NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 21, 2001

3:15 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

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

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, May 20, the Senate met pursuant to adjournment. The Journal of Saturday, May 19, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Meier.

SENATOR MEIER: Thank you, Madam President.

On behalf of Senator Kuhl, I wish to call up his bill, Print Number 3071, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 286, by Senator Kuhl, Senate Print 3071, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Madam President, I now move to reconsider the vote by which this bill was passed.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

SENATOR MEIER: Madam President.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: I now offer the following amendments.

THE PRESIDENT: The amendments are received, Senator.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, amendments are offered to the following Third Reading Calendar bills.

Sponsored by Senator Marcellino, page 18, Calendar Number 363, Senate Print Number 392A.

Senator Seward, page 32, Calendar Number 572, Senate Print Number 4372.

Senator Bonacic, page number 33, Calendar Number 585, Senate Print Number 3581.

Senator Maltese, page number 42, Calendar Number 679, Senate Print Number 3122A.

Senator Maltese, page number 62, Calendar Number 891, Senate Print Number 3349.

Senator Padavan, page number 68, Calendar Number 946, Senate Print Number 5.

Senator Goodman, page number 65, Calendar Number 920, Senate Print Number 3956A.

THE PRESIDENT: The amendments are received, Senator Fuschillo, and -

SENATOR FUSCHILLO: I now move that these bills retain their place on the order of third reading.

THE PRESIDENT: And they will retain their place on the order of third reading.

Senator Skelos.

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

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

Senator Skelos.

SENATOR SKELOS: Madam President, there's a privileged resolution at the desk by Senator DeFrancisco. I ask that the title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution Number 1946, honoring Brian P. McLane upon the occasion of his induction into the National Hall of Fame for Persons with Disabilities.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, thank you, Madam President.

Today we have among us a member of the Hall of Fame, a fine person by the name of Brian McLane, Assistant Commissioner of VESID.

I've known Brian for many, many years. And I know we had Disability Awareness Week last week, but this other honor was planned by the Assembly and ourselves for today to recognize Brian, because he was inducted into the National Hall of Fame for Persons with Disabilities. And what's incredible is only five people a year have been inducted into this particular organization and this Hall of Fame, including Franklin D. Roosevelt and Helen Keller and many, many others that are on the resolution.

I've known Brian for many years. I know him most as an avid Syracuse University basketball, football, and everything else fan. He'd be a baseball fan if the university wasn't as shortsighted as to eliminate baseball. But a great sports person. In fact, he's coached on the high school and semipro levels. And he's a tough coach and a very knowledgeable coach.

In the resolution are so many things that he has done that I really cannot list all of them today for you. But it's really amazing when you think about it how Brian has accomplished so much with what other people would think would be a disability. And there is nothing that he hasn't done or he's deprived himself of, or deprived us of, because of the disability that some people perceive.

I'm very, very proud to stand up and recognize Brian and to congratulate him and to tell him how much I feel about him and the things that he's done. He's just a great, great individual who's done great things for this state and for many, many people.

So, Brian, congratulations. I'm honored to know a member of the Hall of Fame.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to the noncontroversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 223, by Senator Saland, Senate Print 3148, an act to amend the Education Law, in relation to conditional hiring.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

295, by Senator Stafford, Senate Print 1053, an act to amend the Environmental Conservation Law.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 304, by Senator Saland, Senate Print 3328A, an act to amend Chapter 672 of the Laws of 1993.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 306, by Senator LaValle, Senate Print 2352, an act to amend the Education Law.

SENATOR PATERSON: Lay that aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 353, by Senator Stafford, Senate Print 2368, an act to amend Chapter 138 of the Laws of 1984.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 400, by Senator Stafford, Senate Print 847, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 510, by Senator Fuschillo, Senate Print 3901, an act authorizing the assessor of the County of Nassau.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 515, by Senator Johnson, Senate Print 2221A, an act to amend the Vehicle and Traffic Law.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 575, by Senator Bonacic, Senate Print 5116, an act to amend the Public Housing Law.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 584, by Senator Hoffmann, Senate Print 3548, an act to amend the Agriculture and Markets Law.

SENATOR PATERSON: Lay that aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 605, by Senator Rath, Senate Print 4693, an act to amend the General Municipal Law.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 646, by Senator Padavan, Senate Print 3543, an

act to amend the Penal Law.

SENATOR PATERSON: Lay the bill aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 648, by Senator Volker, Senate Print 3678, an act to amend the Penal Law.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 715, by Senator LaValle, Senate Print 4127, an act to amend the Education Law.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 736, by Senator Larkin, Senate Print 4680A, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid

aside.

THE SECRETARY: Calendar Number 771, by Senator Marcellino, Senate Print 3911, an act to authorize.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 800, by Senator Goodman, Senate Print 729, an act to amend the State Finance Law.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 802, by Senator Maziarz, Senate Print 2117, an act to amend the Executive Law.

SENATOR MAZIARZ: Read the last section.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 816, by Senator Leibell, Senate Print 4556, an act to amend the Military Law.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 933, by Senator Seward, Senate Print 3935, an act to amend the Education Law.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

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

SENATOR SKELOS: Thank you, Madam President.

If we could go to the controversial calendar and begin with Calendar Number 802, by Senator Maziarz.

THE PRESIDENT: The Secretary will read Calendar Number 802.

THE SECRETARY: Calendar Number 802, by Senator Maziarz, Senate Print 2117, an act to amend the Executive Law, in relation to increasing.

SENATOR PATERSON: Explanation.

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

SENATOR MAZIARZ: Thank you, Madam President.

This bill would allow the annual increases in Social Security benefits to be calculated not to count against any senior individuals who want to take part in the Green Thumb employment program.

Thank you.

SENATOR PATERSON: Madam President, would Senator Maziarz -

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: -- yield for a question.

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

SENATOR MAZIARZ: Surely, Madam President.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Senator, I couldn't quite hear your explanation. I'll take the ten-second version, if you -

SENATOR MAZIARZ: Okay. The

income limitation to the Green Thumb program, which is a senior employment program, the income limitations would be increased to take into effect the increase in the case of seniors -- mostly in the instances of an increase in Social Security benefits.

SENATOR PATERSON: Okay. Madam President, now I'm sure what my question would be, if Senator Maziarz would yield.

SENATOR MAZIARZ: Yes, I would.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Senator, would you please let us know what the fiscal implications of this piece of legislation would be.

SENATOR MAZIARZ: There would be absolutely no fiscal implications to the State of New York.

SENATOR PATERSON: All right. Thank you, Madam President.

SENATOR MAZIARZ: Thank you, Senator.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 5 -

THE PRESIDENT: Senator Skelos - the Secretary will read.

SENATOR SKELOS: Read 510, please.

THE SECRETARY: Calendar Number 510, by Senator Fuschillo, Senate Print 3901, an act authorizing the assessor of the County of Nassau.

SENATOR PATERSON: Explanation.

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

SENATOR FUSCHILLO: Thank you, Madam President.

This legislation would authorize the assessor of the county to accept an

application for exemption from real property taxes from the Yeshiva Torah Mitzion of North Merrick.

Madam President, the property was purchased after the deadline of filing. The refund would be minimal: approximately $1,000.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, with your indulgence and Senator Fuschillo's indulgence, can we lay this aside temporarily? Because it's Senator Dollinger who is interested, and he's in the Finance Committee.

THE PRESIDENT: Senator Skelos, do you have any objection?

SENATOR SKELOS: Madam President, we've heard from Senator Dollinger on this on numerous occasions, and certainly will extend the courtesy. But as we go through the end of session, we know that there are going to be committee meetings met. This issue has been discussed in terms of the assessment issues in Nassau County almost to the point of nauseousness.

So I would just suggest that we have to continue at some point with the calendar, but certainly will extend that courtesy to Senator Dollinger, if it's okay with Senator Fuschillo.

SENATOR FUSCHILLO: No objection, Madam President.

THE PRESIDENT: The bill is laid aside temporarily.

Senator Paterson.

SENATOR PATERSON: Oh. Thank you, Madam President.

I just wanted to point out that even though we have discussed it before, one of the reasons that it sometimes appears that there's less attendance is that we have these meetings called off the floor and it's -- you know, it's just a little difficult for the members who want to discuss the bill. So it's not that Senator Dollinger's not interested -

THE PRESIDENT: Senator, the bill has already been laid aside temporarily.

SENATOR PATERSON: Oh. Well, thank you.

THE PRESIDENT: You're welcome.

The Secretary will read.

SENATOR SKELOS: Calendar Number 771, please.

THE PRESIDENT: The Secretary will read Calendar Number 771.

THE SECRETARY: Calendar Number 771, by Senator Marcellino, Senate Print 3911, an act to authorize the Mesorah Foundation of Long Island, Incorporated.

SENATOR DUANE: Explanation, please.

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

SENATOR PATERSON: Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: If Senator Duane would be willing to just wait a couple of moments, this is another bill that Senator Dollinger asked when he left to have laid aside, if we could, because there is a Finance Committee meeting going on.

THE PRESIDENT: Senator Skelos.

Senator Marcellino, do you have any objection?

SENATOR SKELOS: Do you want to lay it aside temporarily?

SENATOR MARCELLINO: I have no problem laying it aside.

THE PRESIDENT: The bill is laid aside temporarily.

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: If you would call up Calendar Number 736, by Senator Larkin.

THE PRESIDENT: The Secretary will read Calendar Number 736.

THE SECRETARY: Calendar Number 736, by Senator Larkin, Senate Print 4680A, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law, in relation to hunt meetings.

SENATOR PATERSON: Explanation.

THE PRESIDENT: Senator Larkin.

SENATOR LARKIN: Yes, Madam President.

Senator Paterson, this is a bill we did last year. It repeals a portion of the Racing and Wagering Law which requires that a

$25 license be obtained from the Racing and Wagering Board before conducting a hunting meeting in which no bets occur. It also repeals the limitation on the number of meets that are currently set at ten. Last year, three of these meets were licensed.

This is not a license to hunt. This is just a license where they go out and run. It's all done on private property. It's similar to like a steeplechase, in that horses and their riders race on a natural course against time. At hunt meetings there is no hunting of foxes or other animals. It is merely a test of a horse and a rider's horsemanship skill against time.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, I think Senator Larkin answered my question, but if he'd be willing to yield.

SENATOR LARKIN: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Senator, I heard you correctly that there's no hunting of

foxes in this -

SENATOR LARKIN: This is strictly the skills of the horse and the skills of the horseman, in that it's a race against time.

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

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

SENATOR LARKIN: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: And, Senator, you are familiar with the history of this legislation? Because I'm not. In other words -

SENATOR LARKIN: Well, years and years ago when it was -- what happened was these events were highlighted and there was a $25 fee. And there was also a requirement that somebody from the Racing and Wagering Board be present at these.

Years and years ago, when you were a little boy and I was a little boy, they had

these races, and it was a sport, it was a spectator. But during the last two years, there's only been three permits requested. And to have them -- and they were not all-day permits, like before -- to take somebody from the Racing and Wagering Board from some other duties to watch this, it's not a money-maker. When you figure there's three races at $75, it's hardly worth the time and effort of somebody to be out there doing it.

Again, there was some talk here last year, a question about hunting little foxes. There's no hunting of foxes. This is strictly a rider getting on a horse and subjecting himself to see how fast he and the horse can go from Point A to Point B.

SENATOR PATERSON: Therefore, Madam President, if Senator Larkin will continue to yield.

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

SENATOR LARKIN: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Absent the wagering, there's really no -

SENATOR LARKIN: There's no wagering at all, Senator.

SENATOR PATERSON: Right. So there's no reason to have anyone from the Pari-Mutuel Board in attendance?

SENATOR LARKIN: There's no racing, no wagering. The only thing is is that what they had when they started this, that they always said a member of the Racing and Wagering Board should be present. But there's no authorization for any gambling whatsoever in this event.

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

THE PRESIDENT: Senator Larkin, will you yield?

SENATOR LARKIN: Yes, Madam President.

THE PRESIDENT: You may proceed.

SENATOR PATERSON: At the point years ago that you were referring to -- you know, back when we were kids -

SENATOR LARKIN: When we were young.

SENATOR PATERSON: -- the question was in those days, I suppose it was wagering, and that's why they had Racing and Wagering Board presence at those events.

SENATOR LARKIN: Well, that's why the Racing and Wagering Board asked us to do this bill, because they say they feel that it's not a proper utilization of their staff time.

SENATOR PATERSON: Right. Then, Madam President, if Senator Larkin would continue to yield.

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

SENATOR LARKIN: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR PATERSON: I think what I'm just trying to figure out -- and maybe it's just me -- is why they had it there in the first place. Or has there been some change in the way that they had the hunting

meetings from the way it was eons ago?

SENATOR LARKIN: Well, you know, all you can look at is the records of the Racing and Wagering Board that this is held on private property, it's part of a sports club. It isn't just anything -- the licensing was done to sports clubs that handled these races.

But there is no money exchange in it. There's no chasing of animals, foxes, as it was brought up last year. The sole purpose here was a sport to see the time that a rider and his horse could compete from Point A to Point B.

SENATOR PATERSON: Madam President, on the bill.

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

SENATOR PATERSON: I assume that the fiscal impact is nominal because of the $25 charge that Senator Larkin referred to. And I don't know if I ever really figured out whether or not there used to be wagering at these hunting meetings, but there isn't now. So I can certainly see why they would not need the presence of someone from the Racing and

Wagering Board in attendance.

And the fact that they are not only held during the day but held at other times certainly probably diminishes from the work that the board could otherwise be doing. So understanding that there's no actual hunting going on, and that there's no wagering, I can see why we can move to the last section, or any other member that would like to speak, Madam President.

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

Then the debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

Senator Alesi.

SENATOR ALESI: Thank you, Madam President.

May we call Calendar 605, please.

THE PRESIDENT: The Secretary will read Calendar Number 605.

THE SECRETARY: Calendar Number 605, by Senator Rath, Senate Print 4693, an act to amend the General Municipal Law, in relation to authorizing.

SENATOR DUANE: Explanation, please.

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

SENATOR RATH: Yes, Madam President.

This bill simply provides that two or more municipalities may agree to work together to establish business improvement districts which would be for the benefit of both municipalities.

THE PRESIDENT: Senator Duane.

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

THE PRESIDENT: Senator Rath, will you yield?

SENATOR RATH: Surely.

THE PRESIDENT: You may proceed, Senator Duane, with a question.

SENATOR DUANE: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR DUANE: I'm wondering if the sponsor has had municipalities in mind who have asked to have this bill drafted.

SENATOR RATH: Yes, I do, Senator Duane. In my district there are adjoining towns that -- well, they actually adjoin each other and almost adjoin the city of Buffalo. It's what you might call an "edge city" kind of community. And Cheektowaga and Amherst have asked if they could join in this.

It's an older community in both towns with the strip-type business districts lining the main streets. And they're looking to interact as those main streets try to redevelop and reinvent themselves.

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

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

SENATOR RATH: I continue to yield.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Right now, in both of those cities are commercial properties taxed as the same category? In other words, is there similar taxation categories for commercial properties in both cities?

SENATOR RATH: Yes, both towns, the town of Cheektowaga and the town of Amherst, have similar tax structures on their commercial properties.

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

THE PRESIDENT: Senator Rath, will you yield?

SENATOR RATH: I continue to yield.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: And are the properties valued for tax purposes in a similar manner?

SENATOR RATH: I believe, Senator Duane, if I can see where you're going with

your line of reasoning, that would be part of the arrangement that they would have to work out with each other if there was an inequity, so that they would be able to share equally as the business improvement district was developed.

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

THE PRESIDENT: Senator Rath, will you yield?

SENATOR RATH: I do yield.

THE PRESIDENT: You may proceed, Senator.

SENATOR DUANE: Just to -- that is a direction that I was going in. But I'm trying to determine if, say, commercial properties in Amherst were taxed at a higher rate, would that mean that their contribution to the BID would be lower to equalize how much of a tax each property from each town was paying?

SENATOR RATH: Yeah, there will be -- there would be a plan for the district that would be agreed to by both town boards.

And my expectation is that they would agree to a pro rata arrangement.

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

THE PRESIDENT: Senator, will you yield?

SENATOR RATH: Surely.

THE PRESIDENT: You may proceed, Senator.

SENATOR DUANE: Who would be responsible for collecting the revenue, the additional revenue?

SENATOR RATH: The tax receiver from each of those towns would have to be the ones that would collect the revenue.

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

THE PRESIDENT: Senator, will you yield?

You may proceed, Senator.

SENATOR DUANE: And they would pay into the -- sort of the corporation or the business improvement district pool, then?

SENATOR RATH: My expectation would be that there would be improvements that would be equally important for both sides of the street. If can I give you a for-instance, there is an island that is foursquare in the middle of a very large thoroughfare that's between both of them. The DOT is involved to some extent with street widening. But this triangular-shaped island with thoroughfares on three sides of it -- it's a triangle, it's pretty obvious -- that is one of the improvements.

When it has wheelchair access and it's improved and has some plantings and instead of just concrete and asphalt, it will make a little haven for people who want to cross this major intersection.

And so that kind of improvement will be a benefit to both towns. It's foursquare, right on the border.

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

THE PRESIDENT: Senator, will you yield?

SENATOR RATH: Surely.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Is the BID going to have its board of directors divided equally between the two towns, or will it be based upon the financial commitment each is making to the business improvement district.

SENATOR RATH: The plans, Senator, are not that far along, but I think your point is well taken. They haven't gotten that far because they needed the legislation before they went that far.

But I would tell you that these two towns are the two largest bedroom communities in Erie County. They're both over a hundred thousand people, and both are both extremely active and enthusiastic about this.

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

THE PRESIDENT: Senator, will you yield?

SENATOR RATH: Surely.

THE PRESIDENT: You may proceed,

Senator.

SENATOR DUANE: Thank you, Madam President.

I come to this debate with a great interest and knowledge of business improvement districts. The district that I represented in the New York City Council had more business improvement districts than anyone else's district. And the same is true as a State Senator, I have more than any of my other colleagues in the Senate.

And I have to say that they all came with some controversy. So that's one of the reasons why I'm interested in how this is going to work.

Has there already been an election among the property owners in the business improvement district to go into a business improvement district?

SENATOR RATH: Both towns have very active community groups that are working along the border areas.

And an election as such for the representatives of these community groups, I'm not exactly sure when they turn over their

leadership. But they have been after this for at least two or three years. They've been looking to get this opportunity.

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

ACTING PRESIDENT McGEE: Do you continue to yield?

SENATOR RATH: I will yield.

ACTING PRESIDENT McGEE: She continues to yield.

SENATOR DUANE: Just, then, for clarification, does this envisioned business improvement district, does it demand an election before it's created similar to the way business improvement districts are done in New York City?

In New York City, a larger-than-majority number of property owners had to actually vote to approve the business improvement district. I'm wondering if that's the way it's supposed to be in this case or if that's something that's going to happen down the line or is that not what's happening at all.

SENATOR RATH: Senator, we're not that far in terms of community groups electing or not electing people to represent them business-district-wise. But I would say to you that both town boards unanimously have entered into the activity.

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

ACTING PRESIDENT McGEE: Senator Rath, do you continue to yield?

SENATOR RATH: I yield.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DUANE: In that it's the property owners who would have to pay the freight, so to speak, for the business improvement district -- they're the ones who would have a surcharge on their property taxes -- I respect that the town boards have already made that vote and the civic associations or the chambers of commerce have done it already.

But have the people who will actually be paying the additional revenue

voted on this, or are they going to vote on it? Is this part of the legislation which will create this business improvement district?

SENATOR RATH: The people who would be involved, as you're pointing out, with the additional costs wanted to have the legislation in place before they could go forward with the other part of it. They felt they could not do that part of it until they had this part of it. It's one of the old cart-and-horse discussions.

But I would say to you that it was the people on both sides of that border between those two towns that came to us in order to get this legislation presented.

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

SENATOR RATH: I continue to yield.

ACTING PRESIDENT McGEE: She continues to yield.

SENATOR DUANE: Will the cost of the surcharge, if you will, be incurred

completely by the business owners, or will - I'm sorry, the owners of the commercial properties? Or will that cost be passed along to the tenants in the commercial properties?

SENATOR RATH: The area that we're talking about is, generally speaking, commercial. But the town boards, the two of them, would have to make that recommendation once they start into the development of an intermunicipal agreement.

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

ACTING PRESIDENT McGEE: Senator Rath, do you continue to yield?

SENATOR RATH: I do.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DUANE: There was some disconnect -- not a disconnect, a discontent. I have my dises confused -- a discontent among the business owners who rented space who were tenants in the commercial buildings that they didn't have a vote on whether or not to be a part of a business improvement district yet

they were being stuck with the cost of having the business improvement district which only increased the property values for the business owners and didn't do much for the business owners except to raise their rents.

So I'm wondering whether the chambers of commerce or the community groups that are behind this business improvement district have begun to look at this prickly issue.

SENATOR RATH: Senator, I think your point is well taken. But the areas that we're talking about are so interested in providing a new dimension to this community that they feel that the only way that it's going to keep it from -- this community, this edge-city area from deteriorating and leaving lots of empty strip-plaza areas that we would consider very deteriorating on the edge of the city, they feel -- they've done some studies. They feel that they can pick up a great deal of foot traffic, because the neighborhood was that way at one time.

But because of the burgeoning outer-ring suburbs, if you will -- this is an

inner-ring suburb, very close, to within a couple of blocks of the city of Buffalo. They felt that -- everyone that we have talked to, and as I said, this has been on the agenda for at least two years I know of, maybe more, that everyone who has been a part of it agrees that this is the way to help this area.

But the two town boards will make up a specific compact, because this area is not the whole town of Amherst and the whole town of Cheektowaga. This is the Harlem-Kensington-Cleveland business district. And there is a businessman's association that is already jointly involved with the two towns -- not the Amherst Chamber of Commerce or the Cheektowaga Chamber of Commerce, this is this particular business association.

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

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

SENATOR RATH: Surely.

ACTING PRESIDENT McGEE: She continues to yield.

SENATOR DUANE: Along in this area, are there commercial buildings that have residential tenants living above the stores or that sort of thing? I'm trying to envision what it looks like.

SENATOR RATH: If there are, Senator, it's only three or four. And I might even be generous with that.

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

ACTING PRESIDENT McGEE: Senator Rath?

SENATOR RATH: I do.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DUANE: Will residential owners and tenants be exempted from paying the surcharge for the business improvement district?

SENATOR RATH: It's a very commercial district. And if there are tenants that are there, the town boards will hear about it on either side of that border, and the town boards will make that determination

in this compact.

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

SENATOR RATH: I continue to yield.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DUANE: I raise that because we also had heated battles among residential tenants who lived in coops or above commercial buildings who didn't want to have to pay for something that they didn't get to vote on. So just sort of a beware.

Is this an area where there's an increase or a problem with crime? And the reason I ask that, and I'll follow up with a second question, is it envisioned that part of the revenue for the BID will go towards security aside from the town police forces?

SENATOR RATH: Not necessarily, Senator, no. There's a -- the incidence of crime in this area would be no different than many other areas throughout both towns.

SENATOR DUANE: And through you,

Madam President, if the sponsor would continue to yield.

SENATOR RATH: I continue to yield.

ACTING PRESIDENT McGEE: Senator Rath?

Senator Rath continues to yield.

SENATOR DUANE: The same is true of -- one of the issues we had as well was that many of us felt that the security forces and the -- or the -- even without a security force, just the banding together of the businesses in part made it difficult for homeless people and poor people to be in the district. I'm wondering whether that's something which has been thought about or whether there's a social service component that's going to be part of the business improvement district.

SENATOR RATH: This is really not a consideration in this particular community.

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

ACTING PRESIDENT McGEE: Senator

Rath, do you continue to yield?

SENATOR RATH: Surely.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DUANE: I know that the sponsor mentioned one particular greening of a triangle along the roadway. But I'm just wondering if she could enlighten me as to what other kinds of improvements the business improvement district is going to do. Is it advertising or, you know, how to do windows better? What kinds of services is the business improvement district going to provide for its members?

SENATOR RATH: The plan is incomplete. I brought to your attention the issue of the greening and the wheelchair access and the triangle. There is work going on with the DOT in relation to the roadways. One is a -- one of the roads that passes on those three sides is a state highway and -- a state road. It's not really a highway.

And so once the opportunity is there, what they're going to be doing is looking for the improvement of foot traffic

and the development of a neighborhood attitude throughout the three or four -- no, it's five or six streets that come together, because there's -- it's more than just a plain square intersection. There is another street that comes across. So there are an extra set of corners and the crossings are tricky.

And so the DOT I know will pick up as much of this as they can. The towns will pick up other parts of it. And then this business improvement district is hoping to pick up yet again what can't be covered or picked up anywhere else.

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

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

SENATOR RATH: Surely.

ACTING PRESIDENT McGEE: Senator Rath continues to yield.

SENATOR DUANE: I am somewhat intrigued that wheelchair accessibility is needed for the island for a disabled person to across the road or an older person or, for

that matter, a mom or dad pushing a stroller. In that this is a state DOT road and in that accessibility is a requirement under the state's compliance with ADA, has DOT for some reason declined to make the island wheelchair-accessible?

SENATOR RATH: I think you're pointing out something that's very true. But there may already be wheelchair access into this triangle. And the side of the triangle that's a state highway would not need the wheelchair access. It would come from the sides because of the demeanor of the intersection.

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

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

SENATOR RATH: Surely.

ACTING PRESIDENT McGEE: The Senator continues to yield, Senator.

SENATOR DUANE: One of the other grievances that some property owners have raised against business improvement districts

is that they are almost impossible to liquidate. They're easier to put together and harder to take apart.

I'm wondering whether it's envisioned that this business improvement district could be dismantled.

SENATOR RATH: If there were such a consideration or a request at that time, the town boards would come back and ask us, and we would take it apart.

SENATOR DUANE: And through you, Madam President.

ACTING PRESIDENT McGEE: Senator Rath, do you continue to yield?

SENATOR RATH: Surely.

SENATOR DUANE: And so like some messy divorces we've recently seen in the papers, what if one side wanted the BID to dissolve and the other side didn't want the BID to dissolve? Would that not leave the sponsor in an almost Solomonic spot in terms of what to do with legislation?

SENATOR RATH: We're not that far along, Senator, with all of this. This is a request from two towns in my district.

SENATOR DUANE: And one final question, Madam President.

ACTING PRESIDENT McGEE: Senator Rath, will you yield for one final question?

SENATOR RATH: Surely.

ACTING PRESIDENT McGEE: The Senator yields for your final question, Senator.

SENATOR DUANE: I'm wondering if there is precedence in the State of New York for this to have happened and if this legislation would apply to any two municipalities that wanted to join forces for a BID.

SENATOR RATH: Learned counsel has advised that we are not aware of this happening before. But I might add as we go forward -- and the term "smart growth" has come up so many times from both sides of the of the aisle, "quality communities" from both sides of the aisle -- I think what we're seeing here is an effort by two communities to provide quality -- quality of life, quality of neighborhood. And this is their way of trying to move forward with that.

SENATOR DUANE: Thank you. Thank you.

Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Duane, on the bill.

SENATOR DUANE: Thank you.

The issue of business improvement districts, as I mentioned before, is something which has been of great interest to me. The idea that property owners are willing to pay more in taxes provided that they actually see the services that are being provided really provides us all, I think, with a very good lesson. And that is that people are willing to pay more in taxes provided that they see the results of that revenue being collected.

Sometimes what we find, unfortunately, is that those businesses which are already in pretty good shape are willing to spend a little bit more in taxes to get better services. But for those extremely marginal businesses that don't really have any kind of margin or any substantial margin of profit, it would be an enormous hardship to pay more in property taxes.

And so the businesses that are doing well get to do better with business improvement districts, and the marginal businesses that can't afford to pay any more end up being at a disadvantage to the other businesses that have these improvement districts.

We've also found cases where business improvement districts can run amuck and in fact become a little government in and of themselves and really operate outside the general checks and balances that government has.

I don't mean to cast aspersions on all business improvement districts, but there is a tendency when you have enough revenue behind you to make decisions which may not be in the best interests of everyone in a city but in fact only be in the best interests of those who are able to afford to pay additional money in terms of property taxes.

And of course the property owners, when they do get on board for business improvement districts, nine times out of 10 end up with more valuable property.

There is also, philosophically, a certain admission of the failure of local government if we think that business improvement districts are what we should be doing. We basically have to acknowledge that cities and towns are not able to really serve the needs of their business community and that's why these outside government organizations have to be started.

A case might be made to have a limited life span of a business improvement district where perhaps some experimentation would happen on how best to supply services but have that disbanded when it's shown how government could be able to provide those services.

ACTING PRESIDENT McGEE: Senator Duane, will you suffer an interruption, please.

Senator Alesi.

SENATOR ALESI: Thank you, Madam President. Thank you for the interruption, Senator.

There will be an immediate meeting of the Rules Committee in the Senate Majority

Conference Room.

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

Continue on, Senator Duane. Thank you.

SENATOR DUANE: Well, Madam President, I don't want anyone to miss the pearls of wisdom, but I'll suffer on anyway.

There is also the issue of sanitation. For instance, one of the major occupations of the workers for a business improvement district is to do additional sanitation. But if everybody in a city is paying taxes and only those who can afford a little bit more are getting additional services, that doesn't really seem appropriate.

Every business, every business in the city really deserves to have its garbage picked up and its sanitation services performed at the same level. And if government can't handle that, then government needs to raise the taxes for everyone rather than only allowing those who can afford it to

raise taxes to make their business areas cleaner.

So my inclination is to vote yes on this bill because, as the sponsor has very thoroughly explained, this bill will just allow them to move forward on discussions. But I do vote yes, or I will be voting yes with the proviso that while in theory business improvement districts seem like a win-win, in fact they're very complicated and actually speak to the heart of what it is that we think government should be doing in our towns and cities.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Thank you.

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.)

ACTING PRESIDENT McGEE: Announce

the results.

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Alesi.

SENATOR ALESI: Thank you, Madam President. Would you please call Calendar 646 at this time.

ACTING PRESIDENT McGEE: Clerk will read.

THE SECRETARY: Calendar Number 646, by Senator Padavan, Senate Print 3543, an act to amend the Penal Law, in relation to illegal possession.

SENATOR PATERSON: Explanation.

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

SENATOR PADAVAN: What this bill does, or proposed statute, is a correction of our existing law that parallels a change in federal law dealing with possession of a vehicle identification number.

In 1992 we added a section of law that made reference to the federal statute. That statute was changed, and we're now

complying with the federal statute so that we're both making reference to the same federal law.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Thank you, Madam President. If Senator Padavan would yield for a question.

ACTING PRESIDENT McGEE: Senator Padavan, will you yield for Senator Paterson?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Senator, in 1992 when the federal statute was changed, can you explain to us what the change was? Or was it just a technical change of the number?

SENATOR PADAVAN: It was a technical change relative to the number. As far as I can find out, there was no change in substance as it related to the illegal possession of a VIN.

SENATOR PATERSON: Yet that's what kind of confused me. Because earlier, Senator, I think you said that the law was

repealed and then reinstated. Was that how they effected the change?

SENATOR PADAVAN: No, what I said was that we amended our Penal Law in 1992 which referenced a federal statute, which was specifically designated as Section 1901. However, two years later, in 1994, the federal government changed that statute, repealed it, and replaced it by another section. And so we are conforming to that new designation.

To my knowledge, however, the substance of the federal statute remains the same.

SENATOR PATERSON: Thank you, Madam President. If Senator Padavan would yield for a question.

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR PATERSON: Senator, Senator Dollinger has spoken on this bill before, and he has a suggestion. I know the suggestion, but I've never heard your response

to it, is that to stop this from happening again -- which I assume it could, just because of the technical way in which the federal law is written -- would it be better for us just to reference the federal law, since it's exact, and not necessarily the specific number of the law? Or would you be willing to hope that this just never comes up again?

SENATOR PADAVAN: My response to you is that I'm advised by counsel that in terms of applicability and the judicial process, that it's more effective and correct to make specific reference to the federal statute by its designation, rather than allowing for any confusion to take place.

SENATOR PATERSON: And a final question for Senator Padavan, if he's willing to yield.

ACTING PRESIDENT McGEE: Senator Padavan, will you yield for Senator Paterson's final question?

SENATOR PADAVAN: I certainly will.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: So, Senator, this is the standard process? In other words, they just don't -- they actually, as your sponsor's memo points out, they actually repeal and then replace the law in the federal system?

SENATOR PADAVAN: That is my understanding of their process.

SENATOR PATERSON: Now it is mine.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Is there any other Senator who wishes to speak on the bill?

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill

is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 304, by Senator Saland.

ACTING PRESIDENT McGEE: Clerk will read.

THE SECRETARY: Calendar Number 304, by Senator Saland, Senate Print 3328A, an act to amend Chapter 672 of the Laws of 1993.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT McGEE: Senator Saland, an explanation has been requested.

SENATOR SALAND: Thank you, Madam President.

This bill would merely permit the Howland Public Library, which is located in the city of Poughkeepsie, to finance construction of a new library through the Dormitory Authority, New York State Dormitory Authority. The bill merely adds the name of the Howland Public Library to a list of about ten or so that currently have availed themselves of that opportunity.

ACTING PRESIDENT McGEE: Senator

Montgomery.

SENATOR MONTGOMERY: Yes, Madam President, if Senator Saland would yield for a question.

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

SENATOR SALAND: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR MONTGOMERY: Yes, thank you. Senator Saland, I don't think that I have any problem with this. I just would like to know, just how exactly does this work? How does a local not-for-profit facility access this program through the Dormitory Authority?

SENATOR SALAND: They are a public library. I'm not sure if -- they're not -- I don't think they're a 501(c)(3) if the implication was that they're a not-for-profit. I think that they're a publicly funded library.

And we do this for 8-53 schools, we do this for a number of other entities. This merely affords them the opportunity to avail

themselves of the financing at such point and place and time if in fact it does happen - because it doesn't designate an area. They may not have purchased or have an agreement to locate at a particular site.

It merely gives them the opportunity to avail themselves of the financing at rates and under terms as shall be negotiated and would be available depending upon the conditions that exist, if that be six months from now, eight months from now, a year from now, whenever.

SENATOR MONTGOMERY: Yes. Madam President, if Senator Saland would continue to yield.

ACTING PRESIDENT McGEE: Senator Montgomery, thank you.

Senator Saland, will you continue to yield?

SENATOR SALAND: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR MONTGOMERY: Thank you, Madam President.

Senator Saland, I'm just wondering, I see these bills come through and we vote on them and pass them fairly regularly for different types of facilities -- some YMs, YWs, now a library, and so forth and so on.

My question is why -- Madam President, through you -- why is it that we have to do this through the legislative process? Is there not -- or could we not or should we not establish a uniform procedure so that all of the different parts of the state have equal access to this process? Because I have a Y, I have a couple of Y -- a YM and a YW in my district. They would not necessarily have access to this process, because I'm a Democrat and no bill is ever going to pass in this house on my behalf.

So I would like to know, could we as a Legislature establish a uniform process which would take this out of the political process in the way that we do it now?

SENATOR SALAND: Madam President, I am not certain as to whether each of these libraries that's listed here is located in whether they be Republican or Democratic

districts, Republican of either house or Democratic of either house.

Certainly the process is one which is controlled by the Dormitory Authority. This merely enables people to make application and go through their process. I wouldn't be so bold as to say that you might not be able to, through whatever introduction you might make, secure funding, provided that your not-for-profit is an appropriate candidate and would otherwise be eligible.

You seem to be aware that this has occurred for YMCAs or YWCAs. I don't recall seeing such bills, you know, to provide that type of financing for those type of institutions. I'll be very happy to stand corrected if they are.

SENATOR MONTGOMERY: All right. Madam President, just one last question, through you.

ACTING PRESIDENT McGEE: Senator Saland, will you yield for one last question?

SENATOR SALAND: Yes, Madam President.

ACTING PRESIDENT McGEE: The

Senator yields for a last question.

SENATOR MONTGOMERY: Thank you.

My last question is, does this process add to in any way the debt service that the state is responsible for? Or is this completely -- the entity on whose behalf the Dormitory is borrowing is entirely responsible for the debt on this program?

SENATOR SALAND: This is not a state general obligation. In fact, the Dormitory Authority floats or issues its own paper.

SENATOR MONTGOMERY: I see. All right. Thank you.

Thank you, Madam President.

SENATOR SALAND: And obviously, whomever the entity is, if they are in fact eligible, would have to pay back what - whatever it is that they had borrowed and financed through the Dormitory Authority.

SENATOR MONTGOMERY: All right. Thank you.

Briefly on the bill.

ACTING PRESIDENT McGEE: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Yes, certainly I think that this is perhaps a most efficient way for a local library or any library to be financed for their construction.

I would, however, hope that Senator Saland, along with the Majority Leader and members on the Republican side, would consider establishing a more uniform program or process whereby our local facilities that serve large numbers of people that are very important and key to constituents of ours could have access to this process so that in districts like mine, where facilities are in very, very dire need of renovation and reconstruction, new buildings, that they could also have the same access as a facility in Senator Saland's district or Senator Goodman's district or Senator Morahan's district or any of the Republicans who have needs as well as we do, but we have needs and would like to have access to this program.

So certainly I'm going to support it, because I think it's important, Madam President. But I do think that we need to modify this so it's more open and accessible

to all of the citizens of the State of New York.

Thank you.

ACTING PRESIDENT McGEE: 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.)

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 800, by Senator Goodman.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 800, by Senator Goodman, Senate Print 729, an act to amend the State Finance Law, in

relation to requirement.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator Goodman, an explanation has been requested.

SENATOR GOODMAN: Madam President, may I ask who requested it, if you please.

ACTING PRESIDENT McGEE: Senator Paterson. No, Senator Montgomery.

SENATOR MONTGOMERY: Oh, did I?

ACTING PRESIDENT McGEE: Senator Paterson asked for an explanation, Senator Goodman. Would you be so kind?

SENATOR GOODMAN: Thank you very much.

This bill is one which has been developed to amend the contract provisions in the State Finance Law to prohibit a state agency, the judiciary, or a state authority from contracting with, continuing, or renewing a contract with a contractor who has taxes due and owing to the state.

In other words, a deadbeat on taxes, if it be a corporation, is placed in the position by this bill of not allowing

itself to be given the opportunity to enter into business with the state.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, if Senator Goodman would be willing to yield.

SENATOR GOODMAN: Always a pleasure.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Thank you.

Senator, I certainly understand what we're trying to accomplish here. And I would wish if you would enlighten us a little bit about what the threshold for this is, because I'm sure there could be nominal taxes that the contractor might not fully be aware and also a situation where there might be a ministerial period by which taxes were not paid back.

Or I'm even thinking of kind of a de minimus situation where there's a technical debt but the debt itself must have been from some accident, so it's a minimal amount of

money.

And so my question is, how does the legislation try to avoid a situation where someone is really not trying to evade their obligations but is just in a situation they might not have been aware of due to recordkeeping?

SENATOR GOODMAN: Senator, that's obviated by provisions of this bill, which says that if they are still in arrears after a ten-day notification, that that's when the bill becomes effective. But prior to that, there's no seizure, no cessation of contractual relations. In other words, you get a ten-day warning.

SENATOR PATERSON: Okay, very good. Thank you.

Madam President, if Senator Goodman would continue to yield.

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

SENATOR GOODMAN: Yes, I will. I consider this a blanket willingness to continue. You don't have to keep asking, Senator.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR PATERSON: I have blanket immunity. All right.

Senator -- through you, Madam President -- I was wondering what information you have about either the number of contracts that the state involves in every year, but not necessarily that.

I'm really looking more for the percentage of those contractors that you think fall within the ambit, the scope of this legislation. And, you know, just specifically what the numbers of contractors who may right now be operating, receiving taxpayer dollars when they haven't paid their taxes.

SENATOR GOODMAN: Senator, I don't have an answer to that. I don't know and I'm not sure that information is readily available. But if you'd like, we can find out for you.

SENATOR PATERSON: Okay. Thank you, Madam President. If Senator Goodman would be -- yes, Senator Goodman would be willing to yield, and so my -

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

SENATOR GOODMAN: As I've so indicated.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Then I think what I'm just getting at -- the legislation is an excellent idea, there's no doubt about that.

But I think specifically what I wanted to know, just in terms of the research and the history of the legislation, is whether or not this is something that was brought to your attention because of the malfeasance of many who were contracting or were not meeting their obligations, or was it something that certainly would be meritorious just based on the equity of giving contracts preferences to those who don't have the record of meeting their obligations such as those that were not preferred.

So what I'm really asking you is whether this is something where there's been a problem in the past where the obligations

haven't been met by a number of contractors still doing business with the state.

SENATOR GOODMAN: Senator, as the former finance commissioner of the City of New York, charged with the responsibility of collecting all the city taxes, it came to my attention in that position that there were innumerable instances in which this type of problem arose.

I cannot give you a precise number, but I think it's -- common sense has guided me to the conclusion there's a sufficient number so that -

SENATOR PATERSON: The -

SENATOR GOODMAN: Are you able to hear me, Senator? I didn't quite finish my sentence. I just wanted to be sure you weren't being distracted.

SENATOR PATERSON: I'm sorry.

SENATOR GOODMAN: I think there's a sufficient number so that it appeared advisable, in the interests of good housekeeping, to pass this measure.

SENATOR PATERSON: My final question is -- it relates to -

ACTING PRESIDENT McGEE: Senator Goodman, will you yield for a final question?

SENATOR GOODMAN: Yes, I will.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: It relates to any other observations that the Senator had through his previous experience that we would be holding up any contracting between the state and any parties, in addition to the failure to pay back arrears in terms of debt to the state or, obviously, any kind of criminal conduct that is currently under investigation.

SENATOR GOODMAN: Quite the contrary. I think once the word is out that you have an alert Tax Department which is aware of people's arrearages and punishes them in a manner that fits the transgression, that this is a good thing for the state, that it results in actually increasing the state's ability to collect taxes, and thus assists the fisc to become sounder on behalf of the public.

ACTING PRESIDENT McGEE: Senator

Onorato.

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

ACTING PRESIDENT McGEE: Senator Goodman, will you yield?

SENATOR GOODMAN: Yes, I will, Senator.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR ONORATO: Senator Goodman, what happens in the case where a contractor is in dispute with the state regarding taxes that are owed to them, there may be circumstances maybe protesting -- he's claiming that he doesn't owe the taxes, they're claiming that he does owe it, and it's basically in litigation. And if it hasn't been completely litigated, does this now preempt him or her from seeking the contract?

SENATOR GOODMAN: This legislation does not kick in until the dispute has ended, Senator. Therefore, your concern is without merit in this case.

SENATOR ONORATO: I can't hear

you.

SENATOR GOODMAN: I say this does not kick in until the dispute has ended between the taxpayer and the State Tax Department.

SENATOR ONORATO: Thank you.

ACTING PRESIDENT McGEE: Senator Brown.

SENATOR BROWN: Thank you, Madam President. Will Senator Goodman yield for a question?

ACTING PRESIDENT McGEE: Senator Goodman, will you yield for some questions?

SENATOR GOODMAN: I will, Senator.

SENATOR BROWN: Senator, I apologize for any redundancy, but in response to one of Senator Paterson's questions, did you say that there was a ten-day period of notification that a business would get prior to not being awarded a contract?

SENATOR GOODMAN: Yes, that's correct.

SENATOR BROWN: Thank you.

Through you, Madam President, would

Senator Goodman continue to yield.

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

SENATOR GOODMAN: Yes, I will.

ACTING PRESIDENT McGEE: Yes, he will.

SENATOR BROWN: Senator, in the case of a business that cannot afford to pay an obligation that it has to the state but is the low bidder on a contract that would enable it to satisfy a debt that it owes to the state, wouldn't it in that kind of case make sense to allow the business to assume the contract and pay the debt that it owes to the state?

SENATOR GOODMAN: Senator, I don't believe that would in the best -- in the public interest to have that type of circumstance permitted, simply because what we're trying to do is to ensure that people who do business with the state are in good control of their finances.

And I think one such index of that type of behavior is prompt payment of taxes. Where there are delays in payment, that does

not reflect well on the soundness or the managerial worthiness of a business.

SENATOR BROWN: Thank you.

On the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Brown, on the bill.

SENATOR BROWN: I'm going to support this legislation. We have similar legislation in the City of Buffalo, where I served for three terms as a council member. In those cases, businesses that owed the City of Buffalo taxes or any kind of indebtedness were not allowed to assume contracts that they were low responsible bidder on.

In that case as well, concerns were raised about the business winning this contract, having an indebtedness out there, and being able to repay that indebtedness. But, similar to Senator Goodman's response, the concern of that municipality -- and I agree, the concern of the state -- is to make sure that businesses that are bidders should be responsible. And to be a responsible bidder, that bidder should not have any debt that is owed to the state.

I think the ten-day notification period is a very responsible measure. Because if a business has bid on a contract, is set to be awarded the contract, and then has the opportunity to pay any debt that it owes the state within that ten-day period of time, that business can still assume the contract, which I think is a very good provision and one that causes me comfort in supporting this piece of legislation.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Will the sponsor yield for one question, Madam President?

ACTING PRESIDENT McGEE: Senator Goodman, will you yield for one question from Senator Dollinger?

SENATOR GOODMAN: Yes, I will, Madam President.

SENATOR DOLLINGER: Through you, Madam President, Senator Goodman, does this bill apply to the prevailing wage laws and require that we only enter into contracts with companies that have settled their claims under

the prevailing wage laws? Or is it simply the taxes?

SENATOR GOODMAN: It relates simply to taxes, Senator.

SENATOR DOLLINGER: Through you, Madam President, if Senator Goodman would continue to yield.

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

SENATOR GOODMAN: I will.

ACTING PRESIDENT McGEE: He yields.

SENATOR DOLLINGER: Senator Goodman, having brought this issue of tax compliance, why wouldn't we have a bill that requires compliance with our environmental laws, our prevailing wage laws and all the other laws that this house has enacted? Why shouldn't we require the contractors to have a clean slate on all of these issues?

SENATOR GOODMAN: Senator, if it's your desire to see such legislation passed, you're at liberty to introduce it, needless to say.

This bill has a narrower ambit, and

I think it's an appropriate solution to the problem it seeks to solve.

SENATOR DOLLINGER: Through you, Madam President, can I -- well, I'll dispense with that question.

Thank you, Senator Goodman. I appreciate your answers.

SENATOR GOODMAN: You're more than welcome, Senator.

SENATOR DOLLINGER: Madam President, I'm going to vote in favor of this bill for much the same reason that my colleague Senator Brown did, which is I think this is a proper way for us to insist that contractors that are going to take state tax dollars into their private accounts from the public treasury simply require that they have an accounting with the public treasury for what they owe us.

But, Senator Goodman, I would suggest that the bill doesn't go far enough. If our theory is that we should only allow people to contract with us and take money out of the public treasury because they are clean contractors or they are considered to be

quality contractors, shouldn't that rule apply to the prevailing wage laws?

We shouldn't enter into contracts with companies that have failed to pay prevailing wages or have disputes regarding prevailing wages, a law that was passed by this house that's been in effect for fifty years that says that people are entitled to living wages when they work on public construction projects.

Why shouldn't we insist on the same compliance with respect to the environmental laws? Why should we enter into a contract with a contractor who has failed to clean up their property or remediated it the way the Department of Environmental Conservation has told them to?

Why should we support contractors who have disputes involving the minimum wage? Why shouldn't we require that any contractor that we hire and pay from tax dollars comply with the state minimum wage? Shouldn't we also require that they comply with OSHA, the state OSHA system or the federal OSHA system?

Senator Goodman, I think this is a

good idea, but it would be a much better idea if you had broadened the impact to suggest that anyone that's going to go to work from the State of New York and take cash out of the public treasury should be required to comply with all of our laws, and that they should resolve those disputes with the government before they take money from the public treasury.

Senator Goodman, I'm going to vote in favor of this bill. If we had a free amendment process, I'd propose an amendment to make it acceptable across the board for a whole series of potential problems that contractors run into with the State of New York and require that every contractor that takes money out of our treasury have clean hands with respect to every law we enforce.

And my view is that this bill should become law and should immediately be amended in a far more expansive way to make sure that we cover everyone in this state and require full compliance with all of our laws before we allow the public treasury to be exposed and paid over to contractors who are

not in compliance with those laws.

With that understanding, Madam President, I'm going to vote in favor of the bill. And I would ask my colleagues to vote in favor as well, with the reservation that the better thing to do would be to amend it and make it broader, make it work for all those other people that are protected by our law, rather than just the public purse.

ACTING PRESIDENT McGEE: Is there any other Senator that wishes to speak on the bill?

Senator Duane.

SENATOR DUANE: Thank you, Madam President.

I also agree that this is a good bill and, in a way, a bill which would discriminate against those who don't pay their taxes. But I do want to point out that around the state there are tens of thousands of lesbian, gay, bisexual, and transgendered people who are discriminated against every day even though they are tax-paying New Yorkers.

And while I'm pleased to vote for this bill, I would be even more pleased if we

brought to the floor of this house a bill which would make it so that no New Yorker is ever discriminated against. Certainly its time has come. That bill has been around for many, many years. And it's nice to pass these other bills, but let's pass a bill that really will impact the real lives of tens of thousands of New Yorkers and allow them to work where they want to work, live where they want to live, and have the same public accommodations as every other New Yorker.

ACTING PRESIDENT McGEE: Thank you, Senator Duane.

SENATOR DUANE: Thank you, Madam President.

ACTING PRESIDENT McGEE: 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.)

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there's a report of the Rules Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT McGEE: Report of the Rules Committee. The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 705, by Senator Johnson, an act to amend the Public Authorities Law.

1366, by Senator Johnson, an act to amend the Public Authorities Law.

And 4106, by Senator Libous, an act to amend the Executive Law.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Move to accept

the report of the Rules Committee.

ACTING PRESIDENT McGEE: The motion is to accept the report of the Rules Committee. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: All those opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The Rules report is accepted.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there's a report of the Finance Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT McGEE: The Secretary will read.

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

Senate Print 5353, by the Senate Committee on Rules, an act making appropriations for the support of government.

SENATOR SKELOS: Lay the bill

aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside.

Without objection, third reading.

The Secretary will read.

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

As a member of the Rochester Genesee Regional Transportation Authority, Milo Turner, of Geneseo.

ACTING PRESIDENT McGEE: Senator Volker.

SENATOR VOLKER: Madam President, let me just second the nomination of Milo. I've known him for many years. He is a Vietnam veteran and served during the Vietnam War, a fine gentleman who has been a farmer, an auctioneer.

He's very familiar with the roads and various highway issues in the Rochester-Genesee region. He succeeds a fellow who got into a little bit of trouble - ran for the Assembly and won, which I guess is trouble, and he succeeds Joe Errigo.

His appointment was from the Livingston County legislature, so he comes here with the imprimatur of the Livingston County legislature.

He's a fine gentleman, and also is the husband of Bonnie Turner, who is the person who runs the office of Assemblyman Joe Errigo. And I think it was a fine choice by the Governor, and I'm sure he'll make a fine commissioner on the Rochester-Genesee Regional Transportation Commission.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. I rise to second Senator Volker's accolades and support for Mr. Turner.

I have generally asked the members of the RGRTA to come to Albany and talk to us about the future of transportation, largely because, while the Transportation Authority as set up by this Legislature includes rural counties, there's no question that the hub of the whole system is in the 54th Senate District, and that about 80 percent of the people who ride the bus service in Rochester

originate in the urban, largely urban area in the city of Rochester, which I represent.

I agree with Dale Volker with respect to Mr. Turner's qualifications. He does come to us with the approval of the Livingston County legislature. And my hope is, although I wasn't briefed to talk about it in the Finance Committee, his reputation as an independent thinker and a man of action I think bespeaks the fact that he'll deal with the broader issues of building a central transportation hub, transportation facility.

My hope is that the RGRTA will talk with all levels of government about the impact of the decision to build a massive $25 million to $30 million bus terminal in the heart of the 54th Senate District, and that the authority will come and talk to the members from the broader community but particularly the city of Rochester, its county legislative delegation, its state delegation, about the impact of that terminal's construction on downtown Rochester.

In addition, I think that the issue of transportation to and from rural areas such

as Livingston County, the development of the corridor along 5 and 20 and its intersection with Route 390 has started to see significant job growth. It would be my hope that the Transportation Authority would look at ways to get urban dwellers the 20 to 25 miles further south of Rochester so that there would be an opportunity for them to participate in that new job growth.

So I think there's a lot happening in transportation in Monroe County. I think Mr. Turner can make a contribution to that. And I wish him well.

And I would just urge him, Madam President, if there are other issues -- state funding for the terminal, for the Authority or other things that are needed to provide quality transportation for the people in the 54th district, please don't hesitate to come and call.

Thank you.

ACTING PRESIDENT McGEE: The question is on the confirmation of Milo Turner as a member of the Rochester-Genesee Regional Transportation Authority. All in favor will

signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Milo Turner is hereby confirmed as a member of the Rochester-Genesee Regional Transportation Authority.

(Applause.)

ACTING PRESIDENT McGEE: Mr. Turner is accompanied by his charming wife, Bonnie. And we're pleased and may we add our congratulations to you.

The Secretary will read.

THE SECRETARY: As a member of the Board of Trustees of the Cornell University, Edward VK Cunningham, Jr., of LaGrangeville.

As a member of the Ogdensburg Bridge and Port Authority, Roger Leland McBath, of Lisbon.

As a member of the Central New York State Park, Recreation and Historic Preservation Commission, Stewart F. Hancock

III, of Syracuse.

As a member of the State Park, Recreation and Historic Preservation Commission, Seema E. Goldstein, of Brooklyn.

As commissioner of the Interstate Environmental Commission, Rose Trentman, of New York City.

And as a member of the Stewart Airport Commission, Paul Quartararo, Esquire, of Millbrook.

SENATOR SKELOS: Move the nominations.

ACTING PRESIDENT McGEE: The question is on the confirmation of all those read by the Secretary. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: All opposed will say nay.

(No response.)

ACTING PRESIDENT McGEE: The nominees are hereby confirmed.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go back to the controversial

calendar and take up Calendar Number 584, by Senator Hoffmann.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 584, by Senator Hoffmann, Senate Print 3548, an act to amend the Agriculture and Markets Law, in relation to the exemption.

SENATOR HASSELL-THOMPSON: Explanation.

ACTING PRESIDENT McGEE: Senator Hoffmann, an explanation has been requested.

SENATOR HOFFMANN: Thank you, Madam President. I'd be happy to explain the bill.

Currently we have a requirement that all milk sold in New York State must be handled by a licensed milk dealer. Recently, however, it became clear that a requirement that all vending machine operations should also have a milk dealer's license, it creates a duplicative situation.

There's really no reason for the milk dealer license to be applied to vending licensees. And in fact, most vending

licensees are either unaware of the other requirement and are presently operating possibly outside the law.

We are in a situation in this state, as in every other state, where we are trying to encourage the consumption of milk in contrast to soda and other less healthy beverages. And for schools in particular, this is a very worthwhile measure, because it will allow the vending companies to have a greater interest in providing milk on a competitive basis with some of the other soft drink/cola beverages.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. If the Senator will yield for a series of questions.

ACTING PRESIDENT McGEE: Senator Hoffmann, will you yield?

SENATOR HOFFMANN: Yes, I'll be glad to.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HASSELL-THOMPSON: Thank

you, Senator. Through you, Madam President.

While I certainly am in support of milk being provided through vending machines in any attempt to make milk a major product that is consumed by the public, children in particular, I need to ask the Senator to clarify for me under what section are vending-machine providers for milk covered by existing law.

SENATOR HOFFMANN: All milk sold in New York State must be transported and sold by milk dealers. They have a milk dealer license.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: If the Senator will continue to yield.

ACTING PRESIDENT McGEE: Senator Hoffmann, do you continue to yield?

SENATOR HOFFMANN: Yes, I'll be glad to yield.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HOFFMANN: Senator Hassell-Thompson might be interested in

knowing that Section 296 of the Executive Law also has an exemption if it's under -- oh, no, it's not under 296.

Section 257 of the Ag and Markets Law. And there is an exemption if it's under 3,000 pounds.

SENATOR HASSELL-THOMPSON: Okay, I hear the explanation. I'm still not clear what section of the law covers vending machine sellers of milk that would make this duplicative.

SENATOR HOFFMANN: The Sanitary Code of New York State, Section 14-5.

SENATOR HASSELL-THOMPSON: If the Senator will continue to yield.

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

SENATOR HOFFMANN: Yes, I will.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR HASSELL-THOMPSON: Won't the health and safety of the consumer be compromised if milk dealers utilizing vending machines are not licensed?

SENATOR HOFFMANN: Madam

President, the answer to that would be no.

SENATOR HASSELL-THOMPSON: If the Senator would continue to yield.

ACTING PRESIDENT McGEE: Senator?

SENATOR HOFFMANN: Yes, I will.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR HASSELL-THOMPSON: I think that the two main goals that we're aware of under the Agriculture and Markets Law, Section 21, assures that farmers are paid - my light just went out. You can still hear?

Two of the goals of the Agriculture and Markets Law, Article 21, assures that farmers are paid for the milk and that milk and milk products are handled in a safe and sanitary manner. And I understand that this bill continues to do that.

The question that I have, however, is that there is a third goal of this milk dealers' licensing law, and that is to allow the state authority to oversee the direct investigation, bacteriology, and other sampling and packaging for public safety.

My question is, how can you

guarantee that the vendors will in fact, based upon their own ability to package for the purpose of vending machines, be covered under this regulation?

SENATOR HOFFMANN: Madam President, the Senator is confused about the intent of this law and possibly about the current milk licensing statutes in New York State.

Only a licensed milk dealer is allowed to package the product. This simply deals with the placement of a prepackaged product in a vending machine. Only a licensed milk dealer can package, only a licensed milk dealer can transport, and all such packaged milk is sampled and tested regularly in accordance with the law.

SENATOR HASSELL-THOMPSON: If the Senator would continue to yield.

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

SENATOR HOFFMANN: Yes, I will.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR HASSELL-THOMPSON: I'm

very glad to have you on record as having said that, because I still do not believe that this bill in fact covers them. But if you say it does, then I can hold your integrity in question if it doesn't prove to be true. Because the goal of this bill will weaken the state's ability, in our opinion, to enforce laws and regulations which ensure the orderly and safe milk distribution process.

And I still am not clear you how you tell me that this is not so.

SENATOR HOFFMANN: Madam President, I'm not sure how much more clear I can make it.

Any milk processed in New York State or sold in New York State must be processed, packaged, and tested by licensed milk dealers, and a licensed milk dealer then makes the product available in its packaged and tested format form to somebody who holds a vending license and is governed by the sanitary laws of New York State.

There's no need for a duplicate license for milk dealers to be held by both the party that transports and packages and the

party that sells in a vending machine.

The goal again, Madam President, is to encourage the sale of milk in vending machines. And consistent with many other things that we're doing in this state, we attempt to repeal unnecessary and burdensome regulations where they exist and particularly where they interfere with the consumption of a product as wholesome as milk by the children of New York State.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Let me do this on the bill.

ACTING PRESIDENT McGEE: On the bill.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

I have heard Senator Hoffmann, and I truly -- if I appeared that I did not, that belief of that is not -- that is not the intent.

The concern here is not whether or not the regulatory process will be covered, but in the licensing. The licensing ensures

that those vendors who provide milk and milk products to the public are in fact -- the inspections in fact have occurred.

With this removal of this licensing process, there's nothing that assures me that each vendor has in fact been properly inspected. That's the role that I see that this licensure takes, not only to ensure that the investigations and all of the regulatory process has been carried out, but the licensing is a way for the public to know on those vending machines that in fact this investigation has in fact occurred.

So that is my major concern in terms of how this bill, in doing so, it may appear to be duplicative, but that process is one that I think becomes very important because the public has no other way of knowing whether or not those licensing practices and compliances have been conformed with.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. Will the sponsor yield to

one question, please.

ACTING PRESIDENT McGEE: Senator Hoffmann, will you yield for one question?

SENATOR HOFFMANN: Yes, I will, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: Through you, Madam President, are all people who sell milk, all operators or retailers who sell milk, are they all currently subject to the regulation that this bill exempts the vending machines from? I mean, the general trend in New York is to require that everybody that deals with milk be licensed along the line; isn't that correct?

SENATOR HOFFMANN: Would you repeat the question, Senator Dollinger?

SENATOR DOLLINGER: Glad to, Madam President. It may take me more than one, then, to clarify it.

This bill seeks an exception from the current licensing requirements for milk dealers; is that correct?

SENATOR HOFFMANN: I'm sorry,

would Senator Dollinger repeat his question. There's a lot of noise in the back of the chamber, Madam President.

ACTING PRESIDENT McGEE: May we have some order.

Senator Dollinger.

SENATOR DOLLINGER: Okay, I'll try a third time.

Through you, Madam President, as I understand this bill, it creates an exemption for people who vend milk through vending machines from the normal requirements that they obtain a license to deal in milk; is that correct?

SENATOR HOFFMANN: That is correct. But it's not considered a normal requirement, because most people who deal with vending machines were unaware that a special requirement is necessary for them to obtain not only the vending license and all of the other requirements that they have to have to operate vending machines, but also a milk dealer license.

SENATOR DOLLINGER: Okay. Through you, Madam President, is the milk

dealer license requirement for a vendor, for somebody who sells it through vending machines, is that currently a requirement by statute? Not by regulation, it is by statute?

SENATOR HOFFMANN: It's my understanding that it is a requirement in statute. But whether it has been previously a regulation, I'm not sure at this point. I believe it's in statute.

SENATOR DOLLINGER: Thank you, Madam President. If Senator Hoffmann would -

SENATOR HOFFMANN: Perhaps Senator Dollinger has the information in front of him.

SENATOR DOLLINGER: I actually don't, Madam President.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: But I'll yield to a question at some future time.

If Senator Hoffmann would continue to yield just for a moment.

ACTING PRESIDENT McGEE: Senator Hoffmann, do you continue to yield?

SENATOR HOFFMANN: Yes, I will.

SENATOR DOLLINGER: What was the rationale when we put into statute the requirement that milk dealers, whether they deal through vending machines or through the normal retail process, that they obtain that milk dealers' license?

SENATOR HOFFMANN: Madam President, I would not be able to make a judgment call on the frame of mind of any legislators that were involved in that particular action or if in fact it was well understood.

But very often we repeal sections of law or change things because the implication for us in 2001 had not been properly anticipated when the law had been enacted, many times a hundred years or so before.

SENATOR DOLLINGER: Through you, Madam President, if the sponsor will continue to yield.

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

SENATOR HOFFMANN: Yes, I will.

ACTING PRESIDENT McGEE: The

Senator yields.

SENATOR DOLLINGER: Does this bill -- because it creates an exemption, again, as you've defined it, subject to three conditions. Does this create the possibility that more milk produced out-of-state would be sold in vending machines in New York?

SENATOR HOFFMANN: Madam President, since most of the milk sold in New York State is already processed in New York State, I find it unlikely that it would in any way encourage out-of-state milk production. Although given the current state of affairs with the very great difficulty for our dairy farmers in New York State, eventually we may face that reality. But it would have absolutely no correlation with this law whatsoever.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. If the sponsor will yield to one final question, I think I'm done.

ACTING PRESIDENT McGEE: Do you yield, Senator Hoffmann, for one final

question?

SENATOR HOFFMANN: I'd be glad to yield to one final question from Senator Dollinger.

ACTING PRESIDENT McGEE: The sponsor yields.

SENATOR DOLLINGER: Do the provisions of the New York State Sanitary Code contain specific directions on the process to be followed when milk is sold in vending machines?

SENATOR HOFFMANN: Madam President, I would be happy, for Senator Dollinger's benefit, to read that section of the sanitary code. It is Section 14. Let me make sure I've got the right section here now.

Under "Food Protection," Section 14-5, Section (b) states "Vending machines dispensing potentially hazardous food are to have heating or refrigeration units with thermostatic controls that are able to maintain the food at 140 degrees Fahrenheit, 60 degrees Celsius or above, 45 degrees Fahrenheit or below when fully loaded. These vending machines are also to have automatic

controls which prevent the machine from vending potentially hazardous food."

Then there's something about - let's see. "Refrigerated food vending machines vending potentially hazardous food requiring heated or refrigerated storage are to have thermometers accurate to plus or minus 2 degrees Fahrenheit, 1.1 degrees Celsius, located in the machine that are readily observable by the person servicing the machine, showing the coldest part of the heated storage compartment and the warmest part of the refrigerated compartment."

And I find that a very adequate explanation of how these machines should be regulated, and I think I'm probably going to take a closer look at vending machines from now on and when I'm in a situation where I am looking at purchasing one of those wonderful new little chugs, the bottles of milk that are being sold in vending machines, I'm going to double-check to see that those thermometers are in fact plainly in view.

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

ACTING PRESIDENT McGEE: Senator Dollinger, on the bill.

SENATOR DOLLINGER: Senator Hoffmann makes a good point about the state's Sanitary Code. Because we have enacted in this state among the tightest, if not the tightest, regulations on the purchase and sale of milk products, precisely because, as Senator Hoffmann knows, we have an enormous dairy industry in this state that these regulations are designed to protect because we want to ensure the integrity of the milk product.

Under those circumstances, Madam President, I'm enormously reluctant to back off our requirement that vending machine operators get milk dealers' licenses. I think that that regulation, that statute was put in place for the express purpose of requiring that they comply with enormously rigid controls on the quality of the milk product.

And I would suggest to Senator Hoffmann that one of the problems with creating an exemption -- even though, as I acknowledge, it has some protections built

into it in her three-part test -- is the great danger is that if there's a milk problem, if a vending machine breaks down and we sell milk that could have either be well past its age or have other problems with it, the effect of that on New York's dairy industry could be catastrophic.

I think of it happening at a place like the New York State Fair, where a vending machine sells sour milk, and I would suggest that the dairy industry does not want to encourage that kind of potential public relations disaster.

We've had a very credible dairy industry in this state, it has maintained high-quality milk products. And I would suggest to everyone that a step backward from tight regulation of that industry is not in the industry's best interest. Even though, as Senator Hoffmann suggests, this might increase the consumption of milk, it might end up being the wrong kind of milk and might be deleterious to the dairy industry in this state rather than beneficial.

I'm going to vote in the negative,

Madam President.

SENATOR CONNOR: Last section.

ACTING PRESIDENT McGEE: Any other person 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.)

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 584 are Senators Connor, Dollinger, Duane, Gentile, Hassell-Thompson, Lachman, Markowitz, Montgomery, Onorato, Paterson, Schneiderman, M. Smith, Stachowski, and Stavisky.

Ayes, 43. Nays, 14.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time call up Calendar Number 957.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 957, by the Senate Committee on Rules, Senate Print Number 5353, an act making appropriations for the support of government.

SENATOR BRUNO: Madam President, is there a message of necessity and appropriation at the desk?

ACTING PRESIDENT McGEE: Senator Bruno, there is a message of necessity and appropriation at the desk.

SENATOR BRUNO: I would ask that we accept the message.

ACTING PRESIDENT McGEE: The motion is to accept the message of necessity and appropriation. All those in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: All those opposed will signify by saying nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Senator Bruno.

SENATOR BRUNO: Madam President, just so that my colleagues in the chamber understand, that this is the emergency budget bill -- that is about $7 billion worth -- that we are going to enact today, hopefully, to keep the state functioning.

This will make $18 billion worth of budget items that we have passed in an emergency fashion to keep the state functioning.

Now, why is this necessary? It is necessary, Madam President, because we in this state do not have a budget. And we do not have a budget because we are not able to convene the conference committees that we all agreed together, the Assembly and the Senate, three years ago, that we would have an open, public discussion on doing a budget for the people of this state, that we would resolve our differences in conference committees, in an open forum.

We have for three weeks in a row attempted, we in the Senate -- I in particular -- to convene the general conference committee. Now, by agreement the

conference committee, the general committee is convened by a call by my signature and the Speaker's signature and the determination date. We have named our conference committee members, we in the Majority, you in the Minority, in this house. So we have done as much as we can do.

The Minority in the other house named their conference committee members. The only conference committee members that have not been named are the Majority in the Assembly.

And I want to clarify that because all of us in this chamber are criticized, and rightly so, for not being able to do the job for which we are elected, and that is to pass a budget for the people of this state.

Now, we can only do so much. And I want to thank my colleagues in this chamber, and I want to especially commend the Minority Leader, Senator Connor, who on this floor on 3/28/01, March 28th, said: "The real fact of the matter, Mr. President, is this Legislature had got to stop waiting for the Governor and do the job of a Legislature and negotiate

between the two houses a budget."

I applaud the Minority Leader. The Constitution of New York State says, clearly, the Governor proposes a budget. The Legislature acts on that budget. The Governor has a right of veto. And the Legislature can override a veto with two-thirds vote in both houses. That is the Constitution of New York State.

Senator Connor, you are absolutely right. We should convene the general conference committee to discuss what is available to spend in a public forum.

Your colleague Senator Dollinger: "My strong suggestion is let's, Senator Bruno, tomorrow announce that we're going to start conference committees." Thank you, Senator. That was on 4/18.

Senator Brown: "I think it's also terrible that the conference committee process has not begun. What stops people from sitting together in a room and talking about their differences on a budget when they recognize that this budget should be passed on April 1st?" 4/18, April 18th. Thank you.

Senator Duane, you have been particularly vocal. And I applaud that, and I thank you for that. On this floor, on March 29: "We are ready to have the conference committees. But is there anything that prevents us from having a conference committee to set the revenue?" The answer is no, there is not.

Senator Duane, April 20th. If you don't mind, because you copy the Speaker and Senator Connor and Assemblyman Faso: "Dear Senator Joe" -- thank you for being so friendly and congenial.

(Laughter.)

SENATOR BRUNO: "I want to commend you for taking the first step in resolving the state budget stalemate by calling for the start of conference committees. The only way to pass a state budget is to sit down and actually work on resolving budget differences. Convening conference committees is the vital first step in achieving this goal. Sincerely, Tom."

Thank you. Thank you, Tom.

Now, Senator Stachowski also had a

quote, but it's so long I'm not going to read it.

(Laughter.)

The point that I'm making, ladies and gentlemen in this chamber, is that for three weeks we have followed your direction, as we normally do when you relate to good government, Senators. And we convened or attempted to convene the conference committee, the general committee, to do just what you suggested, Senators Connor, Dollinger, Duane, Brown, Stachowski and many others that would like to have said the same thing but just didn't. But you intended to.

But in all of these meetings, where have you been? Senator Connor, I missed you. You were not there. When you called us to convene a general conference committee, you were not there.

Now, to the credit of your colleagues on that side of the aisle, Senator Duane showed up with four of your colleagues a week ago, nine days ago, and participated in the process. And I thought it was productive and constructive.

And then last Wednesday, one week later, I had fully expected, having invited you all to be there, that we would have the entire Senate and probably all the Assembly in attendance, trying to get the budget process started, as you suggested and directed.

You weren't there. Even the five that were there from your side of the aisle, you were no-shows. I was terribly disappointed, as were my colleagues on this side of the aisle, as were the people in this state. And I wondered what on earth anyone could have said to dissuade all five of you from being there to participate in a public process.

I mean, I can't imagine what might have been said to you. Because it doesn't relate to anything of consequence if we don't have a budget. You can't participate much on behalf of your district if we don't have a budget. So I don't know what promises were made or what promises were not made, but you weren't there, and I was disappointed.

Now, we're contemplating doing it again, Senator Connor. I won't reread your

quote, but I am remembering what you have said to me: Let's get the process started. I don't know how else to start this budget process other than to do what we all voted to do -- convene a conference committee, have a public debate on what is available to spend.

The Governor submitted his budget, 5.3 percent over last year. The Speaker passed a resolution in his house: Out-years, 8.2 billion more than the Governor. Our budget is 2.3 billion more than the Governor in the out-years. First year, our budget is 1.2 billion more than the Governor. The Speaker's is 2.1 in the Assembly, first year.

How will we ever close an $8-billion-plus gap between the Governor and the Assembly to arrive at our number, which is the right number? How will we do that? Senator Duane? Senator Connor? Senator Stachowski? This is rhetorical, by the way, Madam President.

(Laughter.)

SENATOR BRUNO: Senator Brown? Senator Dollinger? How will we do it? You had the right idea. Let us convene the

conference committee publicly and start the debate, start the discussion.

We feel that the Speaker will head us towards a huge budget deficit with his 8-billion-plus spending. That's how we got in trouble before in this state, by overspending. When Governor Pataki became Governor and we became leaders here, we were $5 billion in deficit by overspending.

Now, do we want to go there again? Anybody here want to go there again? Another rhetorical question, Madam President. We don't want to go there again. So we have to control spending. I think we all agree on that in this house.

But we're going to resolve this only in public debate. Not three people in a room, not two people in a room, not one person in a room talking to himself. We're not going to do it that way. We're going to do it in public discussion. We're going to do it this week, we're going to do it next week or next month or in July or August or September, October.

That's how this process is going to

take place. And any meetings that take place other than through this forum is inconsequential to the process.

So I am now invite inviting you all to participate again in the general conference committee meeting that we expect at 10:30 in the hearing room.

And, Senator Connor, you as the leader, who was so articulate on this floor as a matter of public record, ought to think in your heart, in your mind, about being there. You've named your committee members, to your credit. So you want to participate in the process.

So what are we doing? Who are we protecting? Are we acting on behalf of our constituency, or are we looking to protect someone else's interest? You're elected in this chamber to represent your constituency. Collectively, we represent all of the people of New York State in this house. We have an obligation by constitution to do our job. I'm inviting you to participate in helping us do our jobs. We have to do it together. We can't do it alone.

And all of the comments and all the posturing won't get us a budget. What will get us a budget is to discuss publicly our legitimate differences. We have differences. The Speaker and the Assembly have a resolution that they feel strongly about. We passed a resolution that we feel strongly about. The Governor proposed a budget that he feels strongly about. But they're different.

In order for them to become the budget of this state, they have to be unified into one and they have to be identical and they have to pass both houses in that form. And the only way that is going to take place is for the Legislature to act on its constitutional responsibility to the people of this state. And all the rhetoric and all the posturing and all the finger-pointing won't get it done. It's up to us, we in this chamber.

So we're going to try again. We are going to do what we can do to get together and in the spirit of cooperativeness, not aggression, not belligerence, but in cooperating in an open discussion on how to

get a budget done for the people of this state. And if we do that, then we have fulfilled the wishes of our electorate. And if we don't do that, then shame on the people who refuse to participate in this process.

See you all there at 10:30 Wednesday.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

And I am delighted to have been applauded by Senator Bruno and to have so many of my colleagues applauded, although we'd also appreciate a little more tangible recognition, if Senator Bruno would like to do that. We are talking about an $80 billion budget.

Madam President, I'd gladly sit down with Senator Bruno and negotiate a 79, 80, 81, $82 billion budget. Heck, I'd negotiate a $60 billion budget with him if we had the power between us to do that.

I'm the Minority Leader, and it's no secret I certainly don't have the ability

to do that. And any suggestion that I could go to some meeting and negotiate a budget is well beyond the bounds of anything anyone in this Capitol is willing to credit.

I do await your conference committee. And Senator Bruno said it so well right at the very beginning, that a conference committee is called on the signature of the Temporary President and the Speaker of the Assembly. And when I get a notice from the Speaker and from Senator Bruno that there's a conference committee meeting, then I'll know it's a conference committee meeting, not a press conference, and I'll attend. And I'll attend not because I'm pretending to negotiate any billions of dollars' worth of a budget in that process, but because there is a role for the Minorities to play to be heard there.

Frankly, Madam President, if I thought going to this meeting on Wednesday would somehow or other get $500 for my constituents or the constituents of any of my members here allocated in the budget, I'd certainly go. But we're not negotiating a budget this Wednesday, not without the

Speaker, not without the Governor. It's not going to happen.

Unfortunately -- and I applaud Senator Bruno's efforts to try and move this process, because things are needed to move it. And he and I have talked on many occasions, and I do agree with at least the desire to find some vehicle or some way to kick-start all this. That's needed. That's sorely needed. So I do applaud his efforts and sincerity in trying to get things moving.

Unfortunately, there are other players, and they don't seem to be moving on this. At least I'm not privy to whether or not the Governor and the Speaker are moving on this. And that's unfortunate.

What's really unfortunate is, as Senator Bruno pointed out, after this appropriation bill passes, we will have done $18 billion in emergency appropriations. It's not so many years ago when $18 billion would have been the whole budget. As it is, it's roughly -- figure it out. We're about -- at the end of June, one quarter of the fiscal year will be gone. Emergency appropriations

will probably be about one quarter, roughly speaking, of the budget.

I think we ought to get one quarter of our paychecks for doing that, since we've done a quarter of the job. But the fact is, it doesn't work that way, unfortunately.

But the real point is we've now invented a new way of doing budgets. That's what we've done. We have ritualized a late budget. We have condoned a late budget. And I don't mean this like anybody sat down and said, "Now, here's a bad thing, let's do it." I think we've just fallen into it in the past years, out of very, very good motives.

The idea of emergency extenders come from very good motives, very good political and governmental motives. We want to pay the state's workforce. We want to continue services to our constituents, notwithstanding the inability of the Legislature and the Governor to resolve budget differences and enact a comprehensive budget.

So we started with emergency extenders. I can remember when they were of three days' duration or four days' duration,

while the budget bills were being printed. Then it became a week, and then a week but doing it several weeks in a row. And then two weeks. And now we've institutionalized it so much that the emergency extenders this year have been a month in duration each.

And all we're doing is changing the constitution, which says there should be an annual budget. And I can foresee -- hopefully not this year, but some year, unless something changes, when the entire budget will be adopted in a series of one- or two-month extender bills, which is not the constitutional way to do it.

We have rewritten the constitution without putting it in writing. We have changed the way we do things. We have eliminated the pain and pressure that comes down on a Governor and Legislature, both houses, when there are late budgets.

I know from my colleagues who come from the Capital Region here, there's probably a high awareness among your constituents that the budget hasn't been adopted. But I have to say in my district, as I go around New York

City, you know, unless you're really, really a government fiscal junkie, you don't know there's no budget. Nobody stops me, as they would have years ago, and says, "Oh, when are we going to get a budget? or "It's terrible there's no budget." It's become a nonstory.

Talk to reporters from other parts of the state. Except for columns that poke a little fun here and there and note that we haven't been paid, nobody really seems to care that there's a late budget. And it's because we have sort of unconsciously, over the years, so refined this tardiness and how to deal with it that we've made it virtually painless.

Nobody is not getting a paycheck except the legislators. Nobody -- no program is going bankrupt or running off to the bank to borrow large loans because the budget didn't pass -- except for us.

The fact is, Madam President, we're just brilliant. We put ourselves in a situation where we're about the only people in the state that suffer from a late budget in a tangible way. There are intangible factors, obviously, in the type of governmental image

we project and in at least outside groups' view of our fiscal reliability, perhaps, that could hurt the state. But in any tangible way, a month at a time.

And while I've voted for these extenders before, Madam President, I did say a month ago that when you start doing them a month at a time, it's like you're planning for failure. What we're really doing today in passing this appropriation is all but accepting defeat for the next month. Aren't we really planning on not having a budget for another month? Aren't we saying that?

Oh, look, lightning could strike and we could get a budget before a month is up. None of us really believe that. If we believed that, we wouldn't be doing a one-month extender. And that's really unfortunate.

And sometimes what you believe becomes a self-fulfilling prophecy. And I don't mean this just for people in this house, I address it as well to the other house. And I address it to the Governor, who sends a one-month emergency appropriation to us, as

well.

Everybody seems to be quiescent in this: Well, it will be another month. We're not going to have anything until at least, if we're lucky, June 17th. And in the back of everybody's head is that on June 17th, well, we'll do a month -- gee, wouldn't you really like to do six weeks and get July and not have to come back? We know that's on everybody's mind.

So what's happened here is all of the players in this drama have kind of accepted the fact that nothing will be accomplished for the next month. And as I said a month ago, I don't want to be complicit in that anymore.

I would have a far different answer -- by the way, this is not a criticism of anybody. If I thought for one minute my voting against this bill would result in the public employees not being paid, in payrolls not met, in programs not funded, I'd vote for it. I'd vote for it. If I were sitting in Senator Bruno's chair, I'd vote for it, because it's -- frankly, it's necessary. At

this stage, it's not a choice.

But I am in the Minority, Madam President. And at least on the first round of the roll call, I'll vote no. If for some reason there aren't 31 votes voting yes, I confess right now I'd switch and make sure it passed. But I want to have a small protest myself. And I just want to say no.

And that no is about how this whole system -- and I don't mean just in this house, and I'm not pointing across the aisle back and forth across the building. We've just allowed it to tumble along and developed a whole new system that is extraconstitutional.

So today I'm voting no, Madam President.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Thank you, Madam President.

Senator Connor, in my humble opinion, because the press isn't asking about why don't we have a budget or our constituents aren't necessarily asking, to me does not make it a nonissue, the fact that we don't have a

budget. Because, quite frankly, I think all of us should be embarrassed as a Legislature that there is no budget at this time.

Certainly we care. I know I care. And I think your members are probably asking also why isn't there a budget.

You know, in 1998 we instituted budget conference committees. And it was, I think, the most important reform of Senator Bruno, and one of the reasons why he was elected our Majority Leader under very difficult circumstances back in 1995, because it would create a more open, public and accountable negotiations, rather than three men in a room.

Which really led the way in Albany for so many years -- and I know, quite frankly, when he was a mere mortal Senator, repulsed Senator Bruno, as it did so many of us, that three men would get in a room and tell the people of the State of New York what their budget was going to be.

And that's why this budget conference committee process is so important and should be convened. And, quite frankly,

all the members in this chamber should attend that meeting on Wednesday at 10:30. And it works. I just want to point out a couple of statistics.

In 1998, the general conference committee convened on March 25th and the budget was passed on April 14th. That's about 20 days later. In 1999, it was convened on July 19th, and it was adopted, the budget, on August 4th, approximately 16 or 17 days later.

And then in the year 2000 it was convened on April 5th and the budget was enacted on May 5th, within 30 days.

So that's why it's important, my fellow colleagues, that we follow Senator Bruno's lead in a bipartisan basis and when he calls for a meeting of the general conference committee, we all attend and send the message to the Assembly Majority that it's time to get a budget done in New York State.

ACTING PRESIDENT McGEE: Senator Stachowski.

SENATOR STACHOWSKI: Madam President, just briefly on this particular topic.

I feel that the conference committees are a great step forward too. And as soon as we start having them, I'll be there to participate. I know that when they have the major conference committee, Senator Connor will be there, as he's our only member. And I'll be at the conference committee I'm assigned to.

However, in a year when the whole process, and in this house in particular, the system is focused on rules, the following of rules, the changing of rules, but basically geared to rules and strict observance of them, because of that -- and I had this conversation with Senator Bruno at a reception before the first of his conference committee, slash, press conferences.

If in fact both names are on the letter that invited me to a conference committee, I would be there. If it was the major committee, I would be there to watch and see what was said. But the invitation came from Senator Bruno. And as much as I enjoy spending time with him -- and no one I would rather sit and chat with, about a budget or

about anything, than with Senator Bruno -- but since the Speaker's name isn't there, for whatever reason, it's not a conference committee meeting.

And unfortunately, unless I see a piece of paper coming this week with both of their names on it, again, I probably won't be there. Because I have a lot of things to do in my day in the Legislature. None that's more important than spending time with Senator Bruno, but a lot of his other press conferences I'm not invited to. So I can't make an exception since I'm not invited to those. And since this one is not, according to the rules, a conference committee, I'm probably not going to attend this press conference either.

But if for some reason between now and then Speaker Silver's name appears on a letter that I get that will say "conference committee Wednesday at 10:30," I will be there to watch. Because obviously, if it's the main committee, I'm not on it. But I will be there to watch, to see what not only Senator Bruno says but what the Assembly says and what my

leader, Senator Connor, says and what Assemblyman Faso says, because I'll be interested. And I'll also be interested in what -- I think usually Senator Skelos is on that, and Senator Stafford is on that, and I'll be happy to hear what everybody says, because I'll be ready to go forward and move.

But until that time, because we follow rules and we make such a sticky issue of it, particularly in this house, I don't want to be one to break the rules, so I can't do something that's against the rules, especially when we make sure that they're followed so strictly in this chamber.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. I'll be very brief. Two quick things.

One is I appreciate Senator Bruno's wholesale commitment to public debate, to debate about the great issues that we face in this state. And you've properly criticized that it should no longer be three men in a room that control that public debate.

Well, I would suggest in this house we have 36 people in a room who in January imposed a whole set of new rules on this house -- you remember last week, you were all here when we had that fancy thing they call a canvass of agreement. Something, at least in my view, I'd never heard of in American parliamentary debate, I'd never heard of in American democracy. Instead of voting yes or no, you'd vote on a canvass of agreement, whatever that means. I still don't know.

I would just suggest, Senator Bruno, that if your commitment to that public debate exists, I would urge you to go back and take the same rules that govern conference committees that you embrace today for wide public debate about all of those issues and put them back in place in this house as they existed before January. That's the right way to bring the spirit of public debate to this chamber and to both chambers of the Legislature and hopefully this whole Capitol.

And lastly, Senator Bruno, I interpret the invitation I got to go to the conference committee something like an

invitation to a marriage that says: I, father of the bride, want you to invite you to the marriage of my daughter. I would call the father of the bride and say, Who's your daughter marrying? And the answer is, Well, she doesn't have a proposal yet. She doesn't have anybody who's willing to say "I do."

So why would I go to a marriage when it's just the bride who's interested in the proposal but there's no groom there to agree to marry her?

Senator Bruno, I'm not going to go to this marriage until you can show me a willing bride and a willing groom who have said "I do" to putting a budget together. When they both say "I do," I will be there for this marriage and I hope to participate.

But if I continue to get an invitation from the earnest father, the earnest father of the bride, I'm not going to attend. Let's go to the marriage when it's ready, Madam President, and I'll turn down the invitation from the earnest father of the bride looking for a marriage, and I'll wait until we have a firm proposal in place to make

sure that this marriage and the budget that will follow goes through. When that invitation comes, I'll be there.

ACTING PRESIDENT McGEE: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

I've been listening to this debate and I have had other debates on the Assembly floor while we were there. I think we've lost our way.

What do I mean by that? I mean when I ran my first campaign, I went to the people and I said that I'm going to try to do the best job I can for the people of the State of New York. And when they elected me, I put my hand on that Bible and I said, I'm going to uphold the laws of the State of New York and do the best job I can.

Now, that promise says, with our State Constitution, that we will do a budget by April 1st. All the things that I'm hearing, it's our ineptitude to get a budget done in a timely way.

Now, let's talk about the tactics

that we have tried to do over the years to break this cycle of late budgets. We could put everyone in a room come midnight, April 1st, and no one leaves that room until there's a budget. But you know what? If we close government down, the workers and the welfare recipients, we make them victims. We inflict pain on them if there is no budget and no money flows.

So that's not a good alternative. I don't want to go there. I don't think that's a good strategy.

The other thing is to pass a law that changes the Constitution of the State of New York that says there will be an automatic trigger if we can't agree, if we can't agree something should happen independent of us.

And we have put legislation forward, the Senate has, that says if we can't agree, let's let the Comptroller of the State of New York -- who just happens to be a Democrat, but I won't care -- let the Comptroller, who's most knowledgeable in working with economists and fiscal estimates, let him decide the availability of money. And

we'll live by that. Then we kick in the joint conference committee.

That seems to be reasonable. But no, we don't get agreement from the leadership of the Assembly.

So I believe that really what happens is there is a political strategy going on here. And the political strategy for the Minority party -- when I say "Minority," we have a Republican Governor, we have a Republican Senate Majority, and then we have the Majority in the Assembly. They're the Minority in this case, two against one. They use late budgets as an extortion for more spending. That's what they do as political operatives.

And we let the political agenda take over what should be our individual constitutional responsibility and the promises we made when we were candidates to the people. That got lost.

Oh, we rationalize. We have taken some of the pain out. I agree with Minority Leader Marty Connor when he says we've taken out the pain with contingency budgets. But

it's an excuse for our ineptitude.

But there is another tangible loss, and I'll tell you what it is, Mr. Minority Leader. School districts that don't know what they're getting and have to guess. They impose budgets that could increase the property tax levy on taxpayers in the district because we didn't tell them how much state aid they're getting. That's one area where there's a tangible loss for late budgets.

So I suggest to each and every one of us that when we go home at night and we're not in this room posturing or political pandering, think about the promise you made to the people and upholding the laws. And when you put that handle on the Bible, you said that you would uphold the laws of the constitution.

I'm disappointed that the people didn't call a constitutional convention, because this would have been number one, right up there, how to handle the budgets, and we would have corrected the deficiency in the State Constitution. Because there is no penalty, there is no punishment if we don't

meet the April 1st deadline.

But aren't you all getting tired of being beaten up in the newspapers, being beaten up by your school districts, saying you're incompetent, you're inept? I know I personally don't like it. Because when I come here every day, I try hard, just like you do. And I know you try hard, because I watch your passion and I watch how you fight for the things you believe in.

But let me tell you, when you don't show up at a joint conference committee -- you may not have the power. But if five of you come, ten of you come, twenty of you come, that's going to be a message to the other side. And didn't Mike Bragman stand up, and 18 other soldiers, and say enough's enough? Didn't he do that? They wanted joint conference committees, open, with the public.

So don't let them sell you that political agenda. And remember your promise to the voters when you ran as a candidate. And we're glad to have you here.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator

Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President.

I spent ten years in this chamber looking for ways that we could change this whole process, and one of the things that I thought would be most meaningful for the taxpayers would be if all of the committees on which we sit would take pieces of the budget and work on those parts of the budget independently. And that perhaps would create a better framework than the famous three-men-in-a-room scenario that has plagued this state for so many years.

When I wasn't able to make all of those changes, I was thrilled to see the conference committee process evolve. Because that at least creates a forum in which we can meet across the aisle and between houses and begin to break down into reasonable pieces the responsibility that we have to the taxpayers of this state.

And I can tell you without any shadow of a doubt that my effectiveness as a Minority or a Majority member was virtually

the same in those committees. That's why I cannot understand today why it was only the Majority members of this house, for the most part, who were willing to go to the last few conference committee meetings.

And what I cannot understand is why the other chamber is going to continue to incur the disrespect of the people of this state by refusing to sit at the table.

When I go back to my district in Central New York, the question that I hear over and over again is: What's wrong with that Speaker, and why won't those people on the other side of the aisle work with you to get a budget together? It does matter to the taxpayers of this state. It matters symbolically in many ways, and it matters substantively as well.

The school districts are only one example. There are numerous cases where people's lives are on hold. Everybody involved in construction of roads and bridges wonders what's going to happen with the CHIPS aid. That's always one of the last things that's settled.

What happens to the localities when an entire construction season is over and necessary -- necessary for public safety - repairs to roads and bridges have not been undertaken? That's especially important in small communities.

The little rural towns in the 48th Senate District suffer when they don't know what they're going to receive in state aid because they can't roll it over year after year. They don't have a large tax base. They make every single decision based upon the immediate dollars. They can't anticipate what the future is going to hold. And they're terrified that they're not going to be able to complete things that they need to do.

I don't understand why we can't be sitting around a table where the general government committee can discuss the municipal aid formula. When I was a Democrat and I worked with Arthur Eve and we talked about Syracuse needs and Buffalo needs, it was no different than when I became a Republican and we talked about Syracuse needs and Buffalo needs. We were able to sit at a table

together. And that's what we are elected to do.

The people in my district don't care what political party any of us are most of the time. They just want us to be honorable men and women. I don't think that anybody is even paying attention to what we're saying outside this chamber right now, because we have lost so much respect in the world at large.

But if anyone here can convey to the Speaker that the ball is really in his court now and that he needs to do what Senator Bruno has asked him to do, to come and sit and reason together, please try to make an effort to reach the Speaker, for the benefit of the people throughout this state.

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

I want to thank Senator Bruno for what I think were his kind words. And I'm pleased to note that he reads his mail.

However, I did also send a

follow-up letter which was not quoted this afternoon on the floor.

I was actually very excited when I was invited to the conference committee meeting. I hadn't been to one before. And I did go. But I have to say I was -- first, I was surprised that the meeting was only going to be a half an hour. It occurred to me that a half an hour wouldn't really be enough time to do very much work at all. But I thought I would give it a shot anyway.

So I did attend. And I have to say that the beginning of the -- what really -- I mean, let's call a press conference a press conference -- started off with adult Senators chanting "where is Shelly, where is Shelly." That didn't seem like a particularly serious, businesslike start of a meeting.

And, yes, it is true that I asked some questions and engaged in some discussion. But only a very, very small part of the budget, having to do with eliminating gas taxes because of the energy crisis that's going on. But that was just a scintilla of the work that needed to be done when you look

at all of the spending and all of the revenue projections that we have to make.

I was also taken aback that at what was supposed to be a joint conference that only one part of it had the overhead projection, with really what looked like a very one-sided position on what the budget was going to be like.

I was actually very interested in following up. But I saw again that the next budget committee that I was invited to go to was also only going to be a half an hour. And I didn't really want to participate in something which really was not a working meeting. Not that my time is any more valuable than anyone else's time in this chamber, but my time is valuable. And clearly, a half an hour press event, allegedly as a conference committee, was not working, was not really getting any movement.

I know that on many pieces of legislation, and in fact last year, some sort of a budget process happened and we actually did do a budget. This road that we're going down on a sort of one-sided conference

committee is obviously not the way to go. We have to come up with some other method to make the budget process happen in a timely manner.

I appreciated the early outreach to try to do that kind of a conference committee, but it was a failure. So let's move on and try to find some other way to make the budget for the state actually move forward. I'm ready, willing, and able to work in any kind of process that will make that happen. But I want to make sure that it's a real process that's really going to work and that's really going to make us have a budget.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Meier.

SENATOR MEIER: Thank you, Madam President.

As my colleagues know, I spend quite a bit a time in the chamber and I listen quite intently to debates. And I have to say I've been very interested in some of the comments that I've heard on the other side of the aisle today. And among the most interesting was Senator Dollinger's marriage

analogy.

Now, we may be a little backward where I come from, but where I come from we go through a period called courtship before there's a marriage. And the problem that we've got here, you see, is that one of the potential partners in this marriage, he doesn't write, he doesn't call, he doesn't visit, and hell, he doesn't even send -- let alone send flowers.

(Laughter.)

SENATOR MEIER: And what I find interesting about that analogy and some of the other comments from the other side of the aisle that have been said today is that we're really dancing around the obvious, which is not the potential suitor, it's the 800-pound gorilla who refuses to come into the room.

And despite what one of my other colleagues on the other side of the aisle said, there are parts of the world where people do care. In the community where I live, the leading newspaper editorialized: "A spotlight on the empty chairs at these budget meetings is more than cheap political

posturing on the Republicans' part. Pataki submitted a budget earlier than the law requires, and Bruno, as Senate leader, has convened meetings to talk about it. It's time for Silver to join the process."

One of the other newspapers in my district asked me two weeks ago what was I doing to move the budget process forward. And I gave them what I think is a pretty simple answer, but it's -- like most other things in life, sometimes the answer is simple. I told them, I'm going to show up for work.

And I'm going to show up for work Wednesday morning when the budget conference committee convenes. Woody Allen said 80 percent of life is just showing up. I'm going to continue showing up for work, and I urge all my colleagues to do so.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator DeFrancisco.

SENATOR DeFRANCISCO: In my own life, I do trial work. And there's an old adage that if the facts aren't on your side, argue the law. If the law is not on your

side, argue the facts. If neither are on your side, sing and dance and hope for the best.

Well, I think we're now in the sing-and-dance phase from the other side of the aisle. It seems to me when you cry for participatory government and you're given an opportunity to participate and you choose not to, especially when it's the constitutional responsibility to have a budget, then I think that we're in the sing-and-dance stage.

When you start talking about marriages, that's pretty good singing and dancing. When you start talking about who signs the letter, the invitation, that sounds like singing and dancing as well.

And my favorite is the half-hour meeting that Senator Duane mentioned. Senator Bruno and Senator Skelos at that meeting said we will sit here all day, all night, all weekend, we'll get a budget done. And he would have known that had he shown up.

So let's stop singing and dancing. You all know what influence you would have in getting Shelly Silver to those conference committees. If you showed up, then the 18

Assembly people show up, the pressure mounts, and we get it done.

So let's participate. We enjoyed the song, we enjoyed the dance. Let's get down to work and do what we're constitutionally required to do.

ACTING PRESIDENT McGEE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I must say I agree heartily with Senator Bonacic. This is a sign of our own ineptitude. And whether -- people in my district aren't that upset about this. They don't insult me about the late budget. I come here to be insulted. They're actually not very focused on the budget.

But I agree with Senator Bonacic, I think this is a disgrace. And I think it's a failure of government. And I think taking the pain out of the process has not served us well.

The way we've attempted to inject pain into the process, withholding the paychecks of the legislators, clearly hasn't

worked. And some more creative approach is necessary. Maybe if the Speaker of the Assembly and the Majority Leader of the Senate had to switch places April 1st with the Minority Leaders, I think we'd have a budget pretty fast. I mean, we can try to come up with creative ways to bring this about.

But in the meantime, we're not getting this done. And every time we do an extender I stand up and I say, There is no money in this for some programs, including Superfund. We're not still not doing it. We're approaching a quarter of the year gone by with no funds going into that critical program.

I am going to vote no today, and I respectfully suggest that a month is just too long. A month is just too long. We're taking the pain out. I don't see how we are advancing the cause that my colleagues on the other side of the aisle are so passionately advocating by doing a one-month extender. I just think it's too long. I think it sends a bad message.

And I think if we would hold out in

this house and say we're not going to do a one-month extender, let's get in here and do this, we'll do two-day extenders, let's keep coming back, let's keep coming back -- that's a concrete way to force the other parties to the table.

And I would support that sort of an effort. I think that, look, the people on my side of the aisle, Senator Duane expressed it. You know, we're happy to come to meetings. We're so rarely invited to meetings that we'll all attend if it's a real meeting.

But in the absence of a real meeting, I think that it is very unfortunate that we're today voting on a one-month extender. I will be voting no and urging everyone else to also vote no.

ACTING PRESIDENT McGEE: Senator Brown.

SENATOR BROWN: Thank you, Madam President.

First let me thank the Majority Leader for quoting me on the budget and my interest in seeing the budget passed. I'm certainly very honored by that, and my parents

would be very proud to know that the Majority Leader quoted me.

I think maybe because I'm a new member, maybe I'm a little closer to the people. I wonder -- and I don't mean to be disrespectful, but it seems like around this whole place it's pretty much business as usual. And I don't know if it's really business as usual, I think it's business worse than usual.

Because as I understand it, in the past, all the parties used to really work to get that budget passed by April 1st. And I agree with the Majority Leader and I agree with the Minority Leader that to not pass that budget by April 1st is wrong. We have a responsibility as legislators to do that, and for whatever reason we've gotten away from that.

It's my understanding that in the old days we used to stay over. People used to stay up late. People used to work overtime to get the budget passed close to that April 1st deadline. In fact, it's my understanding that you used to turn the clock back in the old

days, if you were a few minutes late or a few hours late, to get that budget passed on time.

And so I think, as Senator Schneiderman said, maybe we do need to interject more pain into the process. Because perhaps if there was more pain, the public would take a hard and serious look at what we're all doing and they would rise up and they would put more pressure on us to get this budget passed.

But I think one of the reasons why we're not getting more public pressure is because the pain has been removed from the process. And although there are consequences -- like Senator Bonacic has said, school districts can't plan, community-based organizations can't plan, they have to borrow money to continue to operate and provide services that people desperately need -- to a large extent, the public has lost sight of the dire consequences for this state when the budget is not passed on time.

So like others that have spoken before me, I'm not going to vote for this contingency budget today. I think there

should be some pain. I think perhaps if there was pain, the public would really stop and take a hard look at everybody -- the Senate, the Assembly, the Governor -- and would force us together to get something done.

And while we're talking about change, I'd like to say I'd like to pass bills, I'd like to get more money for my district. I'd like to share more equitably in the resources of this house to provide those resources to the taxpayers that elected me.

I'm not here for business as usual. That's not why I ran for the Senate. I'm here for change. Getting this budget passed on time is one of those changes that I'm here for. And this one-month extender doesn't get it done. And as a result, I'm not going to be voting for it today.

Thank you.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President.

I rise in support of this extender bill, because I reject the premise that we

should inflict pain on our constituents to make us do our job. We heard from many eloquent speakers this afternoon -- Senator Bonacic saying it's broken. The system is broken. And every attempt to fix it has been thwarted in the other house. Not one proposal has surfaced in the Assembly and passed the Assembly that would address the crisis that we face every year.

What can we do about this? I think if you put politics aside and this entire Senate, Republican and Democrat, showed up Wednesday when we attempt to convene another joint conference, it would probably be the most telling and effective thing any Senator here could do if this entire house mobilized and met.

Now, we hear it's only a half an hour, we hear that we don't participate. Let's not lose focus on what the general conference does. It sets the available money, it pronounces the teams, it allocates resources by category, and then we, as Senators, in those subcommittees and those joint committees with the Assembly, go to work

to hammer out how the money is going to be spent. We don't do that at the joint conference committee, necessarily.

But the real argument today is - or the real question, rather, is do we show up as a Senate -- not a Republican Senate, not a Democrat Senate, but as a Senate -- to do our job, saying we're willing. Now, it may not work if we all showed up this Wednesday. But I would guarantee you that the pressure and the focus that you could bring to this issue by not trying to defend colleagues in another house, I think that would be the most telling message that the press would watch, that the people would watch.

Yes, we've taken the pain out of this, but we haven't taken out the shame. And the shame is on us. And we can't get out of that by putting pain on the constituency, the people of the State of New York.

I implore my colleagues on the other side of the aisle to come Wednesday, to see where the courage is, to see who's committed to move the ball. There's no more we can do at this point. All efforts to fix

this thing have failed. We can't get a constitutional amendment, which I have proposed, so the people would have a budget on April 1st every year. We have taken it out of three-men-in-a-room scenario, and I commend Senator Bruno for opening up this door. He's opened it up for all Senators, he's opened it up for all Assembly people by being committed to the process.

So I think we ought to follow the constitution, we ought to pass a budget on time. I think we ought to let the Legislature come together, present this budget back to the Governor. And I think whatever fallout at that time occurs we would have to deal with. But there are no guarantees in this world.

So I implore you, please, on behalf of your constituents, show the courage to be there. I commend those Senators who were there two weeks ago. And one has to wonder what was said, what was not said, what was done, what was not done that suddenly -- one could only assume some pressure was applied. One can only assume some people were told not to be there. These are all assumptions. But

it's still a heck of a good question.

Let's not have that question this Wednesday.

Thank you, Madam President.

ACTING PRESIDENT McGEE: To close for the Minority, Senator Paterson.

SENATOR PATERSON: Thank you, Madam President.

I'm quite impressed with the mea culpa that a lot of our colleagues have expressed about our duties and how we may have failed not only ourselves but the public in not being able to pass a budget on time. And perhaps out of this last hour of decision we will take a new look at how we deal with this process.

But it was kind of startling that after the need to meet on Wednesday, as it was expressed, that the extender would go for a month. It's a long period of time. It's not fair to the public. It is certainly in dereliction of our duty.

But certainly the opportunity to sit and to talk is a fair request. And I think that it's founded in the concept of

fairness, which is an existing equitable belief that you should be granted the opportunity to receive what you've given, assuming that you come to court with clean hands.

Now, I heard a lot of self-righteousness out of some Senators, who I want to ask where were they on March the 13th, at noon, when they were statutorily required to elect four members to the Board of Regents and were absent at that time, even though court rulings have sustained the fact that that was a worthy proceeding. They didn't like the process, and they didn't show up.

Now they like the process, and they're admonishing those who don't want to show up in a different forum. And what I'm saying is that just really diminishes any self-righteousness or principle that anyone is trying to state here.

So now that we all know that we've all done it and we go back and forth changing sides on particular issues, admonishing each other and lecturing each other -- I was very impressed by the lectures I heard this

afternoon, but they really ring with the sounds of open cans and empty pots, when you can go back just a couple of months and see the exact same scenario with the reverse findings.

So what I would say is that perhaps we'll adjourn soon and we'll all go home and think it over, and maybe somebody come back here tomorrow with some consistency, because as long as we do have three men and a budget, as long as we all, out of some fierce, blind loyalty, don't speak up for what would really move the budget process along, which would be that all the leaders of the house agree that we stay here every day -- you keep people away from their constituents for two weeks, you'll get a budget passed in two weeks, I guarantee it.

But while we continue to drown in what I think is an orgy self-compromise, out of loyalty to some principle that I don't understand, perhaps we might want to think it over and come back tomorrow and recognize that the frailties that we have pointed out in each other exist in ourselves.

ACTING PRESIDENT McGEE: Senator Stafford, to close for the Majority.

SENATOR STAFFORD: Thank you, Madam President.

First, allow me, please, from the bottom of my heart, thank you for not asking any questions.

(Laughter.)

SENATOR STAFFORD: We usually have some questions on this bill.

We're closing. I was very sure of that before I said that.

(Laughter.)

SENATOR STAFFORD: Also, Madam President, I think it was a great founder of this country, one of the great founders, Benjamin Franklin, who once said we either hang together or we hang separately. I think that's rather profound. And we're finding here that what he was inferring is not good, and it is not good where we are.

I would suggest, Madam President, that what's been said here today, that we can sum it up -- but before I sum up, I have to - I'm afraid Senator -- oh, Senator Dollinger is

still here. And he and I also have to have a bit of a dialogue before I sit down. And I would suggest to him that the -- am I interrupting you back there?

I would suggest, Madam President, that the proposal has been made, in that we are having the conference committees. Therefore, I suggest that his analogy and suggestion is rather not on-target.

Senator Paterson, I never thought I'd see you so far off the mark. When it comes to electing the Regents, we all know that really we don't have any power, due to the fact of the numbers over -- let me see, is it the south side or the north side? You'll have to help me again. But I think it's the north side. We don't have any power. Therefore, it is not necessary for us to be there to have the constitutional decision made. Here, we do have to have everybody together.

And finally, Madam President, we have to have the reasonable person -- when we were in law school, we all learned about the reasonable man. I suggest that that should

now be revised and be the reasonable person.

And if we're going to be reasonable, we do, as has been said, attend the conference committees. The Governor proposed the budget earlier than necessary, to his credit. And it is now necessary for the Legislature to dispose -- and I don't like the word "dispose," so I would say act on the budget.

But again, we have to have reasonable people, reasonable persons, we have to sit down together to do that in the Legislature. And I think it's been suggested a number of times here today what needs to be done.

And with that, Madam President, without any questions, we're going to have this bill, I hope, pass unanimously.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 957, Senator Stafford moves to discharge, from the Committee on Finance, Assembly Bill Number 8864 and substitute it for the identical Senate Bill Number 5353.

ACTING PRESIDENT McGEE: Substitution ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, is there a message of necessity and appropriation on the Assembly bill?

ACTING PRESIDENT McGEE: There is a message of necessity and appropriation on the Assembly Bill at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT McGEE: All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

THE SECRETARY: Section 62. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator

Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: Just very briefly.

I was listening very closely, and I can hear Senator Bruno's frustration, and I think it is honest and I think it is earnest. And if dances and flowers and invitations would do the trick, I would send flowers to everyone in this chamber.

The reason I'm voting against the bill now is, as many of you know, I came out of a good government group. I was president of the League of Women Voters. I feel like I am sitting in the worst imaginable government possible right now, and it's just an embarrassment for me.

I heard certain things that I think are possibilities. One reason I think we don't go to the conference committees is because, as I understand it from my background, a conference committee, at least in Washington, D.C., is always joint. It is held between the two houses. And this is a one-house, so it is not truly a conference committee.

The two things that I did hear that I thought had some measure of worth, I think Senator Bonacic said something about the automatic trigger, that the Comptroller would do the estimates and then, within a certain amount of time, a week or so, we would then sit down at the conference committees. I think that sounds like one good possibility. I'm sort of very problem-resolving-oriented, so that's why I'm looking at these things now.

I think the extender for a month is too much. I think if we had an extender for only a week, we would be taking it much more seriously, because we'd coming back and doing this every single week.

And I think another thing that was mentioned was someone said something about coming back, just staying here daily, regularly, because we'd all get so disgusted with each other that we'd surely come up with a budget because we don't want to be here on a daily business.

I'm just thinking of things that would make us do the things that we all want to do, we know we should be doing, and how do

we force it to happen. And those ideas I thought were valid.

But I'll be voting no.

ACTING PRESIDENT McGEE: Senator Oppenheimer, in the negative.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: To explain my vote, Madam President.

I know that some of my colleagues and some of those who are preparing to run against me for reelection next year are going to be watching the way I vote in this chamber very, very carefully and will be very happy to point out to my constituents that I voted against this bill, against this continuing resolution.

And it will be unfortunate, too, that the language of that will not be to explain the background and the history and the situation that I find myself in which has forced me to vote no on this continuing resolution.

Having said that, however, I think it is incumbent -- I spoke the first time that we did this, and I said that I understood very

clearly the numbers of agencies and programs for which I fight every day and fight very, very hard to sustain would not in fact be paid and would not receive their allocations if in fact we did not pass these continuing resolutions.

But I also cannot be considered to be a part of the solution if I continue to vote to make things so easy and so relaxed that we don't have to be in a hurry. Even though all of us probably could use our salaries, you know -- and it's very obvious that it isn't a major consideration, because we haven't pushed this to the forefront of our issues.

But what is very painful for me is the fact that people are talking about as late as September and October with a comfortableness that is just frightening to me.

And to move from a two-week continuance to a four-week continuance, and I guess the next time we can expect a six-week continuance, which nobody -

ACTING PRESIDENT McGEE: Senator

Hassell-Thompson, how do you vote on the bill?

SENATOR HASSELL-THOMPSON: -- is concerned -- I will have to vote no, with the understanding that I do so at my own dread, but my conscience will not let me do otherwise.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson, in the negative.

Senator Stavisky.

SENATOR STAVISKY: Very, very briefly, to explain my vote, Madam President.

When the last appropriation came up, I said on the floor in explaining my vote that that was going to be the last time I voted for an emergency appropriation.

What we're passing today is more in line with the Governor's Executive budget proposal that came out in February. I think it's totally inadequate, it doesn't address the issues, and for that reason I vote no.

ACTING PRESIDENT McGEE: Senator, you will be recorded in the negative.

Senator Ada Smith.

SENATOR ADA SMITH: Thank you, Madam President.

I too find that I must explain the reason that I'm voting no on this extender. In all good conscience, I could not vote to extend an extension for four weeks when we are sitting here doing nothing to provide the State of New York with a real budget.

And I will continue to vote no on any other extenders until we start to take this seriously. And on behalf of my constituents, whoever may run against me, they can try to use it, but I believe that my constituents will understand that I'm voting for them.

ACTING PRESIDENT McGEE: Senator Ada Smith, in the negative.

Senator Brown.

SENATOR BROWN: To explain my vote, Madam President.

Like Senator Stavisky and Senator Connor, the last time an emergency appropriation bill came up I said if there weren't substantive negotiations going on, I would not vote for it again.

Unfortunately and sadly, there are not substantive negotiations going on, and I'm

not going to vote for this emergency appropriation today. What we're doing today is business worse than usual. I think we should stand up, we should not be extending this bill for one month -- one month is much too long -- we should say we want to pass this budget and we should only, only be extending an appropriation for a week at the longest.

I vote no, Madam President.

ACTING PRESIDENT McGEE: Senator Brown, in the negative.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. There's an article today, front page of the Daily News, and it talks about students who have not received adequate chemistry lessons, lessons in science which would allow them to pass their Regents.

And we have not negotiated, because we don't have a bill -- a budget that is negotiated between the two houses, as we normally do, which would provide funding for a STEP and C-STEP. Those programs are especially, specifically established by this Legislature and funded to make sure that

youngsters have access to this kind of education enhancement, enrichment in the sciences in particular, and technology.

And we are short at least $10 million for youth -- summer youth employment. And we have no summer - permanent funding for summer youth employment.

So there are many areas where programs, important programs in the City of New York, in my district in particular, are not being funded. They are on hold. And that is very bad, I think, for our constituents. It does not serve them, and therefore we're not serving them in our capacity as legislators.

So I'm going to vote no on this budget bill, because it really does not include programs that are specific for my district.

ACTING PRESIDENT McGEE: Senator Montgomery will be recorded in the negative.

Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. Just to explain my vote very briefly.

I want to clarify two things right at the start. Senator Stafford, you're absolutely correct. There's a proposal, but go back to Contracts 101. A proposal has to be accepted before something happens, before a marriage can occur. There are proposals from the Senate, there are proposals from the Assembly. There's no acceptance. I would suggest sending a marriage invitation is still premature.

And with respect to my colleague Senator Bonacic, who talked about political motivation in the process -- remember, he eloquently talked about the Minority party, those Democrats, since Republicans now control the Governor's mansion and the Senate, as they have for 50 years or 60 years or 70 years. He talked about this is politically motivated by the Minority.

Isn't it astounding that this all started in 1983, when there was a Democratic governor, a Democratic Assembly, and Republicans in the Minority party in the house, in the Senate in the Legislature? Could it be that this whole trend toward late

budget is a political ploy by the Republican Party to embarrass Democratic governors? I'm not sure.

I would just suggest that Senator Bonacic, when he accuses Democrats of that, is engaged in revisionism.

I'm going to vote no, Madam President. This goes far too long. It's like a teakettle. We're relieving all the pressure off budget discussions by admitting the defeat that it will take more than a month to do.

I will agree with whoever the speaker was who said when we start the conference committee, we can get it done. I would just suggest this is relieving all the pressure on all of us. It's not the right thing to do. I vote no.

ACTING PRESIDENT McGEE: Senator Dollinger will be recorded in the negative.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I'm just a little bit confused. Some people are voting no because the budget hasn't been negotiated and the schools are not being properly funded. If you vote no and if there was a majority

that voted no, we would be depriving the schools in our state of a billion dollars in state aid to close out this year. That seems sort of illogical.

To say that we're not putting enough pressure on ourselves by having a four-week budget, a temporary budget here, what pressure are you putting on in order to make sure we have true negotiations? And if someone could tell me how you can negotiate with only one person coming to the table, I'd like to know that as well.

This is the best way to go, in that school districts are not being hurt, they'll be able to operate until the end of the fiscal session.

And the only pressure that we can put on the person who doesn't want to negotiate is to be there at our meetings and try to get public support for true negotiations to start as soon as possible.

I vote yes.

ACTING PRESIDENT McGEE: Senator DeFrancisco, in the affirmative.

Senator Stachowski.

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

I'm going to vote for this measure. I can understand my colleagues in a protest vote of a four-week extender, because many of them said they would do that if there was another long extender offered.

I'm going to vote to pay the bills, because I think that we don't want to have a mixed message, somebody thinking that this is some party position in protest. This is people voting the way they think is right and why they want to do it.

I'm not going to get involved in the -- as I said earlier, it's nice that you have a conference committee, slash, press conference again Wednesday. When I get an invitation to a real conference committee - because I didn't make the rules. I didn't say they had to be signed by both the Speaker and Senator Bruno, in this case, the President Pro Tem of the Senate. Both have to sign it.

The Majority party has made the rules. We try to obey the rules, whether we like them or not. In all cases, we still try

to obey the rules. We're dealt the hand we're dealt with. We have to do what we have to do as members, always remembering that we have rules. Change the rules and let anybody call the conference committee, I'll be happy to be there Wednesday.

I vote yes.

ACTING PRESIDENT McGEE: Senator Stachowski recorded in the affirmative.

Senator Skelos.

SENATOR SKELOS: Madam President, to explain my vote.

I'm going to support this bill because -- and support Senator Stachowski in his voting in the affirmative, because, quite honestly, I don't attest to the Newt Gingrich approach of closing down government to get a budget done.

You know, I think it's totally appropriate that you pass a four-week extender because you need to -- organizations and people that benefit from these funds need to know that it's there and they need to know the plan.

For example, Office for the Aging,

$5 million for the Community Service Program, they need to know that that money is going to be there. 7.6 million for community treatment services for the Office of Alcoholism and Substance Abuse. $140 million, payment of public assistance. I think people on public assistance need to know that the funding will be there so they can get by.

You need $3 million for child support enforcement. 1.1 billion, as my good colleague Senator DeFrancisco said, general support of public schools. And 59, almost $60 million for the AIDS Institute Program.

I vote in the affirmative.

ACTING PRESIDENT McGEE: Senator Skelos, in the affirmative.

Senator Stafford.

SENATOR STAFFORD: Madam President, I'm not usually one who prolongs anything. But I do have to point out, Senator Dollinger -- now, you're talking about contracts. You've got to go back and read Williston. Now, if you don't know Williston, get Patterson and Jones' casebook.

And you'll find that yes, there has

to be an acceptance after the proposal that you had mentioned. But we're talking about a reasonable acceptance of our responsibilities.

And we have mentioned earlier that we've made the proposal to have the meeting, we're there for the meeting, now we need that reasonable acceptance. And that's what this is all about, accepting our responsibilities.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Stafford, in the affirmative.

Senator Balboni.

SENATOR BALBONI: Yes, Madam President, I rise to explain Senator Dollinger's vote.

(Laughter.)

SENATOR BALBONI: When he said the teapot and the pressure building in the teapot, the only analogy that's appropriate there is that there's a lot of hot air. That's what he meant, not that there was pressure building here.

As far as my vote goes, this message is for the Speaker, who I consider to be a friend. And I know that's heresy

among -- but I do. So Shelly, if you're listening, listen to me.

You can't have it both ways. You're either for an open process or you're not. You're either for reform or you're not. You're either for an open budget with a budget on time or you're not. Apparently you're not.

Thank you, Madam President. I vote yes.

ACTING PRESIDENT McGEE: Senator Balboni, in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 957 are Senators Brown, Connor, Dollinger, Hassell-Thompson, Montgomery, Onorato, Oppenheimer, Paterson, Schneiderman, A. Smith, and Stavisky. Ayes, 47. Nays, 11.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you recognize Senator Breslin.

ACTING PRESIDENT McGEE: Senator Breslin.

SENATOR BRESLIN: Madam President, I would request unanimous consent to be recorded in the negative on Calendar 584, Bill Number 3548.

ACTING PRESIDENT McGEE: So recorded.

SENATOR BRESLIN: Thank you.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, before we do housekeeping and members leave, I think it's appropriate at this time -- we have a wonderful institution, the State Senate, and probably the foundation of our State Senate for so many years has been Senator Marchi. And today is his 80th birthday.

And, Senator Marchi -

ACTING PRESIDENT McGEE: Happy birthday.

(Standing ovation.)

SENATOR MARCHI: Madam President, by way of brief response.

ACTING PRESIDENT McGEE: Senator Marchi.

SENATOR MARCHI: If I've been

here that long, it's the longest -- I don't know whether it's the longest in history, but certainly the longest in the country. And Senator Thurmond, down in Washington, we were both elected in 1956.

I consider every single day and every single member I ever met, no matter what side of the aisle they sat on, they were always so generous, so kind, so compassionate. It's been a labor of love. I have not made a sacrifice. I've enjoyed it so much. I love them all, all of you.

And it has contributed very generously to my pleasure in life and the associations that I formed across the years. And this goes back to 1953, when I was actually on staff, and '56, when I was elected. But these have all been happy years.

We have our differences, and we air them, and I'm not always right and you're not always wrong. But this is the setting. And it's been a joy for me. And the people that work here -- you too, Mary Louise. My wife is Mary Louise.

All of you, God bless you all. And

thanks so much for so much.

(Applause.)

ACTING PRESIDENT McGEE: Happy birthday, dear friend.

Senator Skelos.

SENATOR SKELOS: I would also like to point out, I'm not sure if they were born when Senator Marchi first came to Albany, but it's also Senator Spano's birthday and I believe Senator Paterson's birthday also.

So happy birthday to all of you.

(Applause.)

SENATOR SKELOS: Madam President.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: If we could return to motions, I believe we have the motion that Senator Dollinger does on a daily basis.

SENATOR DOLLINGER: Yes, Madam President, the motion that seems to have no end.

I just give written notice pursuant to Rule XI that I will move the Senate for an amendment to the Rules to add a new rule, XV,

with respect to ethical standards for officers, members and employees of the Senate.

I'd ask that that be filed in the Journal, Madam President, with thanks.

ACTING PRESIDENT McGEE: The notice is received and will be filed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please recognize Senator Volker.

SENATOR VOLKER: I just very quickly want to remind everybody that tomorrow is the Police Memorial celebration. In fact, because of the delay last week because of the National Memorial, both the Police Memorial and the Firemen's Memorial is tomorrow.

There a mass at 9:00 o'clock at Saint Mary's Church, and then the Police Memorial I believe is at 11 o'clock tomorrow morning. Unfortunately, it conflicts with our session, but it's at 11 o'clock tomorrow, the Police Memorial.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, please recognize Senator Farley.

ACTING PRESIDENT McGEE: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

Happy birthday to all three.

On behalf of Senator Libous, please remove the sponsor's star on Calendar 111.

On behalf of Senator Saland, please place a sponsor's star on Calendar Number 223.

On behalf of Senator Meier, on page 43, I offer the following amendments to Calendar Number 692, Senate Print 4863A, and I ask that that bill retain its place on the Third Reading Calendar.

Madam President, on behalf of Senator Johnson, on page 22 I offer the following amendments to Calendar Number 425, Senate Print 3258, and I ask that that bill retain its place.

And on behalf of Senator Larkin, on page 56, Madam President, I offer the following amendments to Calendar 820, Senate Print 2338, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT McGEE: So

ordered.

Senator Skelos.

SENATOR SKELOS: Would you please recognize Senator Hevesi.

ACTING PRESIDENT McGEE: Senator Hevesi.

SENATOR HEVESI: Thank you, Madam President. I rise to request unanimous consent to be recorded in the negative on Calendar Number 584, Senate Print 3548.

ACTING PRESIDENT McGEE: Without objection, so recorded.

SENATOR HEVESI: Thank you.

ACTING PRESIDENT McGEE: Senator Skelos.

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

ACTING PRESIDENT McGEE: There is no housekeeping at the desk.

SENATOR SKELOS: Madam President, there being no further business, I move we adjourn until Tuesday, May 22nd, at 11 a.m.

ACTING PRESIDENT McGEE: On motion, the Senate stands adjourned until Tuesday, May 22nd, at 11 a.m.

(Whereupon, at 6:31 p.m., the Senate adjourned.)