NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 17, 2002

11:06 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will 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 each bow our head in a moment of silence, please.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, April 16, the Senate met pursuant to adjournment. The Journal of Monday, April 15, 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.

The Secretary will read.

THE SECRETARY: Senator Maltese, from the Committee on Elections, reports:

Senate Print 350, by Senator Morahan, an act to amend the Election Law;

2009, by Senator Kuhl, an act to amend the Election Law;

2681, by Senator Maltese, an act to amend the Election Law;

4214, by Senator Morahan, an act to amend the Election Law;

And 5683, by Senator Maltese, an act to amend the Election Law.

Senator LaValle, from the Committee on Higher Education, reports:

Senate Print 3017, by Senator LaValle, an act to amend the Education Law;

4648A, by Senator LaValle, an act to amend the Education Law;

6191A, by Senator McGee, an act to amend the Education Law;

And Senate Print 6217, by Senator LaValle, an act to amend the Education Law.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Without objection, all bills direct to Third Reading Calendar.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

This is on behalf of Senator Balboni, Madam President. I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: That's Senate Print 6170.

ACTING PRESIDENT McGEE: So ordered.

SENATOR FARLEY: Thank you.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, there's a privileged resolution at the desk.

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

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: By the Senate Committee on Rules, Senate Resolution Number 4984, amending Section 1 of Rule VII of the Senate rules, in relation to changing the name of the standing committee on Investigations, Taxation and Government Operations to Investigation and Government Operations.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, are there substitutions to be made at the desk?

ACTING PRESIDENT McGEE: Yes,

there are.

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

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: On page 31, Senator Marcellino moves to discharge, from the Committee on Consumer Protection, Assembly Bill Number 1990 and substitute it for the identical Senate Bill Number 491, Third Reading Calendar 549.

On page 31, Senator Morahan moves to discharge, from the Committee on Consumer Protection, Assembly Bill Number 366A and substitute it for the identical Senate Bill Number 3141A, Third Reading Calendar 551.

On page 32, Senator Leibell moves to discharge, from the Committee on Local Government, Assembly Bill Number 1530 and substitute it for the identical Senate Bill Number 3157, Third Reading Calendar 558.

On page 33, Senator Rath moves to discharge, from the Committee on Local Government, Assembly Bill Number 7120 and substitute it for the identical Senate Bill

Number 5372, Third Reading Calendar 567.

On page 33, Senator Maziarz moves to discharge, from the Committee on Local Government, Assembly Bill Number 8823B and substitute it for the identical Senate Bill Number 5540A, Third Reading Calendar 568.

On page 34, Senator Meier moves to discharge, from the Committee on Local Government, Assembly Bill Number 10071A and substitute it for the identical Senate Bill Number 6396A, Third Reading Calendar 577.

On page 35, Senator Trunzo moves to discharge, from the Committee on Transportation, Assembly Bill Number 8846 and substitute it for the identical Senate Bill Number 4602, Third Reading Calendar 594.

On page 35, Senator Spano moves to discharge, from the Committee on Labor, Assembly Bill Number 2544 and substitute it for the identical Senate Bill Number 4298, Third Reading Calendar 596.

On page 39, Senator Alesi moves to discharge, from the Committee on Commerce, Economic Development and Small Business, Assembly Bill Number 8735 and substitute it

for the identical Senate Bill Number 6017, Third Reading Calendar 627.

On page 39, Senator Alesi moves to discharge, from the Committee on Commerce, Economic Development and Small Business, Assembly Bill Number 8734 and substitute it for the identical Senate Bill Number 6018, Third Reading Calendar 628.

On page 39, Senator Saland moves to discharge, from the Committee on Children and Families, Assembly Bill Number 9023 and substitute it for the identical Senate Bill Number 5484, Third Reading Calendar 637.

On page 40, Senator Spano moves to discharge, from the Committee on Children and Families, Assembly Bill Number 9628 and substitute it for the identical Senate Bill Number 6483, Third Reading Calendar 638.

On page 40, Senator Kuhl moves to discharge, from the Committee on Education, Assembly Bill Number 1682 and substitute it for the identical Senate Bill Number 6354, Third Reading Calendar 639.

And on page 40, Senator Kuhl moves to discharge, from the Committee on Education,

Assembly Bill Number 10577 and substitute it for the identical Senate Bill Number 6851, Third Reading Calendar 641.

ACTING PRESIDENT McGEE: The substitutions are ordered.

Senator Skelos.

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

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 397, by Senator Rath, Senate Print 6045, an act to amend the County Law and others, in relation to the dollar amounts established.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 23. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 425, by Senator Volker, Senate Print 3794A, an act to amend the Banking Law, the Civil Practice Law and Rules, and the Criminal Procedure Law, in relation to civil forfeiture proceedings.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 468, by Senator McGee, Senate Print 6341, an act to amend the General City Law and others, in relation to requiring.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the first day of July.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 501, by Senator Libous, Senate Print 3667, an act to amend the Mental Hygiene Law, in relation to providing.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2002.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 505, by Senator DeFrancisco, Senate Print 6449, an act to amend Chapter 414 of the Laws of 1887.

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.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 517, by Senator Marcellino, Senate Print 6576, an act to amend the Environmental Conservation Law, in relation to environmental protection funding for coastal purposes.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 524, by Senator Volker, Senate Print 3680, an act to amend the Executive Law, in relation to electronic equivalents.

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.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 526, by Senator LaValle, Senate Print 5848, an act to amend the Executive Law, in relation to the thermal imaging camera grant program.

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.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 529, by Member of the Assembly Gunther, Assembly Print Number 10092A, an act enacting the Greenwood Lake Protection Act.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 8. This act shall take effect upon enactment into law by the State of New Jersey of legislation.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 638, substituted earlier today by Member of the Assembly Brodsky, Assembly Print Number 9628, an act to amend Chapter 555 of the Laws of 2000.

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.)

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 641, substituted earlier today by Member of the Assembly Weisenberg, Assembly Print Number 10577 -

SENATOR DOLLINGER: Lay that bill aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

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

SENATOR SKELOS: Madam President, if we could go to the controversial calendar at this time.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 425, by Senator Volker, Senate Print 3794A, an act to amend the Banking Law and others, in relation to good behavior allowances.

ACTING PRESIDENT McGEE: Read the last section.

Senator Volker.

SENATOR VOLKER: No, no, let me

explain the bill.

This bill has been with us for several years also. It is the Sentencing Reform Act of, now, 2002. I believe it was initially sent to us by the Governor in 1999.

Essentially the provisions of this bill -- well, they're identical to last year. In fact, the amendment is that it's changed from the Sentencing Crime Act of 2001 to the Sentencing Crime Act of 2002. As far as I know, there's no other changes except maybe some renumbering or whatever, because this is really a comprehensive sentencing reform act that was proposed and was drafted primarily by Jim McGuire, who is the counsel to the Governor.

It includes in here provisions relating to the so-called Rockefeller Drug Laws, which really is the heart of what's left of the Rockefeller Drug Laws, which is the very highest penalties.

It allows for changes in sentencing so that the person in prison could have his sentence reviewed, who is in for generally 15 to 25 to life or whatever, and could get the

sentence reduced to as low as 10 years. Which in some cases might mean some people would get out.

It sets up increased drug treatment diversion programs, primarily in prison. It provides for enormous changes in money laundering which would allow prosecutors to make -- to do civil forfeiture proceedings against people, for instance, who leave the country, disappear, and even though there's a lot of money out there that could potentially be grabbed, right now under the law in many cases we can't do it.

It also -- this is also the bill that provides for 6/7ths. It's called no-parole sentencing for all nonviolent felons. In truth, it's about 6/7ths. The way it works out, an offender must serve at least 6/7ths of his or her fixed term of imprisonment and then is subject to parole. Under circumstances, might have to serve the entire sentence and then afterwards would be subject to an additional term of post-parole supervision ranging from one and a half to five years.

It does create also a "drug kingpin provision" which increases the penalties for those who sell large amounts of drugs or in some cases large possessors, very large possessors.

And finally, there are two other provisions in this bill. It provides enhanced felony penalties for drug sellers who use persons under the age of 18; and also the old favorite by the Governor's people that is thrown in a lot of bills, the right of the prosecutor to appeal lenient sentences, unduly lenient sentences, and unduly lenient bail decisions.

And that is effectively the bill.

ACTING PRESIDENT McGEE: Thank you, Senator Volker.

Read the last section.

THE SECRETARY: Section 107. This act shall take effect January 1, 2003.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 425 are

Senators Andrews, Duane, Hassell-Thompson, L. Krueger, Paterson, Sampson, M. Smith, and Stavisky. Ayes, 40. Nays, 8.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 638, substituted earlier today by Member of the Assembly Brodsky, Assembly Print Number 9628, an act to amend Chapter 555 of the Laws of 2000.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2 -

SENATOR DOLLINGER: Explanation, please.

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

SENATOR SPANO: Yes, Madam President.

We passed a bill last year that would give the Office of Children and Family Services the authority to review and expunge records if there were unfounded reports, using the standard of clear and convincing evidence, against the parent.

This bill sets a sunset on May 1st, and this would extend -- this would make the bill -- make this law permanent.

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.)

THE SECRETARY: Ayes, 51. Nays, 1. Senator Hevesi recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 641, substituted earlier today by Member of the Assembly Weisenberg, Assembly Print Number 10577, an act to amend the Education Law and a chapter of the Laws of 2002 amending the Education Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: We're waiting for just a moment.

Senator Smith.

SENATOR ADA SMITH: Thank you,

Madam President. I request unanimous consent to be recorded in the negative on Calendar Number 425, Bill Number S3794A.

ACTING PRESIDENT McGEE: Without objection.

SENATOR ADA SMITH: Thank you.

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: Madam President, I request unanimous consent to be recorded in the negative on Calendar 638, Senate 6483.

ACTING PRESIDENT McGEE: Without objection.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. I would like to be recorded in the negative on Calendar Number 638, Senate 6483.

ACTING PRESIDENT McGEE: Without objection.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, thank you very much, Madam President. I would seek unanimous consent to be recorded in the

negative on Calendar Number 425, Senate 3794A.

ACTING PRESIDENT McGEE: Without objection.

Senator Smith again.

SENATOR ADA SMITH: Madam President, I apologize. I forgot to request unanimous consent to be recorded in the negative on Calendar Number 638.

ACTING PRESIDENT McGEE: Without objection.

SENATOR ADA SMITH: Thank you.

ACTING PRESIDENT McGEE: Senator Kuhl, an explanation has been requested on Calendar Number 641.

Can we have order in the chamber, please.

SENATOR KUHL: Yes, thank you, Madam President.

This is a chapter amendment to a bill that was passed about two weeks ago in this house. The bill previously would have required -- that was passed, it was passed in both houses, and is waiting being sent to the Governor for signature on the passage of this chapter amendment. But that bill would have

required automatic electronic defibrillators to be in school districts effective immediately when a school district had a building with a capacity of more than a thousand people.

This chapter amendment goes to define that bill even further, and it does a couple of things.

Number one, it delays the implementation date from immediately to September 1, 2002, the thought being that if we impose a mandate with as little cost significance as this has to each school district immediately and that bill were to be signed, say, in the next week or two, we would be doing so without the school districts having the ability to build into their budget the purchase of a couple of defibrillators.

So the delay was put off until September when in fact the school districts, as you know, right now are in fact adopting budgets or will be very shortly, within the next month.

Also, it went to -- because there was some question as to the definition of who

this applied to, we were more definitive in that definition and made it applicable essentially to every school district with a building, and also applied to certain circumstances where there might be a need for this type of a device at extraordinary -- or I should say extra-activities like soccer games, baseball games, things of that nature.

So that's the essence of what this chapter amendment is all about, Senator.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Madam President, will the sponsor yield for a question, a couple of questions, please.

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

SENATOR KUHL: I'll be happy to.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: Could you tell me what the definition of instructional school facility is in this bill? Is that phrase used anyplace else in the Education Law?

SENATOR KUHL: Yes, it is. It's in the -- I believe in the basic Education Law. And it's where we -- it means wherever we have classrooms, Senator.

SENATOR DOLLINGER: So if there were a modular classroom, a portable classroom that was next to a primary school, this would require the on-site presence of an AED in the portable classroom portion of that building; isn't that correct?

SENATOR KUHL: I believe that's correct, Senator.

SENATOR DOLLINGER: And if there were several different portable classrooms on the same side, it would require a separate AED in each one of the portable classrooms, because they're all separate facilities; isn't that correct, Senator?

SENATOR KUHL: Well, not necessarily, Senator. If they're all on the same piece of property and contingent to each other, then there's only one necessary, needed for that piece of property.

In other words, we're not going to have every little classroom subdivided into

sections, Senator, and require a school district to, if they are under a temporary circumstance with a lot of mobile classrooms, to have, say, 45 of them when they're all in walking distance of each other.

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

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

SENATOR KUHL: I'd be happy to.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DOLLINGER: With all due respect, Senator Kuhl, where in the bill does it say that? This bill says in each instructional school facility. It doesn't talk about any limitation of portable classrooms on the site, it doesn't talk about -- as you described, and I think you properly would like it interpreted that way. But where in the bill does it say that?

SENATOR KUHL: Well, I think it's in the language itself, Senator. Each classroom is not a facility. And also it

talks about -- prefaced to that language that's added, there's the language "on-site."

So by the pure nature of all of those words when put together, not singling them out individually, Senator, I think the definition is clear. And that is where you have on-site extracurricular, or I should say scholastic facilities, then in fact there will be the requirement that there is an AED available.

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

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

SENATOR KUHL: I'll be happy to, yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: What is the cost of an automatic -- this defibrillator equipment? What is the cost per machine of each one of these machines?

SENATOR KUHL: I think it varies, Senator, from place to place and from state to

state. We have heard the maximum cost being somewhere in the vicinity of $3,000 if you were to go out as an individual and purchase one of these devices.

We've also heard that the State of Pennsylvania, when they in fact went and bought every one of their schools an AED, and they did this on a state bid, that the prices were somewhere around $1,400.

Every indication we have from the industry is because of the demand for these types of devices that in fact the price will be coming down to somewhere in the neighborhood of a thousand dollars.

And there are different types of the AEDs. There are some that are applicable primarily to younger students, younger people, there are some that would be more applicable to you and I. So that renders a different cost, if you will, to each one of those devices.

But it's within that range, somewhere from $1,000 to $3,000.

SENATOR DOLLINGER: Okay. If Senator Kuhl will continue to yield, Madam

President.

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

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DOLLINGER: In fact, Senator Kuhl, the one thing we're clearly not doing in this bill is buying these machines ourselves; isn't that correct?

SENATOR KUHL: Well, I -

SENATOR DOLLINGER: You mentioned earlier about the State of Pennsylvania used its buying power and went out and bought all these machines for their school districts at a cost of $1,400.

The one thing this bill does not provide is state money to pay for the defibrillators; isn't that correct?

SENATOR KUHL: This bill does not provide any appropriation for purchase, that's correct, Senator.

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

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

SENATOR KUHL: I'd be happy to.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DOLLINGER: Is it the intention in this bill, or any of its sponsors, that the State of New York buy these defibrillators for our 729 school districts and the probably 4,000 or 5,000 buildings that this would apply to?

SENATOR KUHL: It's not the intention of this bill to provide an appropriation for that purpose, Senator. There are a number of other types of methods of obtaining funding for the purchase.

What you also need to understand, Senator, is that not every school district has or will be required to have this mandate thrust upon them before actually complying.

There are many school districts in my Senate district that have already purchased AEDs because they recognize the potential lifesaving capabilities of these devices and so are not in need of this type of direction

coming from the state to actually provide for the safe environment for the students that attend schools there. And so they have, within their budgets, already appropriated money for those purchases.

There are some other opportunities in other kinds of programs, through private foundations, that are providing for funding for this type of purchase.

And I know that many of my colleagues on this side of the aisle -- I can't speak for those on your side of the aisle -- have already participated in making funds available for school districts to make this kind of purchase over and above their budget allocation.

But there is nothing in this bill, Senator, which would appropriate some money.

Now, as you know, we don't have an agreement on this upcoming budget. Many of us anticipate that in fact there will be additional appropriations available to school districts as part of our ability to maintain the low profile on levying taxes on real property owners. And so I anticipate that

there may be some funding available for this exact purpose in this next year's budget.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Okay. Madam President, if the Senator will continue to yield.

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

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DOLLINGER: Is the purchase of an AED currently a reimbursable expense from the State of New York through the Department of Education in our formulas?

SENATOR KUHL: No.

SENATOR DOLLINGER: So if there is no -- again, through you, Madam President, if Senator Kuhl will continue to yield.

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: So if there's no appropriation in the state budget and these

are not reimbursable or aidable expenses for the school districts, this cost would have to be borne by the school districts standing alone; isn't that a fair statement?

SENATOR KUHL: Well, Senator, one of the reasons this bill is before the house, this chapter amendment, is to provide for every opportunity for financing the purchase of these devices to be exhausted, up until September 1st of the year 2002, which is roughly five months away.

And in the interim, we are going to have hopefully two budgets adopted, one at the state level, which will provide significant funding -- and I think the tune is something like $15 billion that will be finally appropriated to school districts to help them out. And what we're talking about, Senator, here is roughly a couple-of-million-dollar purchase, if every school district hasn't already purchased that.

So you're talking about, if you will, peanuts when it comes to dollar and cost appropriations in this particular example, in this particular requirement.

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

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

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DOLLINGER: Senator, the bill uses the language that the Commissioner of Education would consult with the Commissioner of Health to determine the quantities of AEDs that would be available in each school facility.

Does this bill envision that they would have to purchase more than one, depending on the size of the facility? If there were 2,000 or 3,000 students in a major high school, that the Commissioner of Health could conclude that they actually need more than one because the building is so big it's too far away and therefore it would require them to purchase multiple machines for a single facility?

SENATOR KUHL: Well, Senator, let

me help you out with your reading of the bill, because it's very obvious that you excluded - and I don't know whether it's intentional or not intentional, but you also excluded the words "and types."

SENATOR DOLLINGER: I was going to ask about that.

SENATOR KUHL: Well, okay. Well, that also is part of the overall language. And you have to understand, as I tried to indicate to you before, that where you have young students and you have older students, there may be the necessity to have different types of AEDs that are applicable in that case.

So when you read the language - not singularly word by word, Senator, but when you piece it all together, what you should understand is that there may be occasion when, in a school district, that a school may need go different types of AEDs to accommodate all the students who are there.

So don't try to piecemeal this. I think you do yourself a disservice, Senator, if you try to piecemeal this and not

understand what is intended by this bill.

SENATOR DOLLINGER: Through you, Madam President, I still want to go back to the quantities. I understand the issue of types -

ACTING PRESIDENT McGEE: Excuse me, Senator Dollinger. Do you wish Senator Kuhl to continue to yield?

SENATOR DOLLINGER: I would. I was going to do that after I said something, but I'll ask him to yield now.

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

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: Isn't it a fact, Senator Kuhl, that there are different types of AEDs for children, for example, under the age of 8 years old? So a school that had a population -- let's say a smaller school district in your neck of the woods that had a single-building school district, all the way from high school down to kindergarten, that they would need one for smaller children and

then one for adults? Isn't that a fair conclusion?

SENATOR KUHL: That's entirely possible.

And that's the reason for the language, Senator, that the Commissioner of Health should get together with the Commissioner of Education and make that determination, so that they're not exposing any segment of the student population to some jeopardy when they thought they had all the potential risks covered.

SENATOR DOLLINGER: Correct.

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

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

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DOLLINGER: Isn't it also likely, Senator Kuhl, that depending on the size of the building -- for example, a big high school -- that they may need several adult defibrillators in the building in order

to be able to meet the requirements of the Commissioner of Health under this statutory language?

SENATOR KUHL: Senator, it is possible that in any type of kind of a school facility that they will need two or three.

Because, as you know, one of the parts of the school curriculum is to have extracurricular athletics. And in the particular case, you may have a school district that has two or three teams playing at different times in different locations. They may be either on the premises or they may be located at some athletic field a couple of miles away.

Those particular circumstances would require an AED device to be at those locations when there is that interscholastic competition.

So to cover the risk, we have not tried to define the risk in its totality in this bill. And that's what you have to understand, is that we don't want this house or any other house to ever have to answer the question why wasn't there an AED available for

my son or my daughter when they suffered this particular tragic incident.

We want that determination to be made on an individual basis by people who are knowing -- that being the Commissioner of the Health and the Commissioner of Education -- so that every school district has the maximum coverage.

Now, do we anticipate that that is going to lead to the purchase of extra thousands upon thousands of AEDs? The answer is no. But each circumstance, in my particular opinion, should be surveyed to the fullest to make sure that this maximum risk exposure is diminished to practically zero, if not zero.

ACTING PRESIDENT McGEE: Senator Dollinger.

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

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

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The

Senator continues to yield.

SENATOR DOLLINGER: Senator Kuhl, as I read this bill, whenever a school-sponsored extracurricular event occurs, there must be a trained technician who knows how to work an AED on the site. Is that correct?

SENATOR KUHL: That is correct.

SENATOR DOLLINGER: And would that apply in situations where senior citizens are using a school building for adult education?

SENATOR KUHL: Adult education?

SENATOR DOLLINGER: If it's approved by the school district. It is, in the words of the language, it's a school-sponsored -- it's an extracurricular event. It's been approved by the school district.

Almost every school district that I represent says that you can't have adult education in the public high school unless it's approved by the Board of Education. Therefore, that would make it a school-approved extracurricular event.

SENATOR KUHL: Right. And in that particular case, if it was a school-sanctioned extracurricular event, then there would have to be somebody who was trained in the device there.

ACTING PRESIDENT McGEE: Senator Dollinger.

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

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

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: If they opened one room in the high school and there were six seniors who came to that adult education, would the school district have to pay the cost of having a technician trained in the AED available on-site under this bill, even if there are only a half a dozen seniors?

SENATOR KUHL: Senator, the bill does not direct the cost appropriation. What it simply says is that -- and you can read the

bill -- is that that school district will have somebody trained in the use of the facility there.

Now, that could be a senior citizen who was trained in that facility as part of that education. It could be a school nurse. It could be anybody who is trained in that particular operation of the equipment.

Now, for your information, Senator, you should know that we have been told that the training is extremely extensive; it takes all of about 15 minutes to train somebody how to use this machine. They're essentially idiot-proof, if you will. Once you know the basics, there's nothing that you can do in the administration of this machine to solve the problem wrongly.

And all it takes is 15 minutes, and that is anticipated as an additional training part of a normal CPR kind of training program. And there's even some discussion about having that as part of the training program that's addressed to students as part of bills that we've actually passed here, Senator.

SENATOR DOLLINGER: Through you,

Madam President, if Senator Kuhl will continue to yield.

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

SENATOR KUHL: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DOLLINGER: Is there any provision in this bill that makes the cost of training an aidable expense for school districts?

SENATOR KUHL: No.

SENATOR DOLLINGER: Madam President, I want to thank Senator Kuhl. I appreciate his candor, as always, his accurate and decisive answers to the questions certainly that I ask him.

Madam President, I'm going to vote no on this bill, and let me tell you why. We have talked in this chamber forever about let's end unfunded mandates. Senator Rath used to sponsor a bill. We would debate the unfunded mandates, and we'd talk about, okay, if we really believe in unfunded mandates, why don't we just stop doing it? Why don't we

just restrain ourselves?

Why do we need to pass a bill that says we're going to have no unfunded mandates, but when we get to one, right here, when we say to the school districts: Here's what we're going to do, we're going to require that in each instructional school facility, each - that's the word, Senator Kuhl, that I focus on, "each."

That means that if you have portable classrooms on a site or if you have the bus garage where you happen to be teaching automotive skills, you're going to have an AED in there. You're going to have to have an AED in portable classrooms.

You're going to have to have AEDs -- this bill says that the Commissioner of Health could decide that in a single high school you need a half a dozen of them, because it's a big high school. You've got to -- as Senator Kuhl I think properly points out, if an AED is going to work, it's got to be available on relatively short notice.

But the interesting thing that Senator Kuhl said is that this would be done

on an individual basis. We're going to have somebody from the state go in and decide where to put AEDs on an individual basis.

Well, the best way to do that, from my point of view, is let's leave it up to school districts and school boards to do this. They're the people who are familiar with this. They know what the individual basis is. They know what the individual needs are. They're out in the field. They have people in the portable classrooms.

They can make this judgment best for themselves. We don't need to make it in this hall. We can leave it up to the people who are elected locally or close, to the people who, quite frankly, will have to deal with the consequences of someone if they died because of lack of the ability to resuscitate them.

Why is it that we assume school boards can't do it themselves? Why is it we assume that they won't do this?

In addition, Senator Kuhl described this as peanuts, this is a tiny expense. I would just point out to my friends across the

aisle, you feed something enough peanuts, and suddenly it's an elephant. Suddenly it's one of those big, walking, stalking, stomping, unfunded mandates that we let loose across this state. And after they've stomped around and caused all this havoc with our school districts and elsewhere, then we say, okay, we can come in and somehow control this elephant.

I would suggest this is one of the most beneficially intended elephants that we're about to let loose.

I also think that this has very substantial hidden costs to school districts. You wait and see, this will be a trial lawyer's dream. I'm a trial lawyer, Madam President. I love those instances where we create higher levels of culpability on the part of public institutions, where we say to them: You have to have this piece of equipment, and the first time it isn't there and the first time that the trained staff person is on a lunch break instead of operating the machine and someone dies, it will cost the school districts of this state many, many, many dollars.

Now, Senator Kuhl has properly put in a waiver provision that says if somebody fails to do it right or is doing this in an emergency situation, then the school district is not liable.

I would suggest, Senator Kuhl, the greater liability risk that you're exposing school districts to is what happens -- not whether they administer the machine properly, but what happens when the district fails to provide the machine in a ready and appropriate place, and someone dies. The cost to a school district is going to be out of sight.

Make no bones about it, by passing this law we are creating a standard for negligence. When school districts fail to do it, through whatever means possible, whatever happens -- there's a lock on the door and they can't get in to get the AED, there isn't a sufficiently trained staffer in the room - this is going to expose our school districts to unbelievable liability from the plaintiff's bar.

Senator Kuhl and those who vote for it -- and I voted for it last time. But I'm

going to vote against it this time because I think if you believe in unfunded mandates, this is the right thing to vote for. If you believe that we ought to tell the school districts what to do about protecting their children, then go ahead and vote for it.

I have told many, many people many, many times I'll vote for some unfunded mandates. I'll vote for those that make sense. But in this instance, there's no evidence that the school districts can't do this themselves. There's no way that we should be requiring them to buy thousands and thousands of machines.

I have an estimate from the Monroe County School Boards Association that says this will cost $15 million across the state just for the purchase of the equipment. The training, my guess is, will cost millions more.

I have a report from a physician who says these machines are extremely sensitive machines, they do take -- despite Senator Kuhl's comment that they may be foolproof in their operation, there are

potentially significant consequences of their misuse.

So from my point of view, Madam President, I keep voting against these unfunded mandates, even one like this that has enormous popularity, even one that may have a beneficial intent. But when my colleagues are willing to buy these ourselves, pay for them ourselves, give them to school districts, like apparently our wise brothers did in Pennsylvania, I'll be the first to vote for it.

When we require them to buy it themselves because we think it's the right thing to do and assume they won't do it, that's an unfunded mandate. It's unfair. It's something everybody in this house talks about but is never willing to vote against. I will be one of those who does vote against it.

ACTING PRESIDENT McGEE: Senator Alesi.

SENATOR ALESI: Madam President, on the bill.

With regard to some of Senator Dollinger's comments, and with all respect,

the Senator mentioned that he is so extremely concerned about the liability factor. I would suggest that in this state where litigation seems to be so appealing to the trial lawyers, that the problem of liability might have more to do with the trial lawyers and their interest in suing for nearly everything.

Secondly, with regard to his fears about a $15 million cost across the state, I would simply ask: How much is a life worth when a trial lawyer is suing somebody?

Thank you, Madam President.

ACTING PRESIDENT McGEE: Thank you.

Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President.

I recently met with the parents of two young people who died on school premises, during school activities, for lack of the immediate need for CPR or a defibrillator. And I believe if you would have met -- the other senators would have met these parents, I think they would have been equally sensitive to the merits of this bill.

Yes, it requires the school districts to spend some money. I don't believe that the expense has any significance towards the loss of life. I don't believe that the expense is overwhelming to a school district.

And I believe the school districts, while I have some concerns on the liability, as has been brought up on the floor and well answered by Senator Alesi, notwithstanding those concerns, I believe the school districts do want to do the right thing and they will buy these defibrillators so that our young people on school premises have some protection and the parents feel that their children are not that far removed from immediate first aid or help when it's needed.

Thank you, Madam President. I support the bill.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Madam President, just to respond to my two colleagues. And again, I respect their view on this bill. I voted for it the first time

around too. I've learned a lot about it since then.

I would just suggest that if we really believed, Senator Morahan, that school districts were going to do this, why don't we buy them ourselves? If we think this is such a good idea and it's peanuts, as Senator Kuhl describes it, let's put an appropriation in the bill for $15 million to buy them ourselves. Let's put our money where our principles are. Instead, we put our principles and say, oh, the cost? Well, you've got to pay for that yourself. The training? You've got to pay for that yourself.

And even as Senator Kuhl admits, it's not even an aidable expense. We won't even reimburse you after you buy it. We're forcing you to pay for it.

I would suggest, Senator Morahan, Senator Alesi, Senator Kuhl, this is a great idea. Let's pay for it ourselves and make it even a better idea instead of making it an idea that has words behind it but no money.

ACTING PRESIDENT McGEE: Senator

Morahan.

SENATOR MORAHAN: I just have one question for Senator Dollinger. Would he propose that we would pay for fire extinguishers as well and other equipment for safety?

ACTING PRESIDENT McGEE: Senator Dollinger, do you yield -

SENATOR DOLLINGER: Is he asking me to yield?

ACTING PRESIDENT McGEE: I believe he is asking you to yield, Senator Dollinger.

SENATOR DOLLINGER: What was the question, Madam President?

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: I'll restate the question.

Would you propose, then, if we have to pay for these, that we start thinking about paying for the fire extinguishers and those sorts of devices that are mandated to be on premise?

SENATOR DOLLINGER: Madam

President, I believe that if you're buying fire extinguishers, they're aidable building equipment in our public schools. I believe that's a capital equipment purchase, I think it's an aidable expense, unless I'm mistaken. I think we've always paid for those. We always reimburse the school districts for those costs.

SENATOR MORAHAN: 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: Senator Kuhl, to explain his vote.

SENATOR KUHL: Thank you, Madam President. Just briefly.

I heard what Senator Dollinger has to say, and I wanted to thank him for his opposition. It seems to me that he has melded the support for this bill unanimously on this

side of the aisle, and, I think, on his side of the aisle except for himself.

It would seem to me, and I would just remind him, you know, there are times that we talk about mandates. But this state, we have a priority to make sure that our schools are safe for our children.

Last year we passed in this house a significant piece of legislation which was aimed at the violence that was in our schools. We did things like set up criteria for character education. We talked about listing -- you know, having school districts design actually acceptable conduct. And the list went on and on and on.

And that was an attempt by us, the agency who is charged with the responsibility for these children who attend schools, which has a criteria that is established by a Board of Regents, which is a state facility. This particular piece of legislation goes to try to make that area where they spend, at their ages, most of their waking hours, safe.

And that's what you have to understand, Senator. There is a

responsibility that we have. You cannot dodge that and aim that and shift that to the local community in hopes that they'll do that. My comments to your comments, Senator, are, you know, you can be penny-smart but you're being awful damn pound-foolish if you let one child die because there's a lack of an AED in a school district.

So I cast my vote in the affirmative on this piece of legislation, Madam President.

ACTING PRESIDENT McGEE: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: I echo what Senator Kuhl says. And it's a vote that we should all take in the affirmative.

I'm rising basically to express my strong concern about the constant cheap shots that are always thrown at so-called trial lawyers, the world is bad because of trial lawyers.

The fact of the matter is that since this country was formed, people get injured from various things. And as a result, we have a choice. We could always, in

government, pay fully for that injury under all circumstances in order to compensate the individual for the cost of whatever the problem may be. Or we can hold the individual or company responsible for their negligence for causing an injury to the others.

I am embarrassed, quite frankly, when I see some of these advertisements on TV by trial lawyers. They do not accurately reflect the job of someone who is truly trying to protect the interest of someone who is harmed as a result of the negligence of others.

How this debate could have degenerated into a shot at trial lawyers is totally beyond me, and I really, really resent it. I think it's wrong.

ACTING PRESIDENT McGEE: Senator DeFrancisco will be recorded in the affirmative.

Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Just to explain my vote.

I hope Senator DeFrancisco at least understands from my perspective, although I

raised the issue of an expansion of school liability, in my opinion, under this bill, I certainly have no ill will against trial lawyers, being one myself. I do think it's an obligation I have to talk about the potential that this bill will significantly increase liability of school districts when unfortunate incidents occur.

But I do just want to add one thing. Senator Kuhl, you've suggested I'm being penny-wise and pound-foolish. I'm actually willing to be $15 million wiser. I'll vote for this bill with an appropriation in it. Tack the appropriation in, and I'm willing to spend it.

And then I can look school districts in the eye and say, Guess what, I haven't made a decision in Albany that I know how to protect children better than you do. I assume that school districts have the protection of children as their highest priority. Highest priority. And I'm willing to say to them, I think you ought to have AEDs in your school. And I think it's so important I'm willing to pay for it.

I would suggest, Madam President, I'm not being penny-wise and pound-foolish, I'm trying to be $15 million wise and say I'm willing to pay for that.

Give me a chance to pay for it, and I will do that; I will support this bill. Until we're willing to pay for it and not simply tell them you've got to do it but we won't pay for it, I think that's unfair, and it becomes an unfunded mandate, another in a long string that this house talks against and then votes for.

ACTING PRESIDENT McGEE: The Secretary will announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Dollinger recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I request unanimous consent to be recorded in the negative on Calendar 524, Senate 3680.

ACTING PRESIDENT McGEE: Without objection.

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

SENATOR VELELLA: Madam President, may we return to motions and resolutions. I believe there are three privileged resolutions at the desk by Senator Morahan. May we have the titles read and move for their immediate adoption.

ACTING PRESIDENT McGEE: Motions and resolutions.

The Secretary will read.

THE SECRETARY: By Senator Morahan, Legislative Resolution Number 4985, honoring Mona and Ira Litwak upon the occasion of their designation for special recognition by the Montebello Jewish Center on April 21, 2002.

By Senator Morahan, Legislative Resolution Number 4986, honoring Denise and Martin Greenwood upon the occasion of their designation for special recognition by the Montebello Jewish Center on April 21, 2002.

And by Senator Morahan, Legislative Resolution Number 4987, honoring Allan Garfield upon the occasion of his designation

for special recognition by the Montebello Jewish Center on April 21, 2002.

ACTING PRESIDENT McGEE: The question is on the resolutions. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The resolutions are adopted.

Senator Velella.

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

ACTING PRESIDENT McGEE: Yes, there is.

Senator Meier.

SENATOR MEIER: Thank you, Madam President.

On behalf of Senator Nozzolio, on page number 10 I offer the following amendments to Calendar Number 214, Senate Print Number 2672B, and ask that said bill retain its place on the Third Reading

Calendar.

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

SENATOR MEIER: Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Meier.

SENATOR MEIER: On behalf of Senator DeFrancisco, on page number 26 I offer the following amendments to Calendar Number 496, Senate Print Number 6671, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Meier.

SENATOR MEIER: Thank you, Madam President.

On behalf of Senator Libous, I now wish to call up his bill, Print Number 3667, which is at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 501, by Senator Libous, Senate Print 3667, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT McGEE: Senator Meier.

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

ACTING PRESIDENT McGEE: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: Senator Meier.

SENATOR MEIER: Madam President, I now offer the following amendments.

ACTING PRESIDENT McGEE: The amendments are received.

SENATOR MEIER: Thank you, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Meier.

Senator Velella.

SENATOR VELELLA: Madam President, could you recognize Senator Montgomery. I believe she has a request.

ACTING PRESIDENT McGEE: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I would like to be recorded in the negative on Calendar 425.

ACTING PRESIDENT McGEE: Without objection.

Senator Velella.

SENATOR VELELLA: Madam President, there being no further business, I move we adjourn until Monday, April 22nd, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT McGEE: On motion, the Senate stands adjourned until Monday, April 22nd, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 12:03 p.m., the Senate adjourned.)