NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 21, 2003

11:01 a.m.

REGULAR SESSION

SENATOR CARL L. MARCELLINO, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MARCELLINO: The Senate will please come to order.

I ask that you all rise in the chamber and please join me in repeating the Pledge of Allegiance.

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

ACTING PRESIDENT MARCELLINO: In the absence of clergy, may we stand for a moment of silence.

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

ACTING PRESIDENT MARCELLINO: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, May 20, the Senate met pursuant to adjournment. The Journal of Monday, May 19, was read and approved.

On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

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

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution Number 1815, honoring the third- and fourth-grade students of Elmcrest Elementary School in Liverpool, New York, for their participation in the 50th Senate District "Good News! Good Kids!" Youth Responsibility Program.

ACTING PRESIDENT MARCELLINO: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I'm proud to rise and welcome the elementary students from Elmcrest, in my district, as the

winners of the "Good News! Good Kids!" program that we've had in the 50th Senate District -- formerly the 49th Senate District -- since I've been a member of the Senate.

And basically the purpose of it is to recognize good kids who are doing good things. Because unfortunately, too often we talk about the bad things that children are doing, or the bad things that kids are doing.

At Elmcrest, these young people who are here with us, I believe 75 of them, showed that they are truly good citizens and good kids. And they had a program called the Empty Bowl program, the Empty Bowl Supper, where they made bowls out of clay and presented -- raised money by doing this to remind people of those people who are less fortunate than ourselves, raising money and providing that money for worthwhile services.

It's a wonderful, wonderful thing that they've done. And we wanted to honor them by bringing them to the New York State Senate and passing a resolution in their honor.

And we have -- have you moved the

resolution at this point? We would request that you move the resolution.

I request unanimous support from this body for these children for the good things that they are doing for our community. Because there are good kids, and that's good news.

Thank you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Farley.

SENATOR FARLEY: Move the resolution first.

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

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The resolution is adopted.

Senator Farley.

SENATOR FARLEY: It's rather unique, Senator Skelos and Mr. President, that

this gallery is full of young people that are doing good things.

Right over here on the right -- we don't introduce people -- there's a whole group from Niskayuna, my hometown, all student leaders from Iroquois School and so forth, here to honor the "Good News!" people from Senator DeFrancisco's -- let me just say that all of us in the Senate are proud of you youngsters and what you do. You're the future of this country, and we're proud to have you here today.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Farley.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a privileged resolution, 1816, by Senator Golden. Could we have the title read and move for its immediate adoption.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: By Senator Golden, Legislative Resolution Number 1816, commemorating the 120th Anniversary of the Brooklyn Bridge.

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

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The resolution is carried.

Senator Skelos.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Skelos.

SENATOR SKELOS: There are six privileged resolutions at the desk by Senator Kruger. Could we have the titles read and move for their immediate adoption.

ACTING PRESIDENT MARCELLINO: The Secretary will read all six resolutions.

THE SECRETARY: By Senator C. Kruger, Legislative Resolution Number 1817, commending Paul Mak upon the occasion of his designation for special recognition at the 37th Annual Dinner Dance of the United Progressive Club on May 22, 2003;

Legislative Resolution Number 1818, commending Daniel Luu upon the occasion of his designation for special recognition at the 37th Annual Dinner Dance of the United Progressive Club on May 22, 2003;

Legislation Resolution Number 1819, commending Mark Treyger upon the occasion of his designation for special recognition at the 37th Annual Dinner Dance of the United Progressive Club on May 22, 2003;

Legislative Resolution Number 1820, commending Kathleen Lavin upon the occasion of her designation for special recognition at the 37th Annual Dinner Dance of the United Progressive Club on May 22, 2003;

Legislative Resolution Number 1821, commending Monsignor David Cassato upon the occasion of his designation for special recognition at the 37th Annual Dinner Dance at the United Progressive Club on May 22, 2003;

And Legislative Resolution Number 1822, commending Sylvia LaCerra upon the occasion of her designation for special recognition at the 37th Annual Dinner Dance of the United Progressive Club on May 22, 2003.

ACTING PRESIDENT MARCELLINO: The question is on Resolutions 1817 through 1822, inclusive. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: All the resolutions are carried.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up the noncontroversial calendar.

ACTING PRESIDENT MARCELLINO: The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 108, by Senator Larkin, Senate Print 1225A, an act to amend the Civil Practice Law and Rules, in relation to authorizing.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 360, by Senator Velella, Senate Print 3445, an act to amend the Labor Law, in relation to air temperature standards.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39. Nays, 1. Senator Meier recorded in the negative.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 374, by Senator Volker, Senate Print 2773 --

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside.

THE SECRETARY: Calendar Number 377, by Senator Wright, Senate Print 3078, an act to amend the Criminal Procedure Law, in relation to designating.

SENATOR LIZ KRUEGER: Lay it aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside.

THE SECRETARY: Calendar Number 525, by Senator Velella, Senate Print 4380, an act to amend Chapter 511 of the Laws of 1995, relating to establishing.

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT MARCELLINO: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 653, by Senator Fuschillo, Senate Print 4435, an act to amend the Penal Law, in relation to including an official law enforcement.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of November.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 654, by Senator Fuschillo, Senate Print 4436, an act to amend the Penal Law, in relation to identification.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 659, by Senator Trunzo, Senate Print 2566, an

act to amend Chapter 672 of the Laws of 1993, amending the Public Authorities Law.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 703, by Member of the Assembly Abbate, Assembly Print Number 5104, an act to amend the Education Law, in relation to the filing of documents.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 707, by the Assembly Committee on Rules, Assembly Print Number 7913, an act to amend the Civil Service Law, in relation to the representation.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 714, by Senator Meier, Senate Print 4625A, an act to amend the Social Services Law, in relation to limiting eligibility.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47. Nays, 1. Senator Parker recorded in the negative.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 750, by Senator LaValle, Senate Print 1659, an act to amend the General Municipal Law, in relation to retaining actuaries.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT MARCELLINO: Can we please keep it down a little bit. It's hard to hear all the calls.

The bill is passed.

THE SECRETARY: Calendar Number 752, by Senator Skelos, Senate Print 1993, an

act to amend Chapter 846 of the Laws of 1970, amending the County Law.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 755, by Member of the Assembly Weisenberg, Assembly Print Number 5787, an act to amend Chapter 676 of the Laws of 1978, amending the Town Law.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 765, by Senator Maziarz, Senate Print 565B, an act to amend the Real Property Law, in relation to requiring a manufactured home park owner.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 767, by Senator Farley, Senate Print 2058, an act to amend the Public Housing Law, in relation to creating the Town of Glenville Housing Authority.

ACTING PRESIDENT MARCELLINO: There is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 775, by Senator Bonacic, Senate Print 4832, an act to amend the Private Housing Finance Law, in relation to an increase in bond and note authorization.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 833, by Senator Padavan, Senate Print 24A, an

act to --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside.

SENATOR PADAVAN: Kindly lay that aside for the day, please.

ACTING PRESIDENT MARCELLINO: Lay the bill aside for the day at the request of the sponsor.

THE SECRETARY: Calendar Number 842, by Senator --

ACTING PRESIDENT MARCELLINO: Excuse me one second.

Senators, please take your conversations outside. It's very difficult to hear.

The Clerk will continue to read, please.

THE SECRETARY: Calendar Number 842, by Senator Marcellino, Senate Print 761, an act to amend the Executive Law, in relation to designating September 11th as "9/11 Remembrance Day," a day of commemoration.

ACTING PRESIDENT MARCELLINO:

Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 843, by Senator Marcellino, Senate Print 762, an act to amend the Executive Law, in relation to display of the flag on 9/11 Remembrance Day.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number

852, by Senator Morahan, Senate Print 2109, an act to amend the State Finance Law, in relation to making a technical correction.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 886, by Senator Flanagan, Senate Print --

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT MARCELLINO: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 920, by Senator Balboni, Senate Print 3579, an act to amend the Penal Law, in relation to nuclear-powered electric generating facilities.

SENATOR SCHNEIDERMAN: Lay it

aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside.

THE SECRETARY: Calendar Number 922, by Senator Balboni, Senate Print 41 --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside.

THE SECRETARY: Calendar Number 924, by Senator Balboni --

SENATOR SCHNEIDERMAN: Lay that aside too.

ACTING PRESIDENT MARCELLINO: Lay that one aside too.

THE SECRETARY: Calendar Number 926, by Senator Balboni --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MARCELLINO: I'm shocked to hear that.

Lay it aside.

THE SECRETARY: Calendar Number 934, by Senator DeFrancisco, Senate Print 4700, an act to amend Chapter 912 of the Laws

of 1920, relating to the regulation of boxing and wrestling.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 938, by Senator Spano, Senate Print 1522, an act to amend the charter of the City of White Plains, in relation to the police pension fund.

ACTING PRESIDENT MARCELLINO: There is a home-rule message at the desk.

Please read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 965, by Senator Stachowski, Senate Print 868, an act to amend the General Municipal Law, in relation to general requirements of service award programs.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 980, by Senator Leibell, Senate Print 2999A, an act to amend Chapter 742 of the Laws of 1971 relating to incorporating.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 995, by Senator Little, Senate Print 4332, an act to amend the General Municipal Law, in relation to the exemption of certain cities.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1029, by Senator Seward, Senate Print 4374, an act to authorize the Town of Westerlo, County of Albany, to grant an easement.

ACTING PRESIDENT MARCELLINO: There is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MARCELLINO: The bill is passed.

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

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Skelos.

SENATOR SKELOS: With the consent of the Minority, could we please take up Senator Balboni's bills, 920, 922, 924, and 926.

Obviously we'll vote individually on each bill, but I think we are going to have a general discussion on the package of bills presented by Senator Balboni.

ACTING PRESIDENT MARCELLINO: The

Secretary will read.

THE SECRETARY: Calendar Number 920, by Senator Balboni, Senate Print 3579, an act to amend the Penal Law, in relation to nuclear-powered electric generating facilities.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Balboni, an explanation, I assume for all your bills, inclusive, has been asked for by Senator Schneiderman.

SENATOR BALBONI: Thank you very much, Mr. President.

And I'd like to thank Senator Schneiderman for permitting me the opportunity to talk about these bills in context.

There are four measures on the calendar today that deal with the ongoing effort to try to improve the security of our homeland. And of course we consider these measures against the backdrop of a heightened alert in this nation.

Some of these ideas expressed today have been developed through a series of

hearings that have been done around the state by the Committee on Veterans, Homeland Security and Military Affairs. And towards that end, I'd like to thank many of the members on both sides of the aisle for their consideration and contribution to these ideas.

Several of the bills deal with the ability to limit the vulnerable infrastructure of this state. And as we see today, that this is an issue that continues to resonate not only in this state --

ACTING PRESIDENT MARCELLINO: Excuse me. Excuse me, Senator.

Senators, please.

Thank you, Senator.

SENATOR BALBONI: -- but of course across the country itself.

In addition to which, there is a bill on the calendar that attempts to put into statute many of the efforts that have been done by local municipalities, from the City of New York to the County of Erie, that have been successful strategies in terms of emergency response and preparation.

But I also want to take this

opportunity to perhaps put into context where we have come since September 11th.

My colleagues, I have -- in my 13 years in state government, I have never spent as much time on any issue, ever, as this one, both from a national and from a state perspective. And I can truly tell you that since September 11th we have gotten stronger as a state. And many of the things that we have been able to achieve, the public has not seen.

One of the bills today codifies, puts into statute, the Office of Public Security. Now, that is an office whose function is not broadly understood by the public or, I daresay, by many of those in government.

I've met on numerous occasions, and I will tell you there are talented, intelligent, experienced officials from all walks of government who, when they get up in the morning until they go to bed at night, do nothing but worry about the security of this state.

In addition to which, we have had

unprecedented communication and cooperation between levels of government. That is the thing that we've been able to achieve through these efforts.

And there's one person who's responsible for that, in my opinion: the governor, Governor George Pataki. He has spent a tremendous amount of time and effort and concern about this issue, but he also realizes that we have much work to do.

Now, it was asked earlier from a discussion with Senator Schneiderman, you know, which of these bills are real? Which of the bills are going to happen? Well, as you know, there's been a deafening silence from our friends across the hall in terms of their bill package, though there are stirrings of life.

I believe now that the Assembly is going to be taking an active look at these bills. And the ones that we're negotiating right now today is the Chemical Plant Security Act, which is on the calendar today, and also I believe that they're going to be taking a very close look at the codification of the

Office of Public Security.

Let me just run down quickly the four bills that are before us.

The first bill would change the law as it relates to nuclear facilities. There was a glitch in the law that when the law was originally established, nuclear facilities were anticipated to be publicly owned. Private ownership was not considered. And therefore, there's a glitch in the law.

And I'd like to thank Senator Jim Wright for his experience and information on this particular issue.

So basically what we do is now we increase the penalties for anyone who would trespass on a nuclear facility, obviously recognizing the potential for disaster and calamity should an attack be made on a nuclear generating facility.

The second bill is a Chemical Plant Security Act that I and my office have been working on for several months. We've been discussing this with industry representatives and I believe have come across with a comprehensive approach that will, again,

harden the infrastructure.

And essentially the way the system works is the Office of Public Security would go out and do a survey of the chemical facilities across the state, determine which are the most dangerous or the most vulnerable of those facilities, and that would be predicated upon the discussion of the proximity to population centers, the type of chemicals that are stored there, and the ease or the access which a terrorist could have in trying to get to that facility.

And then, once that list is developed, go to those proprietors and say to them: You've got to change the way you do your security. And there could be a whole host of different measures, including additional security personnel, setbacks, monitors, fencing.

And then once that plan is developed by the facility, then that would be overseen by the Office of Public Security.

And the third bill talks about county disaster plans. If you take a look at the Executive Law, Article II, you can see

that many of the plans that have been developed are antiquated. They don't take into account any of the recent threats that we have seen -- chemical, biological, radiological, or nuclear. And therefore, we update those plans.

And in addition to which, we then go into many of the elements that have been successfully implemented in places like the City of New York. The City of New York has been a pioneer. And I've got to compliment Commissioner Tom Frieden for his work in this area, two elements in particular: syndromic surveillance and the point-of-distribution program for mass inoculations or the distribution of antibiotics. Nowhere else in the state or the nation have they come with this type of sophistication that could handle this type of patients at once.

And then, lastly, is the codification of the Office of Public Security. This bill I believe is essential because the Governor, acting very swiftly, created this office through executive order.

This office is providing a

tremendous benefit to the residents of this state, predominantly because it has brought coordination and communication to government law enforcement, not only in terms of the local and state assets but also between the federal and the state assets.

And it is this intelligence-gathering and analysis and then taking that information and providing it to the men and women of law enforcement on the street that has truly provided us with the best defense we could have at this particular point in time.

And I don't want this changed should another administration come in with a different perspective on this particular issue. I want this put on the books.

That is the package of bills, Mr. President. Let me end with one final comment. People have said to me that this issue of homeland security is one that has been made too much of, that we really can't control our destiny. What is going to happen is going to happen, and therefore we should just try to go along with our lives.

Well, I can't tell you that we're going to prevent any type of attack that may or may not occur, but I can tell you this. We have deterred and we have disrupted terrorist organizations right here in this state, and that's because we have made our cities harder targets.

This is the work that needs to continue. My colleagues, this is our time. We'll be looked at from future generations to determine how we responded to this threat and this challenge. I hope that we are recognized in the future as having taken real steps to provide for the safety of the people of this state.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Briefly, Mr. President, on the bill. Or I'm actually going to address all four of the bills that Senator Balboni spoke about.

I agree in large part with what Senator Balboni said. I do think that there

are people who have attempted to grandstand on issues related to homeland security. I think there are a lot of pieces of legislation, and we may speak about one later today, that people attempt to move by dressing them up in the framework of homeland security or the danger of terrorism. And I think we have to be very cautious about that.

I know Senator Balboni is working hard, and we do have efforts underway. And I would caution that it's a good time for us to try to work with the Assembly to come to agreement within the next month, before the session expires, on bills where we actually are close to making some modifications of the law that could benefit our citizens.

But I would also urge that the most fundamental defense we have is the same defense we had before September 11th, and that is well-paid, well-trained, highly motivated law enforcement personnel who can work in cooperation with our citizens, who are not alienated from the citizenry, who are not perceived as being separated from or in conflict with our citizens.

And we have to ensure, as we did attempt to do in passing a legislative budget, that the funds are there for the first line of defense, and on that we cannot waiver. But that really is our first line of defense. And that's something that I know that on this side of the aisle and in the Assembly there is a strong commitment to. So I hope we can make some of these bills law.

But let's not lose sight of the most basic elements of security. We have to have good law enforcement personnel, and we have to ensure that they work in cooperation with the public. If you have alienation between the law enforcement community and the public, you cannot possibly combat terrorism.

So I'm supporting this legislation, and I hope that we can actually enact some laws before we adjourn for this year.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Schneiderman.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. I just had one question,

if the sponsor would yield.

ACTING PRESIDENT MARCELLINO: Will the sponsor yield?

SENATOR BALBONI: Yes, I do.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR HASSELL-THOMPSON: Thank you.

Senator Balboni, there would be seem to be no fiscal implications. But in stepping up this law, do you see the state taking a greater role in adding protection to our existing nuclear plants -- i.e., at Indian Point -- or any of our electrical facilities?

SENATOR BALBONI: Mr. President, through you. Senator, as you're aware, the Nuclear Regulatory Commission, which is a federal agency, has the greatest control and authority over the security at nuclear power plants. And they have developed a strategy that provides for consistency and for a robust response at any one of the plants anywhere in the nation.

To the extent that state law can fill a glitch, as I believe we do here, we

will enact those statutes.

But in terms of changing or modifying the overall defense strategy of a nuclear power plant, that really is a federal issue.

ACTING PRESIDENT MARCELLINO: Senator Hassell-Thompson.

Senator Balboni, do you yield for another question?

SENATOR BALBONI: Yes, I do.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR HASSELL-THOMPSON: That tempts me, then, to ask another question. Thank you, Senator Balboni.

If in fact -- because the Nuclear Regulatory Commission does have that purview, I'm not clear why we need to step up our state laws in terms of enacting penal laws strengthening that which appears to be in place.

SENATOR BALBONI: Mr. President, through you. The statute before us really talks about one relatively minor aspect of criminal behavior. That is, trespass.

But the way that this figures into a broader homeland security strategy is that in order to commit acts of sabotage, you have to be physically on the plant. And -- physical acts of sabotage. And therefore, the precursor for any of those activities, either in terms of scoping out the facilities, determining the strength of defense, or putting in place means of ingress that could assist in any type of attack, would necessarily be facilitated by trespass.

What we want to do is we want to aggressively go after anybody who would do that. And we felt, when we looked at the entire scheme of laws that related to security of nuclear power plants, that this was in concert with those laws.

And like I said in the comments on that section, this also filled a problem in the law in that the original statute anticipated public ownership of nuclear power plants, when in fact the company of Entergy, it's a private company. And therefore, many of the protections afforded to public ownership were not afforded to private

ownership. So in this bill we changed that.

SENATOR HASSELL-THOMPSON: Okay. Thank you.

ACTING PRESIDENT MARCELLINO: Senator Volker, please.

SENATOR VOLKER: Mr. President, very briefly.

I was with Senator Balboni in Boston about a month ago. As I told the people there at the -- this was a national conference, and part of it was on homeland security. And I said I was there as a staff person for Senator Balboni, and some of the old-timers laughed.

But Senator Balboni has done more work than anybody -- maybe anybody in the country, any legislator -- in working on homeland security issues. They are very difficult, complex. And I think he is really to be commended for the enormous work that he has done, and I mean that very sincerely. And I know a little bit about this issue.

Senator Hassell-Thompson is on a Minority task force that has been working on this also.

But let me just say a couple of things about this orange alert that just happened. I was watching on television this morning, and I realize that there's a lot of confusion as to what's going on here. And they said: Well, what's the use of an alert? I mean, what does it mean to us?

Well, for one thing in New York it means we are now back at $6 million a day. We spend about $6 million a day. Think about that. That's $42 million a week.

And one of the reasons, I happen to believe, that we -- one of the reasons I unfortunately had to do a vote on tax increases here is because of something that wasn't mentioned. We have no idea how we're going to pay for some of this homeland security stuff.

Now, the Governor is working very hard to find a way to do this. The feds are doing some; we don't know exactly what.

But we must understand something. What happened yesterday, when they went to orange alert, a system clicked into action. One of the things was security plants. All

these plants are now checked more thoroughly. Trains were stopped and searched. Planes were shut down for a time and searched. It is not as much for the public as it is for the system to click in.

And probably New York -- and Governor Ridge has said this to Governor Pataki, we have, so far, the best system in the country. In New York City, we spend a tremendous amount because -- for the obvious reasons.

So if anybody thinks that this is some sort of game or a political game, they are absolutely wrong. This is serious stuff.

And as Senator Balboni said, the future of this country and how we are looked at may well be determined by what happens in the next year or so, because we are going to be challenged enormously, both financially and as a nation.

My only problem with some people from the American Civil Liberties Union, from the side that has continually said that we are taking too much and we're restricting people's rights too much, it's not us that's doing it,

it's the people who are attacking us.

The people who are attacking us are saying: You are not going to be able to do the things that you've done in the past. You can't fly the way you used to, you can't do all these things. They're doing this to us.

I resent it deeply that a group of people who hate us are causing us to be in a situation where we have to do things we don't want to do, to be annoyed as a nation, a peaceful nation.

So I would only point out, this is not a normal situation. It's all very well to say that, well, if we give in to them, they win. Oh, no, they don't. That's not true. If we make mistakes, we can remedy it. But there's one mistake we can't make, and that is allow these people to do things to us like the World Trade Center. At least we'll have a chance, a fighting chance to make sure that they can't do it again.

ACTING PRESIDENT MARCELLINO: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. If the sponsor would yield, through you,

Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Balboni, will you yield?

SENATOR BALBONI: Yes.

ACTING PRESIDENT MARCELLINO: He yields, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

I also -- it's clear to me that an enormous amount of work has gone into these bills, and I'm very impressed with the effort made. But I do have several questions that I think your bills raise, and I would like to ask them, to start.

You talk about, in -- I forget the number now, because I'm reading all four together -- expanding county preparedness for additional types of plants, including chemical plants and other -- I'm sorry, expands the definition of disaster to include an act of biological, chemical, or radiological terrorism, requires counties to include in their existing disaster preparedness plans sections to help mitigate terrorist attack.

So my question is, since -- up until now, primarily this discussion has

revolved around the safety of nuclear power plants. And Senator Hassell-Thompson already raised Indian Point.

But I think it's reasonable to agree that many, many people feel that we have not yet, and under federal authority we have not yet adequately addressed preparedness in the context of a nuclear power plant incident or a terrorist attack on a nuclear power plant.

Have you gone and taken a look at what people think is wrong with the federal model in the context of nuclear power plants, to try to make improvements in what we would do in preparedness for nuclear and all these other long list of plants that you're talking about?

SENATOR BALBONI: Yes, Mr. President, through you. Senator Krueger, I am not aware if you had an opportunity to look at the op-ed page of the New York Times yesterday. There were two articles that were laid side by side that spoke about the Witt report that was prepared and released last November and criticized the sufficiency of the

evacuation plans.

And the column on the left-hand side of the op-ed piece -- and I apologize, I forget the author -- laid out the argument that the reality of any type of release from a nuclear power plant did not require the broad-based evacuation that the Witt report spoke about.

In other words, that the evacuation requirements -- or the evacuation plans as required by the nuclear regulatory agencies is a template that is one-size-fits-all and considers a radius that is perhaps larger than would actually be needed, given the physics involved with that type of release.

Now, that was one argument by one individual. I have heard that criticism many times over, that the Witt report was strong on process but not on science. And this touches upon a lot of aspects about radiation that have become very difficult issues for this nation to come to grips with.

Ironically, Mr. President, of all the threats that we would consider from a terrorist perspective -- chemical, biological,

radiological, or nuclear -- radiological is one of the most frightening.

And what's -- the significance of that is that from an emergency management planning perspective, you don't know how to judge the public's response. And the level of panic in a response will determine how successful or how dismally -- what a dismal failure your plans are in the actual application.

So a lot of people have become very concerned about nuclear power plants. Frankly, from my own perspective, through many briefings from Washington and around the country, I've come to believe that there are threats that I don't want to detail here that are much greater from other sources than a nuclear power plant release.

That's not to mitigate -- I mean, not to diminish that threat. It is a threat. It is something of concern. But there are other things that we have not addressed that in my opinion are much more significant in terms of loss of life and property.

And, you know, remember the

timeline. We don't know when the terrorists will strike. Hopefully, they will never strike again. We don't know what their plans are. So we're running against the clock.

And as I've described so often, this is a -- public security is a huge onion where you take off a layer and it's a different issue. And each issue has its own complexities and challenges.

And it's my view that the federal and the state governments are trying as hard as they can to prioritize the threats in terms of exposure, population, economic disruption. And power plants are up there, but there are threats that are greater.

Having said that, let me be responsive. This bill is but one piece of a much larger matrix of regulations and controls on this industry. I have not gotten a chance to come to a definitive answer as to whether or not nuclear power plants are safe from terrorist acts. I don't think that there's one expert that agrees with another one as to whether or not nuclear plants are safe.

I'll tell you this, though. The

nuclear regulatory agencies are very aware about this. There has been tremendous political pressure as well as governmental pressure to try to review the security operations of these plants to make sure that they're at the best level possible. And I know that they've taken every step possible that they could do.

That still leaves other questions. But nonetheless, the bill here today is just one little corner of that very complex issue.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, if, through you, the sponsor would continue to yield.

ACTING PRESIDENT MARCELLINO: Proceed, Senator.

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

SENATOR LIZ KRUEGER: Thank you.

Well, I agree and disagree with your analysis. I agree that there are other hazards out there and respect that we should be doing emergency preparedness for it.

The reason I was raising the question about emergency preparedness -- and

my concern about that actually does relate right back to nuclear power -- if you were to take a look at the reports done by the National Institutes of Health after the Three Mile Island incident in Pennsylvania 23, 24 years ago now, what we learned from those reports is that despite preparedness plans and evacuation plans, none of it worked because of something you just said, panic -- panic in response to something such as a nuclear power plant risk of explosion.

And so no matter what the plans were in that situation, the police did not go to their assigned locations, they took their families and ran. As I think all of us would understand. The people who were supposed to go to the hospitals took their families and ran. The people who were supposed to coordinate traffic control didn't show up to coordinate traffic control, they took their families and ran.

Whoever knew early, left. And it's a perfectly natural, understandable reaction to the threat of a nuclear power plant exploding.

It's my argument for why I don't believe we can make nuclear power plants safe. And I feel stronger about it now because we do live in a time of terrorism, and, as you just said, we don't know what, when, and where. And that is terrifying in the context of a nuclear power plant risk.

Although I think that the Three Mile Island research is very relevant for looking at your own proposed plans for preparedness in hopefully less horrendous scenarios of chemical plants and other sites that could be risky.

So again, I would ask that we take a look at what's been learned from other parts of the country preterrorism concerns vis-a-vis nuclear preparedness and other types of evacuation plans.

But my actual question is, on your definition of chemical plants that would now have to be included in these categories, do you include things like research labs that are working with what can be dangerous and airborne substances, such as research labs that are experimenting with anthrax or other

types of chemicals? Not illegally, by the way. They have approval.

But they have -- they're in laboratory settings, very often associated with universities or hospitals, where, again, a terrorist attack would result in airborne release of what can be some incredibly dangerous chemicals or diseases or viruses.

So I was wondering whether any of your bills go into that.

SENATOR BALBONI: Mr. President, through you, the particular legislation before us defines "chemical facility" as a stationary source defined in Section 112(R)2 of the Clean Air Act. And the reason why we chose those is because that's the most highly regulated facilities we have.

Not included in that are the -- is the description of the facilities you speak of, research laboratories, unless they're under this act.

However, that does not mean that they're not -- that there hasn't been a vulnerability assessment. Shortly after September 11th, Governor Pataki formed a

Weapons of Mass Destruction Task Force which had members from many different groups, including state police and other law enforcement groups, and they did a survey of vulnerable critical infrastructure around the state.

And they have been working with the FBI and other federal agencies, and now Homeland Security, to not only identify but then talk about how do you mitigate the possibility of an intentional release and what that release would mean.

So now that's another part of the ongoing effort that's been made that, frankly, I don't think the public is really aware of.

We are choosing this one industry, though, to focus on. And, you know, something I didn't get into, the reason why we chose the chemical plant industry is not to pick on them, but if anybody thinks back to last February when the Exxon plant in Staten Island burned, you know, that was an unintentional explosion. And you saw the devastation.

You only have to go back to Bhopal, India, and literally hundreds of thousands

people who were killed as a result of that chemical plant disaster.

The plants, should they become a target of terrorism, a successful terrorist act, the devastation would be unimaginable.

So given that -- the height of the risk, given the fact that these plants need to be on the radar screen but then they also need to do things to mitigate these problems, that's why we chose this particular strategy.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, if through you the sponsor would yield to an additional question.

ACTING PRESIDENT MARCELLINO: Does the sponsor continue to yield?

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

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR LIZ KRUEGER: Thank you.

Is there anything in your bills -- because in a number of the preparedness and inventory lists it talks about some confidentiality clauses. Is there anything in your bills that actually conflict with or

override the federal Community Right to Know Law which ensures that the public can get access to information about a very long list, through EPA, of chemicals and other agents that people have the right to learn whether they are being used in their community, manufactured in their community, researched in their community?

SENATOR BALBONI: Mr. President, this statute -- this proposed statute before us in no way, shape, or form affects any of the existing state laws relative to the operation or regulation of any type of chemical plant.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, one more question of the sponsor, if he would.

ACTING PRESIDENT MARCELLINO: Does the sponsor yield?

SENATOR BALBONI: Yes, I do.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR LIZ KRUEGER: Thank you.

In your bill you talk about the bills, they don't require any new state costs.

You factor in the $11.2 million that the Governor put in for -- into the budget. But you do highlight that there will be some unknown costs to localities for having to increase their preparedness plans and update their systems.

I'm concerned that that can be extraordinarily expensive, although I don't disagree with the importance of doing it. And I'm wondering whether we should be looking at, at the state level, reevaluating state funds to localities to help meet what I believe will be very costly new requirements on them, and also urging that federal funds, through the various funding streams for antiterrorism activity, get factored into being made available to localities.

I can see for my city of New York, when you just think of the sheer volume of different companies and industries and locations that would be affected by the preparedness planning requirements, that the costs might be extraordinary. And I am concerned that we would be putting one more unfunded mandate on our counties, towns, and

cities.

SENATOR BALBONI: Mr. President, through you, I appreciate this question very much. I don't have the opportunity usually to talk about this particular funding aspect.

The federal government has approached the issue of emergency management response and preparation with three categories of fundings. The first category is through the Office of Domestic Preparedness. And just last week it was announced that the State of New York would be receiving $96 million, the City of New York $125 million. And these monies would be utilized for first-responder capabilities -- equipment, training, personnel costs, administration.

In addition to which, FEMA announced yesterday that there are two grants that are going to be utilized for community preparation amounting to approximately -- I think it's $75 million each to the state and the city for these programs.

And then, lastly, Health and Human Services has developed a list of grant proposals to address hospital preparedness in

the event of a biological or chemical attack.

Now, to tell you that these funding formulas are convoluted and complex is a vast understatement. I will also tell you that they are insufficient, given the scope and the magnitude of the response and preparation needed to bring our local communities up to speed.

And, frankly, I know that it is very expensive and the time that we've had since September 11th, though it may seem like a very, very long time away, hasn't really been a lot of time, given, again, the complexity and the enormity of the issue itself.

But Washington needs to recognize the enormous costs that the State of New York and the City of New York are undertaking every day. You heard Dale Volker talk about what happens, what it means when we go to Code Orange. That's the same thing for the state and the city.

But to do a funding formula predicated upon per-capita costs is outrageous. And that's what Washington did in

the first round of funding. As you know, the federal budget of 2003 was the original budget, and then you get a supplemental budget of 2003.

And even though the grant levels, particularly for the Office of Domestic Preparedness, would add historic levels -- before this 2003 budget, the supplemental and main budget, the funding levels were below a billion dollars. They're over $2 billion now. And the president's proposed budget for 2004 is $3 billion. So the level of money is increasing, but yet so are the requests.

And yet to say -- and I don't want to disparage anybody in Wyoming or Idaho, but to say that for some reason they should get more per capita than the State of New York, given the level of threat, given what's already happened here in this state, the presence of critical assets, of landmarks -- these are all things that when you talk to anybody in this realm of law enforcement, say these are the targets, these are what the terrorists are looking at, to say that we should get less than people in other states is

ridiculous. It's absolutely ridiculous.

Not -- not even talking about the economic engine that is the City of New York for the nation. Because we've seen what happened after the World Trade Center attacks, particularly as it related to the national economy.

Having said that, I believe that the federal funding formula is going to change. I believe that it's going to focus more on high-density vulnerable or threatened populations with landmarks and critical infrastructure. And that will only inure to the benefit of what this state is doing.

As far as our local municipalities, it is our task as legislators to advocate for the most money possible. But more important is not only the amount of money but how it gets transferred to our local fire departments. Whether it's in a city or a village, a town, how they are prepared. And that the preparation is done as a coordinated preparation, not done in some hodgepodge. That there is a well-thought-out, planned list of equipment that works, that is going to fit

into the needs of the community, that somebody has thought about this from an overall homeland security strategy, and that that strategy is understood and is cooperated with in the things that we do.

The pie of money is too small to do it any other way. So if I have any criticisms for the current state of affairs in terms of the funding, that's my criticism. That in our rush to try to get the money out the door, we've not been able to come up with the type of programs that really assist the state and the locals in trying to handle this momentous challenge.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, on the bills briefly.

ACTING PRESIDENT MARCELLINO: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

Actually, Senator Balboni just did my speech on the bills, so thank you very much for answering the question by pointing out the things I wanted to highlight.

The federal money has been woefully

inadequate. You pointed out Wyoming's share is unjustifiable. Texas and Florida also stand up there as apparently being -- Texas, Florida, and Wyoming -- the three states who are by definition somewhere in the federal mind-set as being at the greatest risk of terrorism when we know, of course, that it is New York that is constantly on everyone's lists of orange alert and high-priority concerns for a follow-up attack.

You also highlighted, so I thank you, one of the points I was trying to make, want to make. For all of the dollars coming through from the federal government -- and they have been confusing and mixed and matched and not rational, and they should be rationalized -- in everything you were talking about today in your proposals, the first responders that are going to have to be more prepared, who are going to have to respond to all these, who are going to have to have the training to deal with this, are in fact our fire departments throughout the state.

And at least for New York City, not a dollar of the new federal money is going for

the fire department, even though they are the first responders to biological hazards, chemical hazards, oil spills -- as you were describing before, any kind of hazmat situation.

And yet in the City of New York we are still finding ourselves proposing to cut our fire force, our fire department, the number of firefighters we have. I am sure that there are parallel experiences going on throughout the state.

And it shows to me that we are not prioritizing where we should, we are not demanding the money we ought to be getting from the federal government to help New York address the real costs that we have on a daily basis, as Senator Volker was talking about. And our own obligation to make sure that we are using those monies where they need to be used.

And I support your bills, even though I'm sure I have issues with varieties of pieces of them. But I think it is critical for New York State not only to have a better coordinated effort to protect our people and

our communities, but to also speak out in one voice to demand the fair share of federal funds we ought to be receiving from the federal government to ensure that we can secure our communities and our safety.

And I would also urge us, on that note, to speak out, to say to the federal government if you continue to cut federal taxes and drain the monies available for needs like this, we will never be prepared.

Thank you very much, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

I rise in support of these bills and want to take the opportunity to acknowledge and commend Senator Balboni on the leadership that he has demonstrated on this issue. He not only has established himself as a national leader but is helping New York establish itself as a national leader.

By virtue of chairing the Energy Committee, I've had occasion to spend a fair amount of time with my colleague working on

the issues that relate to the energy industry. He's very diligent, very conscientious on focusing on those issues, and also very responsive to concerns being raised by myself or being raised by the industry in terms of workable solutions and being focused on what maintains the reliability of the system and at the same time protecting it.

We've had occasion to be briefed by the industries, by the administration, and I would join him in his assessment that the administration has done a superior job and once again has placed New York State in a leadership role nationally because of those concerted efforts that are being made.

From my perspective, these bills are a step in the right direction. They're the kind of solutions that are the beginning of what will be a very comprehensive solution: The evaluations and assessments and remedial actions being initiated under the direction of the administration; the same in terms of the activities at the federal level, be they in terms of the NRC as it relates to the nuclear industry or in general in the overall arena of

emergency preparedness in homeland security.

I think as New Yorkers we can be confident of the steps that have been taken to date, of the commitment of this administration, of this Legislature to move forward. And these bills that the Senator is introducing and sponsoring today are testimony to that. I'm pleased to cosponsor several of them. I'm pleased to recommended them to my colleagues this afternoon.

Thank you.

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

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

I would just like to speak on the bill.

ACTING PRESIDENT MARCELLINO: Senator Diaz, on the bill.

SENATOR DIAZ: I'm a member of the Homeland Security Committee. I've been so blessed, so honored to be part of that committee under the leadership of Senator Balboni.

I think it's very important the work that Senator Balboni is doing. I'm proud to be a member, again, I'm saying, of that committee and working with Senator Balboni to bring that committee to the Bronx, because there are people in the Bronx and in New York City who will be able to benefit from the intellect, the leadership, and the well-coordinated committee that Senator Balboni is the leader of.

I'm a member of many other committees here. I'm proud to be a member of all the committees. But one of them that I'm very proud -- again, I'm going to say it, I'm going to be repeating myself over and over, I'm very proud to be a member of that committee. And I congratulate Senator Balboni on his leadership by introducing this committee.

Again, my complaints, like always, I'm a member of the committee and I would love to be cosponsor of this bill, but I can never be a member -- I mean, I've never been put anywhere on the bills. So I'm waiting for the day when in my committees, the ones that I'm a

member of, they ask me to be a member in sponsoring, cosponsoring some of the bills.

So I appreciate being a member of the committee. I congratulate Senator Balboni. Maybe next time let me cosponsor, let me cosign on those bills.

Thank you.

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

The Secretary will read each bill in sequence and separately.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 922, by Senator Balboni, Senate Print 4156B, an act relating to enacting the Chemical Security Act of 2003.

ACTING PRESIDENT MARCELLINO:

Read the last section.

THE SECRETARY: Section 11. This act shall take effect on the 90th day.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 924, by Senator Balboni, Senate Print 4749, an act to amend the Executive Law, in relation to local disaster preparedness plans.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Would you please

call up Senator Wright's bill.

ACTING PRESIDENT MARCELLINO: Senator Skelos, I think we have one more of Senator Balboni's bills to call.

The Secretary will read.

THE SECRETARY: Calendar Number 926, by Senator Balboni, Senate Print 5031, an act to amend the Executive Law, in relation to the New York State Office of Public Security.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MARCELLINO: The bill is passed.

The Secretary will read Senator Wright's bill, Calendar Number 377.

THE SECRETARY: Calendar Number 377, by Senator Wright, Senate Print 3078, an act to amend the Criminal Procedure Law, in relation to designating.

SENATOR LIZ KRUEGER:

Explanation, please.

ACTING PRESIDENT MARCELLINO:

Senator Wright, an explanation has been requested by Senator Krueger.

SENATOR WRIGHT: Thank you, Mr. President.

The bill before us this morning amends the Criminal Procedure Law, adding an additional designation of peace officer for security personnel or employees of nuclear-powered electric generating facilities.

The background behind this bill is currently, under existing NRC regulations, there are certain powers and authorities extended to security personnel of nuclear plants that are in fact unique to other facilities by virtue of being nuclear facilities and under NRC direction and guidance.

With the events of September 11th and the heightened, increased security, we had local law enforcement personnel working with the security personnel at the nuclear

facilities in enhancing and strengthening the various security aspects of it.

As a result of that experience, both parties, the nuclear plant security and the local sheriff's department, offered a series of recommendations to us. One of those recommendations was to extend the power of peace officer to the security personnel so that that authority could be utilized outside the existing perimeter of the facility as currently regulated by the NRC.

As I said, this was endorsed by the local sheriff, the reason for that being, number one, his familiarity with the plant, the security systems, the training, the annual exercises, evaluations that they work through, but also the experience of deploying his own forces and personnel in excess of $800,000 in one calendar year for the enhanced security that could have easily been handled by the existing personnel had they had this additional peace officer authority.

So that is what is granted by this legislation.

SENATOR LIZ KRUEGER: Mr.

President, if the sponsor would yield, please.

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

SENATOR WRIGHT: Certainly, Mr. President.

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

I feel like I maybe I should ask Senator Balboni to answer the question, rather than you, given our last discussion.

But my real concern here is, what is the training and qualifications of the people we're defining as peace officers that we want to give guns to at nuclear power plants? I don't necessarily disagree that that's a category of peace officer that should have the right to bear arms.

I'm very, though, concerned, given all of our concern here about security, particularly at nuclear power plants, that simply giving somebody who currently guards these sites a gun is not adequate, and that we should have some additional requirements, not just on the training and qualifications of

those people, but that perhaps under Senator Balboni's earlier proposals -- well, he's not here, I can't turn to him -- we should actually be mandating that there be some state police presence rather than private security.

So I was curious, what will be the training standards that will be used for these guards having guns?

SENATOR WRIGHT: Well, two things. First of all, let me go back and correct what I believe are some misunderstandings, Senator.

And one relates to the level of security and preparedness that existed at nuclear facilities prior to September 11th. In fact, they were probably some of the most secure sites that you could find anywhere in the nation. By virtue of being nuclear-powered facilities, by virtue of the recognition of their potential designation as a target, they long have had paid security personnel, trained security personnel, armed security personnel; under NRC regulations, extensive training requirements as well as the authorized use of firearms and deadly force,

restricted to the site.

We take this and go one step further in their ability to move beyond the perimeter and to act as a police officer. To achieve that status, they in turn have to have the additional training that peace officers are required uniformly in the State of New York.

And there literally are pages of requirements that are established by the New York State Municipal Police Council that are applicable to the training requirements for all full-time police officers, peace officers.

So they will have all of the same training that any other designated peace officer has in this state, and, on top of that, they will have the additional training required by the NRC.

SENATOR LIZ KRUEGER: Mr. President, if the sponsor would yield to an additional question.

SENATOR WRIGHT: Yes, I will, Mr. President.

ACTING PRESIDENT MARCELLINO: He

yields.

SENATOR LIZ KRUEGER: Thank you.

Just to clarify, again, perhaps my misunderstanding, you were saying that security guards at nuclear power plants have already been armed. This would expand the number of people who have that eligibility? Or how would this change that --

SENATOR WRIGHT: Mr. President, through you, this enables the individuals to have very specific authorities that are designated under the statute of peace officer, one being the power to make warrantless arrests.

And, for example, this is a result of the experience of being on-site for an extended period of time. Inside the parameters of the -- perimeters, excuse me, perimeters of the facility, they can take action to defend that facility and intercede.

Once you go beyond that perimeter, that becomes the jurisdiction of law enforcement and therefore either requires the deployment of local law enforcement or their response.

Local law enforcement recommended to us, and we have a letter of support from the local sheriff, that, more appropriately, by designating these individuals, they literally can walk across that imaginary line, conduct the necessary search, detain someone. Otherwise, they're simply restricted to the same authority you and I have, the ability to say, "Hey, what are you doing?"

So they needed an authority beyond that. They needed the ability to respond without simply calling local law enforcement away from their jurisdictional responsibilities on a regular basis.

So you have the extension of authority beyond the existing perimeters of the nuclear site itself.

SENATOR LIZ KRUEGER: Thank you, Mr. President. If the sponsor would yield just to one more clarification.

SENATOR WRIGHT: Glad to, Mr. President.

ACTING PRESIDENT MARCELLINO: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

This is very informative, and I now definitely have a different picture.

So as I understand your last description, so we have peace officers, they have the authority to carry guns now, but now we're letting them leave the confines of the --

SENATOR WRIGHT: That is correct.

SENATOR LIZ KRUEGER: -- power plant to, I'll imagine, to pursue someone.

Does this broaden their authority to outside of the power plant to conduct an investigation of someone who's a suspect, or only a pursuit?

SENATOR WRIGHT: Again, it's very specific in terms of the definition of peace officer.

They are clearly delineated in Section 220 of the Criminal Procedure Law. And it talks about the ability to make warrantless arrests, the power to use physical force and deadly physical force in preventing an escape or making an arrest, the power to carry out warrantless searches whenever such searches are constitutionally permissible.

That's part of the training, in case you wanted to ask that question.

The power to issue appearance tickets. It also talks about powers under the Navigation Law, because frequently -- well, in all instances nuclear plants are adjacent to large bodies of water, and that's a potential source of penetration of the perimeter as well.

So there's nothing new that has not been granted to other peace officers in the state. It's simply making it available to these trained individuals.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

Thank you.

SENATOR WRIGHT: Thank you, Senator.

ACTING PRESIDENT MARCELLINO: Senator Sabini.

SENATOR SABINI: Mr. President, if the sponsor would yield for a question.

ACTING PRESIDENT MARCELLINO: Senator Wright --

SENATOR WRIGHT: Certainly, Mr.

President.

ACTING PRESIDENT MARCELLINO: Senator Wright yields.

SENATOR SABINI: Senator Wright, in the language of the bill it talks about employees of nuclear power facilities other than security personnel who might be involved in an emergency evacuation -- I'm trying to find the language of the bill, and I'm having a hard time seeing it -- as part of any security plan approved by the federal operating licensing agency.

I'm wondering what kind of employee is that. Because, for example, fire safety, we have people that are deputized as part of fire safety plans. Some of them are in this room, for the Capitol. And I'm just wondering what type of employee would be a nonsecurity personnel who would be affected under this definition.

SENATOR WRIGHT: That's a perfect example, Senator, of someone that may be involved.

In the on-site emergency response plans and the off-site emergency response

plans, all of the nuclear operators have a very clear delineation of responsibility and authority of various personnel, various specific responsibilities designated to those individuals when they are implementing those plans, and all of that is subject to review, comment, and approval by the NRC.

SENATOR SABINI: Again, Mr. President, if the sponsor would yield for an additional question.

ACTING PRESIDENT MARCELLINO: Sponsor, do you yield?

SENATOR WRIGHT: Yes, I will, Mr. President.

ACTING PRESIDENT MARCELLINO: The sponsor yields, Senator.

SENATOR SABINI: Do these involve like scientific personnel, clerical personnel? I'm trying to get at who the nonsecurity people involved in the plant are.

SENATOR WRIGHT: Essentially they would be emergency management -- through you, Mr. President, emergency management response personnel that in a nuclear facility, many operators have a dual -- many employees have a

dual responsibility as part of that security operation.

Specific security employees, but fire safety response. They have their own fire capabilities. Those are individuals that typically would be important parts of the emergency management plan.

SENATOR SABINI: Thank you, Mr. President.

SENATOR WRIGHT: Thank you.

ACTING PRESIDENT MARCELLINO: Senator Onorato.

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

ACTING PRESIDENT MARCELLINO: Does the sponsor yield to a question?

SENATOR WRIGHT: Yes, I will, Mr. President.

ACTING PRESIDENT MARCELLINO: The sponsor yields, Senator.

SENATOR ONORATO: Senator Wright, I'm fully in support of the legislation.

I was just wondering, I represent a district in Queens that has the largest amount of power-producing plants -- they are not

nuclear. But what steps are we taking to ensure that while we're ensuring the nuclear plants are going to be a made a lot safer because of the tremendous amount of physical damage that could be done to the population -- but the other power-producing plants that are in the municipal areas such that I represent could also become prime targets.

And while they may not do the same amount of physical damage that a nuclear plant explosion would do, but by destroying the power plants in the city of New York would cause a tremendous amount of economic devastation to the entire city of New York.

Why are we not addressing the needs of the local power plants as a security measure?

SENATOR WRIGHT: Through you, Mr. President, the Senator once again has demonstrated his knowledge of the energy industry in his district.

We are, in fact, looking at those issues. The Public Service Commission has directed all of the utilities and operators to conduct an evaluation, an assessment. They in

turn have directed that an outside third party look at and review that for any weaknesses, any discrepancies in their existing security and their plans.

In turn, there are a series of enhancements that are recommended as a result of those evaluations. And the Public Service Commission, again, has another outside third party review that for additional redundancy, and safety is part of that overall evaluation.

The industry in general is receiving a great deal of attention simply by virtue, as you well point out, of the sensitivity of the industry and the impact it could have on our way of life, on our economy, the whole issue of threatening the reliability of energy generation.

So it's one that from the very beginning both the state and the administration, to its credit, started quickly, with the Public Service Commission, and the federal government have both focused on and continue to focus on, not limited to simply the plants but also the transmission and distribution systems as well.

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

Read the last section.

I'm sorry. Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. Based on the conversation, I would like to ask the Senator to yield to one more question.

ACTING PRESIDENT MARCELLINO: Senator Wright, will you yield to one more question?

SENATOR WRIGHT: Yes, Mr. President.

SENATOR LIZ KRUEGER: Thank you so much. This did not occur to me until after listening to the questions by my colleague Senator Sabini.

So under your bill, Senator Wright, if I am perhaps a deputized -- a fire inspector in this plant, but I am somehow deputized for security purposes, I would now have the authority to carry a gun and potentially pursue people off the site of the plant or even instigate an investigation of somebody believed to be a threat to the plant?

I would have that level of peace officer authority?

SENATOR WRIGHT: Mr. President, through you. The first designation is the decision by the NRC. And that of course is a public document that is reflected in a plan for on-site emergency response.

So any movement of personnel from the most obscure position, if you will, to a security responsibility would first occur in that plan before this legislation ever took effect.

Well, frankly, that's not going to happen in very many instances. You only move personnel from their primary designation when they can be a real enhancement to your on-site security and safety capabilities. So you're not going to take someone that has absolutely no relationship and put them in that role and have that accepted by the NRC.

The more appropriate scenario is the one that our colleague suggested, and that is that you have someone in a fire safety response capability that would be designated for a dual purpose.

SENATOR LIZ KRUEGER: Thank you, Mr. President. Briefly on the bill.

ACTING PRESIDENT MARCELLINO: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I appreciate all the clarification, because my concern of course was we would not want Homer Simpsons carrying guns and chasing people past the lines of nuclear power plants.

So thank you for the clarification.

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

Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 374, by Senator Volker, Senate Print 2773, an act to amend the Criminal Procedure Law.

SENATOR SABINI: Explanation.

SENATOR VOLKER: Mr. President, Senator Paterson was urging me not to do this bill.

And Assemblyman Lentol just came over here to tell me that they're probably not going to do this in the Assembly in a big hurry.

So I think, because of the lateness of the day and the fact that I'm threatened with all sorts of people that are going to speak against the bill -- though it's a wonderful bill, I must tell you -- but I think we'll lay it aside and we'll do it for another day. Okay?

(Sounds of exaggerated disappointment.)

ACTING PRESIDENT MARCELLINO: Lay the bill aside for the day.

Senator Bonacic, we do have some housekeeping at the desk.

SENATOR BONACIC: Mr. President, I'd like to return to --

ACTING PRESIDENT MARCELLINO: Ladies and gentlemen, we have business to conduct, please.

SENATOR BONACIC: Mr. President, I'd like to return to motions and resolutions.

We had a previous adopted resolution, 816, by Senator Golden. And we would like to open it up, put everyone on that resolution concerning the anniversary of the Brooklyn Bridge. And if anyone does not want to be on it, please tell the chair.

ACTING PRESIDENT MARCELLINO: So ordered.

SENATOR BONACIC: At this time, I'd like to return to housekeeping.

ACTING PRESIDENT MARCELLINO: Motions and resolutions.

Senator McGee.

SENATOR McGEE: Mr. President, on page Number 20 I offer the following amendments to Calendar Number 455, Senate Print Number 3344, and ask that said bill retain its place on Third Reading Calendar, on behalf of Senator Skelos.

ACTING PRESIDENT MARCELLINO: The amendments will be accepted, and the bill will retain its place on the Third Reading Calendar.

SENATOR McGEE: Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Bonacic.

SENATOR BONACIC: Mr. President, I'd now like to adjourn until Tuesday, May 27th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT MARCELLINO: On motion, the Senate stands adjourned until Tuesday, May 27th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 12:25 p.m., the Senate adjourned.)