Penal Law charges of murder in the second degree or manslaughter in the first degree could have been interpreted to include the

facts of the case, Officer Guidice's killer was charged only with a Class D felony."

The reason I bring this up to you is because that particular statement is somewhat in conflict with what the district attorney has suggested is the case. Could I simply get your reaction to that?

SENATOR VOLKER: Yeah. And I think that the argument by -- I don't want to say the -- well, I think the New York City police and the argument by proponents of a more severe sentence was that it was their belief that the facts would warrant charging a more severe charge with murder second and manslaughter.

But the DAs have looked at this, and their opinion was that it would be very difficult, under the wording of the murder two and the manslaughter one statute, to be able to make -- you know, to make that charge stick. And that they felt this was a gap. As so often is the case, we talk about gaps in the law. And remember, we're restricting this only to the specific kind of activity and civic persons, because it is a big jump to a

B felony.

But, oh, I did notice that. And in fact, we discussed that, if I remember right. And the reason is there's been a lot of discussion about this bill, because it's passed, I think, four times in this house and we're trying to get the Assembly to accept it. And I would hope that might happen maybe this year.

But the consensus was, by people who had looked at this, that this was a gap in the law, that it would be virtually impossible to convict someone of second-degree murder under the circumstances. And probably rightfully so, because there was no direct intent to kill the officer, only indirect intent, as it was. Because it was reckless, obviously, and he fell. And you could hardly argue that the fellow could directly anticipate that he was going to cut an artery and die.

But when you -- as you know, your actions are imputed. And that's why the more serious charge here where people are trying actually to deal with a situation. And so I

recognize that statement.

But the feeling by district attorneys as well as some judges was that this would not have -- that the facts in that case would not apply as a second-degree murder.

SENATOR HEVESI: Thank you.

Mr. President, would the sponsor continue to yield?

SENATOR VOLKER: Sure. Sure.

ACTING PRESIDENT MARCELLINO: Senator Volker yields.

SENATOR HEVESI: Thank you.

Through you, Mr. President, would it be the sponsor's opinion that had this law, this bill we're debating today, had it become law and was on the books at the time, that the Bronx District Attorney, Robert Johnson, would have prosecuted under this statute?

SENATOR VOLKER: Yes. I think if this statute -- and this is what the district attorneys are saying to us, that if this bill were law, then the district attorney -- well, in this case, which I guess was Bronx County, would then have indicted this person under this statute, and the person would have been

subject to a Class B felony.

SENATOR HEVESI: Thank you.

On the bill, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you, Mr. President.

This is a piece of legislation I know we've passed the last several years. And I believe we're about to pass it again today. I would urge the Assembly to pass this legislation immediately, and for the Governor to sign it.

I remember this case in 1996 really vividly, and the fact that in such a tragic circumstance, this police officer was killed in the line of duty because of the direct actions of the individual on the scene. Though he may not have intended to kill the police officer, his actions certainly provided the circumstance for that eventuality. The fact that this individual was only charged with a D or E felony as a result is just unacceptable. That's just flat-out unacceptable.

And in addition to there being a lack of justice for this officer's family, this is -- the fact that we haven't acted on this is saying to people out there in society that we are taking less seriously than we should the type of obstruction of a police officer or another public official as defined in this legislation.

And that's unacceptable. These police officers do a tremendously dangerous and difficult job. And everyone should know that if you have an altercation with a cop, something tragic and terrible might happen. And the fact that you may not have intended to kill that police officer, when you scuffle with a cop and there's broken glass all over the floor, tragic circumstances can happen. And if they do happen and it's a direct result of your actions, that you're not going to get hit with a D or an E felony, that you're going to get hit, under this legislation, with a B felony, as well you should.

So this legislation should be passed immediately. It will provide a measure of deterrence, if we can get it out there to

people, to take even more seriously than they do right now and should right now, that they should never engage in any type of altercation which obstructs a police officer from doing their duty. And for Officer Guidice's family, who must have been heartbroken -- I mean, just imagine how that family felt after this police officer in the line of duty is killed in this tragic accident, which it's not really an accident, if you really want to examine it.

When you have a scuffle with a police officer -- and I believe he was responding to a domestic violence incident, which police officers indicate all the time are the most dangerous and unpredictable types of incidents -- if you think it's okay that you can scuffle with the cop, you're wrong. And what happened in this case is the ultimate proof that anything can happen. And Officer Guidice was killed when his femoral artery was severed, and he died.

And compounding this horrible tragedy was the fact that the individual who had committed this offense was not punished as this individual should have been punished.

And that's even more tragic for the family, or as tragic as the loss of their loved one, who was a hero in New York City and serves as a reminder to everybody just what a terribly dangerous job our police officers do.

So this is the very least we can do for our cops and other public officials who are serving this role. It's our job to protect them in this capacity and, at the same time, to provide justice to the family members of victims of this type of offense, that we're going to punish severely individuals who engage in reckless behavior because we know - and this is the proof -- that that reckless behavior can and sometimes will, in the most tragic circumstances, lead to the deaths of police officers. And we're not going to tolerate it anymore.

And let a cry go out to the Assembly and the Governor, please take action on this immediately. Let's pass this legislation.

ACTING PRESIDENT MARCELLINO: Is there any other Senator wishing to be heard on this bill?

Seeing none, debate is closed.

Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time return to reports of standing committees. I believe there's a report from the Finance Committee at the desk. I'd ask that it be read.

ACTING PRESIDENT MARCELLINO: There is a report, Senator.

The Secretary will read.

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

As Secretary of State, Randy A. Daniels, of New York City.

ACTING PRESIDENT MARCELLINO: Senator Stafford.

SENATOR STAFFORD: Mr. President, we were very fortunate this morning, as is the State of New York, a very fine nominee came before our Senate Finance Committee, did well, I'm sure will do a tremendous job, the nominee for Secretary of State of the State of New York.

And it is a pleasure to yield to the Senator from Rensselaer, the Majority Leader.

ACTING PRESIDENT MARCELLINO: The chair recognizes Senator Bruno.

SENATOR BRUNO: Thank you very much, Mr. President. Thank you, Senator Stafford.

And, Mr. President, it's a great pleasure for me to rise and support this nomination of Randy Daniels, with my colleagues, for Secretary of State.

The Governor has proposed a number of extremely qualified people to serve the constituency here in New York. But Randy Daniels, accompanied by his wife, Jackie, is a

true champion, a champion of the people.

And when you take a look at his background and you talk about a person who has had experiences in the private sector, in real estate, in real estate management, in investments, in investment management, and helping the economic revitalization of large communities like Harlem and the federal development zones here throughout the state - and he has done all of the things that he has done conscientiously, diligently, and always with the best interests of a great majority of the people of this state in his mind and in his heart.

So I'm proud to be able to rise in support of this nomination for Secretary of State, one of the high offices here in New York State. With the work that goes through that office, it's 25-plus years of experience that Randy brings, having literally traveled the world, served throughout the world, and is really a credit to the Governor, to his family, to the entire constituency here in New York State. And he is a credit to all of us here in the Senate as we move his

confirmation.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Bruno.

Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

Senator Connor would like to come out and speak about Randy Daniels, and he is delayed temporarily. But it's not only my privilege, but I think I'm almost glad to get up. This is a person that hails from my district, is a deacon at the Abyssinian Baptist Church right in Harlem, someone who I've known for over 15 years, watched him when he was a correspondent for CBS News back in the early '80s.

I didn't even know until I looked as his resume -- I thought from all our conversations I knew everything about him - about the television training exercise that he was involved with in Nigeria in 1982 with two or three other people who I'm also familiar with. So that's a conversation we'll have later.

He is, as I'm sure everyone here knows from his work on the SUNY board, where he was appointed in 1997 and was then appointed vice chair by the Governor in 1999, he is quite a dynamic and articulate and courageous voice on the SUNY board and has always been of assistance to all of us at the Empire State Development Corporation with his role in revitalization that Senator Bruno described.

But also in the specific district that I represent, he oversaw the Harlem Community Development Corporation, which he has brought many, many businesses and ideas and entities into Harlem that had not been there previously. And really, if not for that effort, I don't really know if the former president would have selected the site that he did on 125th Street. It's the tremendous revitalization of 125th Street that was the precursor to that decision, which will get a lot of headlines. But long ago, very quietly, Randy Daniels was putting together those opportunities for business.

Also, he had a lot to do with the

forgiveness of loans and debts that businesses that had great ideas and put great effort but it just didn't work out for them, so there was a lot of great charity.

But of all of these tremendous credentials that Mr. Daniels has accrued, there is nothing that really rivals or is the pareil of his character, his integrity, through his successes and also through some of the barriers in his life, he's always maintained a decorum of class that really is unequaled by most people that you will see in government. And really, I will just say by very few that I've ever run into.

We want to wish him well and lend him our support the same way we did when he came up as a SUNY board member in 1997 when we voted him in unanimously.

Senator Connor is now here and I'm sure would like to speak for himself, but certainly in getting the opportunity to represent him just for a moment, I must point out that this person's skills, a rare combination of skills in so many different areas, you literally can drop him into a new

area for which he is totally unfamiliar and within three or four days he will have prepared himself to rival anybody on the subject.

This is a very talented and brilliant individual that I think we've come to serve today, and I think he will be outstanding as Secretary of State here in New York. He's the second African-American to have ever been named to that post. And with all the ways in which I've described it, I probably like him more than most human beings. I can't like him more than the first, because the first was in my family.

So I just want to point out that the Governor could have made no better choice that I could think of than to have chosen Randy Daniels as his nominee to become Secretary of State, a prelude, I think, to an outstanding career in that area and also a catalyst for other achievements that I still think lie before him.

ACTING PRESIDENT MARCELLINO: Senator Connor.

SENATOR CONNOR: Thank you, Mr.

President.

ACTING PRESIDENT MARCELLINO: Senator Connor, excuse me one second.

Senators, this is just to let everybody else know, we have a list of people who are -- and we will place you on the list as we are made aware of the fact that you want to speak.

Senator.

SENATOR CONNOR: Thank you, Mr. President.

If I may, I'll be brief, because my able deputy, the son of a former Secretary of State, laid out for the members really the outstanding credentials of Randy Daniels, the outstanding service that he's rendered to the state in past years, and the fact that all of us are very, very confident he'll do a superb job as Secretary of State.

Randy was briefly with me in Brooklyn on Sunday with the Governor at an announcement. And the Governor, in introducing him, said, "You know, most people think the Secretary of State is planning for war with New Jersey," which isn't really the

job, although the Governor assured us he could do that.

Frankly, Mr. President, I'm not sure that Randy Daniels would be good at planning for war with New Jersey. But I know if we ever had to have a treaty with New Jersey, that Randy Daniels would be the best person to negotiate that in the best interests of New York and get a fair result that served our citizens well.

But seriously, Mr. President, in this position his responsibilities will include a wide range of state activities that he will supervise. I know we're anxious to have him back to Brooklyn to talk about this fantastic Brooklyn Bridge Park that we're planning, which the Department of State has been very helpful in bringing the planning process along under Mr. Daniels' predecessor, Sandy Treadwell. And we briefly spoke about this, and I know he's anxious to get involved in it. It is exciting for all the people in New York City.

And I am absolutely delighted that the Governor -- I'm delighted but not

surprised that the Governor had the wisdom to make such an outstanding appointment as Randy Daniels to Secretary of State. And I will gladly add my voice to those voting to confirm his nomination.

ACTING PRESIDENT MARCELLINO: Senator Nozzolio.

I just would remind both sides of the aisle here that we have time limits on debate on these. It's 15 minutes per side. So act accordingly on your time as you speak.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, my colleagues, I rise with enthusiastic support for this wonderful nomination. It is not often, if ever, that I can agree and echo the sentiments of my colleagues Senator Connor and Senator Paterson. But particularly Senator Paterson's comments about Randy Daniels and this nominee I wish to emphasize and to echo.

Governor Pataki is to be congratulated for having the wisdom of choosing such an individual with diverse

qualifications to this important job. As one who represents an upstate area, I can say that Randy Daniels' experience in both Empire State Development Corporation and the State University of New York, as one who served as a member of the Board of Trustees, one who was extremely influential in bringing Bob King in as Chancellor of the University system, I can tell you that I am extremely excited because Randy Daniels understands what Senator Bruno understands and what this Legislature is beginning to understand, and that's the importance of economic development using, as an engine, the great University system that we have in this state.

Randy Daniels comes to this new position as preeminently qualified as I daresay anyone has ever, if not more so. Governor Pataki is to be praised for his wisdom in recognizing this wonderful talent. And I urge the rapid confirmation of this wonderful nominee and wish him all the success in this new position.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO:

Thank you, Senator Nozzolio.

Senator Ada Smith, please.

SENATOR ADA SMITH: Thank you, Mr. President.

I too rise to support the nomination of Randy A. Daniels for Secretary of State of the State of New York. First, let me give praise to our great Governor in his wisdom to make this nomination, the wisdom to select a man who is unparalleled in his experience and in his ability to complete tasks.

If you read his resume and his curriculum vitae, you can see where he has done many different jobs, and he's done them all well. And along with doing the job, he has been able to interact with people. He has been able to bring people together, to acknowledge their differences and to use that diversity to bring about change and to do the job that will make New York an even greater state.

I'm pleased because Randy Daniels is my friend, as is his lovely wife. And I look forward to working with him in his new

capacity, because he has always serviced all of the people, whether they be on that side of the aisle or on this side of the aisle. In his capacity with the City of New York, he saw to it that the little people were taken care of, and I know that he will do the same here.

My congratulations to you, Mr. Daniels, and to the Governor of the State of New York.

ACTING PRESIDENT MARCELLINO: Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you, Mr. President.

I also rise to second the nomination that was presented by our Majority Leader, Senator Bruno. Senator -- I was going to call him Senator Daniels. But Randy, who I begin and offer praise to because of his academic as well as professional background. It is not often that you can find someone who knows how to navigate through the personalities as complex as what exists in this state.

Mr. Daniels, from his real estate development background to his involvement with

charter schools, has always been able to see the big picture. And I think that is the mark of anyone who will be able to have a mark on history, and that is to be able to see the big picture and make some of the tough choices, but the choices that are best for many.

I can tell you this is not only a great day for the Senate, because we have the ability to be a part of this confirmation process, but it is a great day for the State of New York because they are getting, in Randy Daniels, one of the finest individuals that this state will ever see.

My kudos to the family, his wife. And thank you, Mrs. Daniels, for allowing us to have a Randy Daniels. But this is going to be a fine day for each and every one of us, and I am more than happy to second that nomination.

ACTING PRESIDENT MARCELLINO: Senator Maziarz. Thank you, Senator.

SENATOR MAZIARZ: Thank you, Mr. President.

I rise in support of this nomination also. I worked very closely,

Randy, with your predecessor, Sandy Treadwell, particularly when it comes to the economic redevelopment of Western New York and most particularly in the City of Niagara Falls, with the waterfront redevelopment up there. And I look forward to working with you and your very capable staff on that same project.

Congratulations to you and your family and your friends that are here today, and good luck to you.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President.

I rise to join my colleagues in, one, complimenting and thanking the Governor for having the vision and the foresight to make such an appointment. And to say to our new, in a moment to be Secretary of State, how proud I am as a friend as well as a colleague in terms of the work that he's done for our city, in particular, and across the state in general.

And just to say that I know that

Mr. Daniels has been in my district, he's been in Brooklyn, he knows the borough of Brooklyn, he knows the communities and the neighborhoods, and he's very much aware, because of his hands-on approach to his work, he is aware of what the needs are and what the concerns and issues are in the communities and the neighborhoods in Brooklyn and particularly that that I represent.

So it's a pleasure to have someone who will go into office already with a knowledge and an understanding and a sensitivity. And I look forward for working with him, continuing his work and my work as colleagues. I know that he'll do a fine job, and I'm very pleased to second his nomination.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Lachman.

SENATOR LACHMAN: I rise also to echo the voices of my colleagues and to commend the Governor for an outstanding nonpartisan nomination as Secretary of State.

Rarely do we find someone who has had such an outstanding record in both private

and public sector. And we should all be proud of our votes today in support of Mr. Daniels.

I would also like to add something that I mentioned in the Finance Committee. I know that Mr. Daniels will be quite user-friendly in his department to everyone in the State of New York. But unfortunately, when you mentioned the term Secretary of State to New Yorkers, they think of either Madeleine Albright or Colin Powell.

And I think it's very, very important, because of the major work that the Secretary of State will be doing and the responsibilities that he has, that the people of the State of New York become more knowledgeable of all the activities of the Secretary of State of New York.

I am proud to second the nomination of Randy Daniels.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Mendez.

SENATOR MENDEZ: Mr. President, I also rise to join in supporting the nomination of Randy Daniels to be the next Secretary of

State.

I have known Randy for many years. I consider him and his wife my personal friends. What is outstanding about him, I believe, is that due to his diverse experience at top-level jobs, public sector and private sector, he has -- his people skills, that were always tremendously wonderful, have even increased. Because he is a guy who respects the differences about people and enjoys the similarities.

I am sure that we will be having a Secretary of State that will be -- his office will be open to all of us, and that we will all be very proud of his skills in navigating through the difficulties ahead. He knows that the previous Secretary of State, as he mentioned in the Finance Committee meeting, he told me Mr. Treadwell did a lot of wonderful new changes, and he believes that he is going to stand on those changes and improve whatever has to be improved and make certain that all the residents of New York State know about the duties and responsibilities of the Secretary of State and that they will be well aware that

Randy is not going to declare war in New Jersey, as my Minority Leader mentioned, but he will be defending the rights of New York State and working with all of us.

I think that the Governor, Governor Pataki, our Governor has done a great service to all the residents of New York State in appointing Randy Daniels as the next Secretary of State. Thank you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, I too rise to second the nomination of Randy Daniels.

I think the Governor made an excellent choice. I believe the fact that he reached out by phone, as soon as he was appointed, to various members to let them know he was up for appointment and was coming for confirmation was a good step, showing that he was going to be open and available.

I think the fact that his background in economic development will play so well with a lot of the areas that the

Secretary of State oversees. And I think also that his quality of caring for people will help immensely with the fact that that also oversees volunteer firefighters, which a lot of us upstate people have a great awareness of.

And I just feel that his background will serve him very well and make the Secretary of State's office quite possibly even more effective than it is today. And I think he'll do an excellent job, and I too second the nomination.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. Just very briefly, probably to repeat what sounds to be redundant. But I think in this case it's more of a reinforcement of the capabilities of Mr. Randy Daniels, not only to do a job well but to bring all parties to the table when necessary.

I don't know Mr. Daniels as personally as everybody else does, but I know

during my years as city councilwoman in the City of Mount Vernon, our mayor, in a predominantly Democratic city, was looking to do an enterprise zone, and looking at economically distressed areas. And Mr. Daniels was kind enough to come down - and I do say kind, because we didn't fit into any of the legitimate criterias. But he did come sit with us, and he made sure that we met with the Governor to talk about what our issues were. And I think that that in and of itself is a very commendable thing for any person to do.

And certainly in his professional capacity he brings what I think is the most valuable -- intelligence, intellectualism, but also the ability to consolidate interests of both groups.

And so for this, I commend the Governor and certainly this body to vote in support of Mr. Randy Daniels in the role of Secretary of State of the State of New York.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Hassell-Thompson.

Senator Goodman.

SENATOR GOODMAN: Mr. President, this is a particularly fortuitous nomination in many respects.

I've known Mr. Daniels for some time and have always found him to be an extraordinarily diplomatic individual. In an age when there's a good deal of contention in the land, he's a man who speaks softly and tactfully and is able, as was mentioned a moment ago by Senator Hassell-Thompson, to bring varying groups of differing points of view together.

I'd point out that, in particular, he was appointed by Charles Gargano, the Governor's principal economic development advisor, to the economic development area of the Empire State Development Corporation. He managed the Department of Economic Revitalization, which focuses on areas of economic distress throughout New York State. Also responsible for coordinating New York State's role in the $300 million federal Empowerment Zone.

In all of these responsibilities, as well as the work that he did as a trustee

of SUNY, he's demonstrated extraordinary capacity and skill. It's for these reasons and clearly many others too numerous to mention that a man of his caliber and character is warmly welcomed to be Secretary of State. On behalf of all the people of the State of New York, I am convinced he will do an excellent job.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Gonzalez, you have about 30 seconds left.

SENATOR GONZALEZ: Thank you, Mr. President.

I too rise to support the nomination of Randy Daniels. I've had my experience. I know all my colleagues have said everything. But I think that -- I've worked with him, and he is a great communicator, a great person that reaches out. He'll do well. I commend the Governor. God bless him, and Godspeed.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Gonzalez.

Seeing no other Senators, having none on our list, the question is on the confirmation of Randy Daniels to serve as Secretary of State of the State of New York.

All in favor of the confirmation signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The ayes have it.

Congratulations, Mr. Daniels, and his wife, Jacqueline, in the audience.

(Applause.)

ACTING PRESIDENT MARCELLINO: Senator Bruno.

SENATOR BRUNO: Mr. President, can we ask for an immediate meeting of the Labor Committee in the Majority Conference Room.

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

The Secretary will read the other nominations.

THE SECRETARY: As a member of the Empire State Plaza Art Commission, Mary Sharp Cronson, of New York City.

And as director of the Municipal Assistance Corporation for the City of New York, Jonathan A. Ballan, Esquire, of New York City.

SENATOR STAFFORD: Move confirmation.

ACTING PRESIDENT MARCELLINO: The confirmation has been moved. The question is on the confirmation of Mary Sharp Cronson, of New York City, for a term as a member of the Empire State Plaza Art Commission, and for Jonathan A. Ballan, Esquire, of New York City for a term as the director of the Municipal Assistance Corporation for the State of New York.

All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The ayes have it. The nominees are confirmed.

Senator Bruno, what's your wish? May we continue in the regular order of the calendar?

SENATOR BRUNO: Please, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you very much, sir.

The Secretary will read.

THE SECRETARY: Calendar Number 82, by Senator Volker, Senate Print 1094, an act to amend the Real Property Tax Law, in relation to a taxing district's obtaining.

SENATOR CONNOR: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Volker, an explanation has been requested.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we ask for an immediate meeting of the Veterans Committee in the small conference room.

ACTING PRESIDENT MARCELLINO:

There will be an immediate meeting of the Veterans Committee in the small conference room.

Senator Volker.

SENATOR VOLKER: Mr. President, this is a bill that -- this is, by the way, Calendar Number 82; right?

ACTING PRESIDENT MARCELLINO: Yes, it is.

SENATOR VOLKER: Okay, thank you. Just wanted to make sure.

This is a bill that came out of the City of Buffalo, but it is a result of the so-called brownfields issue, which is a statewide issue, but which, very honestly, per-capita-wise, if you look at Buffalo and Western New York, you would find out that we have more brownfields than any other area of the state.

These are places that were former industrial sites where there is some sort of chemical, or it's suspected there's some sort of chemical, or some kind of liquid or solid there, whatever, that prevents the new construction, prevents purchases in many

cases.

Now, many of these places are up for potential tax foreclosure. And one of the things that has prevented the tax foreclosures has been the issue that the municipality is concerned that if they move in to try to discover whether there's any chemical or any kind of material on that property, that they could be held liable for anything that's on the property.

So what this bill basically does is to set up a process whereby, upon the commencement of a proceeding for foreclosure, a municipality or taxing district or whatever, with 20 days notice to everybody that's involved in the property, can move into the - this property and can do an investigation to see what is actually on the property without fear of the taxing district or municipality or whatever it is of being totally liable for whatever is on that property.

They would then -- to make a long story sort, that municipality or taxing district would then be eligible for funding, under the Clean Air/Clean Water Act, for

75 percent of the cost of such investigation. And if the investigation should reveal a condition on the site that would expose the municipality to liability beyond what the municipality could afford, they could then withdraw from the property foreclosure action and the property could be cleaned up by the either the state Superfund or by the federal Superfund.

Apparently now, absent this sort of legislation, many of these properties, there's really no way that that can be done. And many of them are sitting there fallow, as it were.

I must very proudly announce that this is one of the only bills that I sponsor that is supported by the New York State Trial Lawyers Association. And I admit to you that it's not exactly a prime thing, but it is.

And it's something I think that is -- I think will precipitate the development of some of the brownfields properties and the rehab of these properties, not only in Buffalo and Western New York, but statewide.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Mr. President, I'm reasonably sure that Senator Volker would yield for a few questions.

SENATOR VOLKER: Why, certainly.

ACTING PRESIDENT MARCELLINO: I believe he does, Senator.

SENATOR PATERSON: Senator, there is an interesting priority system that you've set up in terms of the distribution of these resources. They would commence, in order of preference, from cities to villages to towns to counties.

I was just wondering why the use of that -- I don't necessarily disagree with it, I just wanted to know why you chose that order for succession.

SENATOR VOLKER: If I remember right, and I am not -- I don't profess to be an expert in this area, I think it's because the cities and the villages are the municipalities that would be most likely to be involved in this sort of thing and would be the entities that would be most likely to be held liable in the event that they should find a problem on the properties.

I also suspect very strongly that there is -- some of this probably just relates to the issue of who would have, in a sense, the most difficulty in financing the investigations of these properties. In other words, I think the cities and the villages generally don't have the kind of tax base that the towns and the counties would have. So I would assume that that's one of the things that would be involved here.

For the City of Buffalo, their tax base has been shrinking so fast that - because of the assessments dropping, that it would be tantamount to impossible for them to do any investigations, frankly, unless they had a chance to have some way of some guarantee of it being refunded to them.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

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

SENATOR VOLKER: Sure.

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR PATERSON: As a prelude

to my next question, I was wondering -- I'm quite sure and assured that there would not be an attempt to even pass in legislation if the resources were not held within the Clean Water/Clean Air fund to sustain this.

But nonetheless, my question is just what is the availability of monies from that source. And, you know, for how long can we continue this without any fear that we would exhaust all of the monies that would help to clean up these urban brownfields?

SENATOR VOLKER: I think that - understand that these -- it isn't -- this is an investigation. And we're not necessarily talking about the cleanup itself. If we mandated the cleanup itself, quite clearly, the resources would disappear in a pretty quick manner.

What we're talking about here is actually the costs of the investigations. Because once you do the investigation and find out -- for instance, in many of these properties you may well find out that there's really no problem. And then obviously you can then move on to sell the property or do

whatever you need to do. If the property does have some problem with it, then the -- either the municipality or even the -- a new tenant, a person that wants the property, could pay for -- as I believe, for instance, happened in the NFTA property, the airport property in Cheektowaga, where the old -- part of it was paid for by the old -- the contributors to the chemicals, the Westinghouse, General Electric. There was a bunch of people. Plus the NFTA kicked in some money, too, because it was a development that helped them, and because those people, it would be to difficult to - you'd have to go to court to get it. They agreed to a certain amount, so everybody kicked in.

I think the point is that this is primarily the investigation. The issue of when you're actually cleaning up with the Superfunds is really another issue. Because obviously if you have a tremendous amount of new properties that would be subject to the Superfunds, you're going to have to have money to do that. And that is a legitimate issue.

But we assume most of these

properties, they're only paying for the investigation. And the investigatory cost shouldn't be enormous. If the municipality thinks that the investigative cost is going to be enormous, then my guess is they probably won't even attempt it. But -- because most of these properties, they have a pretty good idea, in Western New York, anyways, which ones are bad; that is, which ones are going to have a real problem and which ones are not.

A lot of it is just checking just to make sure that there isn't any real problem on the properties, rather than an issue of looking for something that's really bad stuff.

SENATOR PATERSON: Mr. President, I apologize. I think my question was misstated. And Senator Volker was able to answer it anyway.

If he would yield for another question.

SENATOR VOLKER: Sure.

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR PATERSON: I think what I was getting to, Senator, is with the

understanding that it takes an enormous amount of funding to clean up these sites, and this is one of the reasons why some of the admonitions that we get about some of the decisions we make with respect to the environment have to be listened to, because what we pay on the back end is tumultuous compared to what we would expend in trying to limit some of the decayed properties from winding up in the fashion that they do.

But my question is, isn't it possible that because of the tremendous amounts of resources that would have to be invested from a Superfund to clean up these sites, that it might lead to an investigation with a more liberal designation? In other words, if anything looks as if it doesn't have to be addressed, that we would almost be seduced into thinking that we wouldn't have to? In other words, that we wouldn't be conducting the rigorous investigations that we could because we realized the gravity of the problem?

SENATOR VOLKER: I think, Senator, the problem with that is -- and I

think those people that have dealt with these kinds of issues would tell you that the reason that that is not likely to happen is that the results of that could be a long-term exposure to liability on the part of -- in other words, if -- first of all, the people that do these investigations are generally people who are not directly, for instance, in the employ of the municipality or whatever that would be doing this.

But to risk doing what would amount to sham investigations, although this legislation says that they are not subject to liability if they do the investigation, if it turns out that they end up doing improper investigations, they would be subject to the potential of fraud and certainly would be subject to exposure down the line. And I find it very hard to believe that any municipality or taxing entity would want to be involved in that.

So although that's always a possibility, the likelihood of that is, I think, virtually nil, because they would then, despite this legislation, if there was an

issue of fraud, obviously, it would override this legislation in the long haul.

ACTING PRESIDENT McGEE: Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Thank you, Madam President. Will the sponsor yield for a couple of questions?

ACTING PRESIDENT McGEE: Senator Volker, will you yield for a few questions?

SENATOR VOLKER: Certainly.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: First of all, Senator, is it my understanding that in essence this is the equivalent of granting a license to enter the property to perform the investigation? In reading the bill, you don't use that term of art that lawyers would be familiar with, but this is really a limited license for purposes of entering the property and conducting the environmental investigation.

SENATOR VOLKER: Being the trial lawyer that you are, you have got right to the quick of it. And you're right, it is a

license that you could technically be charged with trespassing, I suppose, or something or other if you didn't have it. This gives you the right to do it.

And the second issue is obviously the issue of -

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

SENATOR SKELOS: Senators, excuse the interruption. There will be an immediate meeting of the Corporations, Authorities and Commissions Committee in the Majority Conference Room.

ACTING PRESIDENT McGEE: Immediate meeting of the Corporations, Authorities and Commissions Committee in the Majority Conference Room.

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

ACTING PRESIDENT McGEE: Senator Volker, will you continue to yield?

SENATOR VOLKER: Right.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: As a trial lawyer, I posit one other question. What happens if the landowner opposes the license? In other words, the owner of the property comes in, they've defaulted on the foreclosure action, but they come in and say, Wait a second, I don't want anybody to go on the property, I don't want anybody trespassing on my property, because you're going to take this either through tax foreclosure or you aren't, and you're going to be stuck with the problem.

SENATOR VOLKER: Mm-hmm. That's a very interesting question. The result would be that then the court would have to decide if the objection -- I would think that the court would then have to decide whether that objection was valid. And if for some reason there was some valid objection, then the municipality or the taxing entity and so forth couldn't go through with the investigation. And that would stop them from doing it.

SENATOR DOLLINGER: Through you, Madam President, just one final question, then just briefly on the bill.

ACTING PRESIDENT McGEE: Senator

Volker, will you continue to yield?

SENATOR VOLKER: I certainly will.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: Is it your intention that this bill apply and that the definition of hazardous substance include lead paint?

SENATOR VOLKER: I think the answer to that is that lead paint has been outlawed since 1984, I believe. I am a little bit of an expert on lead, for various reasons.

SENATOR DOLLINGER: I know you are.

SENATOR VOLKER: Yes. Oh, no, no. That's pretty good. I just figured out the other side of that.

I'm talking about lead paint and lead emissions and so forth.

Anyways, the answer is yes, because when we're talking about materials, I think lead paint materials would be considered in that category and would have to be accounted for in any investigation of chemicals.

SENATOR DOLLINGER: Thank you, Madam President. Just briefly on the bill.

ACTING PRESIDENT McGEE: Senator Dollinger, on the bill.

SENATOR DOLLINGER: The reason why I asked the question about lead paint is because the hazardous materials here suggest that they would be released or "contaminant in the air, ground, or water." And that doesn't quite fit the definition of lead paint. Although I know Senator Volker is well aware that clearly here in the County of Albany and in other places, the municipality owning a house with lead paint contamination has given rise to significant litigation and exposure for the municipalities because they've owned homes that have lead paint.

The other reason why I raised the question about opposition, Madam President, is because one thing the bill doesn't, I think, really do, Senator Volker, is talk about what standards the court would use to determine whether it would grant the application, the limited license for purposes of an environmental investigation.

While I agree with Senator Volker that this is a good idea in the sense that before a municipality which then becomes the deep-pocket insurer of the environmental problem, because they own the property by virtue of tax foreclosure, I just -- I wonder what happens if the owner comes in and says, I want relief from the tax lien. Because remember, the tax lien is not individual liability. It's -- the liability only extends to the property.

So an owner comes in and says, Oh, County of Monroe, or County of Albany, you can take my property in tax foreclosure, but - and then I'll be relieved of the further burden of the taxes, because there's no individual liability. But guess what? I'm not going to let you come on. You're going to take the property as is.

And it would seem to me that to have a standard in here that says some public interest would be promoted thereby or there is a "reasonable municipality" standard under which this is a reasonable and prudent thing, given factors that are known and that they can

attest to by affidavit, then the court would have some guidance on what to do if the landowner opposes the application.

And the final thing I would just mention to Senator Volker, and I think he and Senator Paterson touched on this, is that there's one danger with this bill. And that is that the bill becomes self-defeating because, instead of cleaning up the sites, what happens is they become aware of an environmental contamination issue which is not only in excess of the cost of the tax lien, but it's in excess of the cost of the value of the property.

And what happens is that the municipality doesn't take the property, it stays with the tax lien on it. Nobody ends up with the property. And it becomes one of those orphaned brownfield sites which have proved to be so enormously difficult for us to deal with. That is, properties that everyone are contaminated, that have no value left in them, but the cost of cleanup exceeds the value of the property.

And I'm not so sure Senator

Volker's bill can deal with that issue. But that may be one of the consequences of this, is that we end up with all those properties.

At some point when the Superfund and the brownfield programs are in place, there will be money to clean them up. And I hope that we have the resources to clean these up regardless of who owns them. But I would just suggest that a standard for that opposition, maybe a clarification that it includes lead paint -- although I think that Senator Volker is correct and that the definition is broad enough to include it - might make this a better bill and might ensure its greater chance for passage, and that the courts will have a strict idea of exactly what's involved in granting these applications.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

The debate is closed.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Rath.

SENATOR RATH: Please take up the next bill in order. Thank you.

ACTING PRESIDENT McGEE: Senator Seward.

SENATOR BROWN: Explanation.

THE SECRETARY: Calendar Number 196, by Senator Seward, Senate Print 2131, an act to amend the Town Law.

SENATOR RATH: Please lay that bill aside for the day.

ACTING PRESIDENT McGEE: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 217, by Senator Kuhl, Senate Print 1772, an act to amend the Agriculture and Markets Law, in relation to duties.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator Kuhl, an explanation has been requested.

SENATOR KUHL: Thank you, Madam President.

Back in 1971, this state adopted what's called the Agricultural Districts Law, which was an all-encompassing piece of legislation which was meant to encourage and foster agricultural growth in the state.

At that time, however, there was nothing put in process that would require annual or a regular review of regulations by -- that are regulated and promulgated by various agencies in the state. This bill would establish that procedure.

ACTING PRESIDENT McGEE: Senator Espada.

SENATOR ESPADA: Thank you, Madam President. If the sponsor would yield to a couple of questions, please.

ACTING PRESIDENT McGEE: Senator Kuhl, will you yield for some questions?

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR ESPADA: Thank you, Senator.

The first question is really the existing mechanisms -- namely, the Governor's Office of Regulatory Reform, Order Number 20, and the State Administrative Procedure Act - all give this kind of opportunity for review and influencing of unnecessary and perhaps harmful rules or procedures.

Given that, what's the need for the legislation?

SENATOR KUHL: Well, as I indicated, Senator, in my explanation, brief explanation, there is no annualized procedure that requires that review to take place. This puts into place a process that would require an instantaneous, total review of the regulations that are in place and then requires the Ag Commissioner to set up a process whereby that would occur yearly after that.

SENATOR ESPADA: Thank you, Senator.

ACTING PRESIDENT McGEE: Senator Espada.

SENATOR ESPADA: Through you, Madam President, if I may continue.

ACTING PRESIDENT McGEE: Senator Kuhl, do you continue to yield?

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR ESPADA: Have there been any rules and regulations that have been harmful to agriculture and have not been able to be resolved through the existing mechanisms that I mentioned earlier?

SENATOR KUHL: Have there been?

SENATOR ESPADA: Yes.

SENATOR KUHL: I'm sure, Senator. If you asked me to name one, I couldn't do that. I just know that there are. Having been the chairman of the Senate Agriculture Committee for 12 years, and having had an administration prior to the current administration that really didn't look at farming and agriculture as though it were the number one industry in this state, I know that there were regulations that caused a great deal of concern and harm to the farmers as a whole.

SENATOR ESPADA: Madam President,

through you, one last question from my part.

ACTING PRESIDENT McGEE: Senator Kuhl, will you continue to yield?

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR ESPADA: If this is such a good idea for the Department of Agriculture and Markets, should we make it a general law that would encompass all state agencies?

SENATOR KUHL: Well, I wasn't concerned and am not concerned immediately with all state agencies. But I'm very, very concerned about the agricultural industry in this state.

As a matter of fact, I don't know, Senator Espada, whether you are in the chamber yesterday when the former Senator Cadillac, quote, unquote, Smith was here. Cadillac Smith is a farmer and has been a farmer. And, you know, it was interesting last night when I was chatting with him, he said to me, "You know, I'm the last farmer in Big Flats." And we had a little discussion about that. And he said, "It's getting very, very difficult to

continue the farming operation as we have known it because of all the rules and the regulations."

So, you know, it's one of those things that -- I'm not necessarily not concerned about other industries, but my focus and my constituency is made up of a great number of farms. It is a major component of the economic arm in my area of the state, whether it's potato farming or onion farming or grape farming or whatever it happens to be -- dairy farming is another big area - they're extremely important.

And over the last 12 years - actually, now, 14 years, I've been able and have carried a number of pieces of legislation that have meant to support that industry. And many people on both sides of the aisle have been supportive of that investment and certainly that aim.

So I'm concentrating and particularly concerned about this industry. Because, Senator, if you were to travel out in my area, you will see that agriculture really is the fabric of our society. If you don't

have the farms, then you don't have the machine shops, then you don't have the support for the school districts, and the communities really kind of dry up and blow away.

And so everything that we can do, we should be doing. We made that policy statement 30 years ago, if not before that, in this Ag Districts Law. But we never set up a procedure that would carry out, on an annualized basis, the review of regulations that might be harmful.

SENATOR ESPADA: Madam President, we thank the sponsor.

ACTING PRESIDENT McGEE: Senator Espada.

SENATOR ESPADA: On the bill, please.

ACTING PRESIDENT McGEE: On the bill?

SENATOR ESPADA: Yes, Madam President, on the bill.

I take everything that the sponsor has said to heart. He is a good if not great Senator. He understands the needs of his district. Clearly the explanation provided

clearly establishes the case for strengthening the ability to enforce. The stated intent is clear. Therefore, I'd be supportive of this measure.

Thank you.

ACTING PRESIDENT McGEE: Thank you, Senator.

Any other Senator wishing to speak on the bill?

The debate is closed.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 217 are Senators Breslin, Connor, Dollinger, Goodman, Montgomery, Onorato, Oppenheimer, Paterson, and Senator Stavisky. Also Senator Hassell-Thompson.

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Ayes, 50. Nays,

10.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Rath.

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

ACTING PRESIDENT McGEE: There will be an immediate meeting of the Aging Committee in the Majority Conference Room.

Senator Rath.

SENATOR RATH: Thank you. Madam President, can we proceed, please, with Calendar Number 305.

ACTING PRESIDENT McGEE: The clerk will read.

THE SECRETARY: Calendar Number 305, by Senator LaValle, Senate Print 1208, an act to amend the Education Law, in relation to the membership of professional licensing boards.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT McGEE: Senator LaValle? One moment, please.

Senator LaValle, an explanation has been requested.

Senator Paterson, why do you rise?

SENATOR PATERSON: Madam President, before we have this explanation that we've been anticipating from Senator LaValle, I just wanted to point out that for the first time in my memory, we have women acting as the Temporary President of the Senate and in both leadership positions in the Senate. And I think it's a great day for the Senate of the State of New York.

(Applause.)

ACTING PRESIDENT McGEE: What an astute observation. All right. Go, girl, go.

Senator LaValle, an explanation has been requested.

SENATOR LAVALLE: Senator McGee, Madam President, the reason things are moving along here so well is that we have women in three different positions here in the Senate. So if that's what it takes to move things along, I'm all for it.

The explanation on this bill is one in which we are adding a public member to the

Board of Medicine, Board of Pharmacy, Board of Accountancy, and the Board of Nursing, which are the professional licensing boards within the State Education Department. And so we are moving from two public members to three public members.

As I have indicated in debates before, or within the committee, during the 1970s we as a Legislature increased or put for the first time public representatives on the licensing boards, so as to give those boards that had individuals who were part of the profession a fresh view from outside as to what kind of input should be given on various issues coming before the board that are outside of the professional expertise and reflecting a public point of view.

In that time period from the 1970s, we moved to adding a second public member. And now we are requesting this body, and of course the Assembly, to increase the public representatives to three.

And that's the explanation, Madam President.

ACTING PRESIDENT McGEE: Thank

you, Senator LaValle.

Senator Stavisky -- oops, pardon me. Just one moment.

Senator Paterson.

SENATOR PATERSON: Well, I just had a brief question, if Senator Stavisky will allow me.

I just want to know, how does the Board of Regents arrive at their selections?

ACTING PRESIDENT McGEE: Are you directing your question to the sponsor?

SENATOR PATERSON: If the sponsor would be so kind.

ACTING PRESIDENT McGEE: Senator LaValle, will you yield?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LAVALLE: Senator, what happens is -- on the public members, is your question?

SENATOR PATERSON: Yes.

SENATOR LAVALLE: On the public members, the board secretary will really solicit people who have shown interest. And

believe it or not, like many of these things, there are individuals who have cued up for some time in each of the professional boards that have interest.

I'm not sure -- I don't know for sure whether they send out a public notice saying that they are seeking a public member to the board. Based on my knowledge, there are so many people that would like to participate, the board secretaries actually have a list of such individuals who would like to serve on the board.

ACTING PRESIDENT McGEE: Thank you, Senator.

Senator Stavisky.

SENATOR STAVISKY: If the Senator would yield for one question.

SENATOR LAVALLE: Yes, I will.

ACTING PRESIDENT McGEE: Senator LaValle, will you yield for one question?

The Senator yields.

SENATOR STAVISKY: Thank you. You have included increasing the number of public members for the licensure boards for medicine, pharmacy, nursing, and public

accountancy. Why were these four chosen when we have probably 35 or so -

SENATOR LAVALLE: Thirty-eight boards, yes.

SENATOR STAVISKY: -- 38 boards?

SENATOR LAVALLE: For some of the other boards, Senator, we have in some cases already gone to three representatives. For instance, the State Board for Dietetics and Nutrition, we already have three representatives from the general public. In other boards, for instance, I cannot report that we are even at two.

In the boards that I have reported to you -- medicine, pharmacy, nursing, and accountancy, we are already at two and the request is moving at three. Every other board, the language is at least one, at least one.

The reason is that for these boards, there is certain interest. They also happen to be some of the larger boards in terms of constituency. And so there's a lot of interest on -- in these particular areas.

SENATOR STAVISKY: Thank you,

Senator LaValle.

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: On the bill.

ACTING PRESIDENT McGEE: Senator Stavisky, on the bill.

SENATOR STAVISKY: I think we're moving in the right direction. It seems to me that too often the professions themselves make the rules and call the shots. And to have an increase in public participation on these licensure boards I think is a good thing.

And I would hope that at some point along the line we take a look at the makeup and regulation involving the other 34 boards and perhaps see if we can increase the public membership on these other boards.

And I certainly intend to vote for this bill, and I urge my colleagues to do the same.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Stavisky.

Any other Senator wishing to speak on the bill?

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Duane.

SENATOR DUANE: Thank you, Madam President. I was hoping to have unanimous consent to vote in the negative on Calendar Number 217.

ACTING PRESIDENT McGEE: Without objection.

SENATOR DUANE: Thank you.

ACTING PRESIDENT McGEE: Senator Rath.

SENATOR RATH: Madam President, there will be an immediate meeting of the Investigations, Taxation and Government Operations Committee in the Majority Conference Room.

ACTING PRESIDENT McGEE: There

will be an immediate meeting of the Investigations, Taxation and Government Operations Committee in the Majority Conference Room.

Senator Rath.

SENATOR RATH: And if we could return to motions and resolutions.

ACTING PRESIDENT McGEE: Motions and resolutions.

SENATOR RATH: There's a privileged resolution at the desk introduced by Senator Larkin. If we could just have the title, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: By Senator Larkin, Legislative Resolution 1481, honoring Lieutenant General Daniel W. Christman, 55th Superintendent of the United States Military Academy, upon the occasion of his retirement on June 8, 2001, after more than 30 years of service to his country.

ACTING PRESIDENT McGEE: The question is on the resolution. All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The resolution is carried, adopted.

Senator Rath.

SENATOR RATH: Madam President, on behalf of Senator Larkin, we'd like to include all the members on this resolution. If there's anyone who would not like to be included, please notify the desk.

ACTING PRESIDENT McGEE: All members are invited to join on the resolution. Those not wishing to do so should notify the desk.

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

ACTING PRESIDENT McGEE: No housekeeping at the desk, Senator Rath.

SENATOR RATH: Please recognize Senator Paterson -- Senator Smith, pardon me, for a resolution.

ACTING PRESIDENT McGEE: Senator Paterson. Pardon me.

Which one, Senator Paterson or Senator Smith?

SENATOR PATERSON: No, I wish you'd recognize Senator Smith. I wouldn't want to interfere with the new way this house is being run. I only look forward to that day when there will be three women in a budget. Maybe things will go better.

(Laughter.)

ACTING PRESIDENT McGEE: Good lad.

Senator Smith.

SENATOR ADA SMITH: Thank you, Madam President. On behalf of Senator Mendez -

ACTING PRESIDENT McGEE: Quietly, please. Quietly, please.

I'm sorry, I couldn't hear you.

SENATOR ADA SMITH: On behalf of Senator Mendez, I would like to announce that there will be a Minority conference tomorrow morning at 10:30 in Room 314.

ACTING PRESIDENT McGEE: There will be a Minority conference tomorrow morning at 10:30 in Room 314.

Senator Rath.

SENATOR RATH: Madam President, we will stand adjourned until Wednesday, April 25th, at 11:00 a.m.

ACTING PRESIDENT McGEE: On motion, the Senate stands adjourned until Wednesday, April 25th, at 11:00 a.m.

(Whereupon, at 2:50 p.m., the Senate adjourned.)