NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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11:19 a.m.

REGULAR SESSION

SENATOR JOSEPH A. GRIFFO, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT GRIFFO: The Senate will come to order.

I ask all present to please rise and join with us as we recite the Pledge of Allegiance to our Flag.

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

ACTING PRESIDENT GRIFFO: Today's invocation will be offered by the Reverend Damone Paul Johnson. He's the senior pastor at Metropolitan New Testament Mission Baptist Church here in Albany.

Dr. Johnson.

REVEREND JOHNSON: To You, O God, be the glory for the things Thou hast done.

O Gracious and Almighty God, Thou who has created and called us into existence, Thou who in Thy infinite wisdom has placed in us a soul that cannot rest until it rests in Thee, to You, O Creator, we come just now to acknowledge Your presence and humbly bow before Thee and seek Thy divine guidance for this august body of leaders.

We are reminded in Thy word that if we ask, it shall be given; if we seek, we shall find; if we knock, doors shall be opened unto us.

So, Lord, we ask that a new spirit of unity, not sameness, permeate this group. Let them know that we all are one in Your spirit and yet this oneness cannot be made manifest until we each attune ourselves to Thee.

We further ask that each will be granted the undeniable courage and creative intellect that will cause them to boldly go forth to do the things which will transform hope into achievement and will challenge them to move beyond mere perfunctory acts of lawmaking to serious legislation that will have justice truly roll down like a mighty stream.

We now ask that the words of each person's mouth and the meditations of each person's heart be acceptable in Thy sight, and we ask this in Your son's name.

Amen.

ACTING PRESIDENT GRIFFO: Thank

you, Reverend Johnson.

The reading of the Journal.

THE SECRETARY: In Senate, Tuesday, May 1st, the Senate met pursuant to adjournment. The Journal of Monday, April 30th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: On page 32, Senator Hannon moves to discharge, from the Committee on Insurance, Assembly Bill Number 9225 and substitute it for the identical Senate Bill Number 6841, Third Reading Calendar 570.

ACTING PRESIDENT GRIFFO: The substitution is so ordered.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Mr. President, I wish to call up Senate Print 4124, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 163, by Senator Ranzenhofer, Senate Print 4124, an act to amend the Public Health Law.

SENATOR LIBOUS: Mr. President, I wish to reconsider the vote by which this bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: Mr. President, I now offer up the following amendments.

ACTING PRESIDENT GRIFFO: The amendments are received.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time we do have some resolutions that were

previously passed that there are folks here today. And as soon as everything gets situated, we'll come back to that.

But let's have the noncontroversial reading of the calendar at this time.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 93, by Senator Grisanti, Senate Print 6120, an act relating to authorizing the City of Niagara Falls.

ACTING PRESIDENT GRIFFO: 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 GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 125, by Senator Flanagan, Senate Print 5650C, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 239, by Senator Ball, Senate Print 6305A, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 515, by Senator Young, Senate Print 748, an act

to amend the Labor Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 544, by Senator Young, Senate Print 854A, an act to amend the Highway Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 566, by Senator Seward, Senate Print 2874A, an act to amend the Insurance Law.

ACTING PRESIDENT GRIFFO: Read the

last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 570, substituted earlier by Member of the Assembly Silver, Assembly Print Number 9225, an act to amend Chapter 447 of the Laws of 2009.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

578, by Senator McDonald, Senate --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 583, by Senator Johnson, Senate Print 4740C --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 585, by Senator Larkin, Senate Print 5513, an act to authorize the Commissioner of Education.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 587, by Senator DeFrancisco, Senate Print 6469, an act to amend the State Finance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 588, by Senator McDonald, Senate Print 6584, an act to amend the Public Officers Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 3. Senators Krueger, Perkins and Squadron recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

SENATOR LIBOUS: Mr. President,

could we return to motions and resolutions.

And I'm not handing up anything.

ACTING PRESIDENT GRIFFO: We will return to motions and resolutions.

Senator Libous.

SENATOR LIBOUS: At this time, Mr. President, could you please call on Senator Ritchie for the purposes of a statement.

ACTING PRESIDENT GRIFFO: Senator Ritchie.

SENATOR RITCHIE: I would just like to say it's a pleasure for me to have today some of the best and brightest young athletes in New York State. I have the honor to represent two of the teams who were in the Section III, Class D Basketball Championship.

And it was kind of interesting, because I really wanted to go to the game but I wasn't sure how I was going to do that, considering I represented both of the teams. So I decided that I would clap each time a basket was made. But when it got the point to figure out which side of the gym I was supposed to sit on, I decided as a politician it was probably safer for me to stay home and wish both teams the

best.

But the Sackets Harbor Patriots beat Madrid-Waddington. It was a great game, 35 -- Sackets Harbor scoring 49 points during that game. It was the high point for their season. They ended the season with a stellar record, 25 and 0, which shows all their hard work and dedication they put in not just this year but over a number of years.

Along with them today is Coach Robbins. I've heard over and over again what an excellent job that you do, that you're not just a coach but a leader and a mentor to the athletes, and you have instilled in them character and hard work and excellence in what they do.

Also with the team today is Superintendent Fred Hall, very passionate about the school and the job that he does, working hard to make sure we have some of the future leaders coming from Sackets Harbor.

And last but not least, I'd like to acknowledge the community and the parents. They were there for the students from the beginning of the season to the very end.

And as someone who represents the

community of Sackets Harbor, I'm very proud of the team. And I ask that my colleagues join in congratulating them on the state championship for the Class D, Section III Basketball Finals.

So thank you, and I'm so glad you could be here with us today. So if you want to stand up so we know where you are up there. Thank you for coming.

(Applause.)

ACTING PRESIDENT GRIFFO: On behalf of Senator Ritchie, we welcome you and congratulate you on the state championship.

Senator Libous.

SENATOR LIBOUS: And, Mr. President, I failed to mention that Senator Ritchie did pass a resolution that's at the desk back on March 30th honoring this great team.

ACTING PRESIDENT GRIFFO: So noted.

SENATOR LIBOUS: At this time, Mr. President, there are two resolutions at the desk by Senator McDonald, 4331 and 4332. They were previously adopted on May 1st. May we please have the titles read and then call on

Senator McDonald.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 4331, by Senator McDonald, honoring Hoosick Falls High School Girls Soccer Coach Tom Husser upon the occasion of his designation as the New York State 2011 Class C Coach of the Year.

And Legislative Resolution Number 4332, by Senator McDonald, congratulating the Hoosick Falls High School Girls Soccer Team and Coach Tom Husser upon the occasion of capturing the 2011-2012 New York State Class C Championship.

ACTING PRESIDENT GRIFFO: Senator McDonald.

SENATOR McDONALD: Thank you, Mr. President.

I'd like to take this opportunity to introduce you to the New York State Class C Girls Varsity Soccer Team State Champions. Please stand up.

The Hoosick Falls Girls Varsity Team right there in my district, they displayed a

tremendous amount of athletic talent under their coach, Tom Husser, who was named New York State Class C Coach of the Year. Their final record was 21 and 2. And they were also a New York State Scholar Athletic Team, showing that they are athletic and smart both.

I am so proud that the Lady Panthers, who scored 108 goals while giving up only 15 goals, became state champions. And they're here today, and let's all give them a round of applause.

(Applause.)

SENATOR McDONALD: Thank you.

ACTING PRESIDENT GRIFFO: We welcome you and congratulate you on your championship.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

At this time could you please call on Senator Hassell-Thompson for the purposes of a statement.

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank

you, Mr. President.

It gives me great pleasure today to welcome to our chambers third-graders from the Grimes Elementary School. Their principal, Ms. Lightsy, because she's proctoring exams, was not able to join them today, but several of their teachers are with them.

Each year, as part of my Social Studies Project with many schools in my district, I invite young people to come to Albany, not just to see how their government works but to get an idea of a possible future for them in leadership.

The third-graders this morning spent time with Bill Drafting staff and talked about how bills and how laws are made.

And they're going to be sending all of you copies of ideas that they have for possible bills. And I have promised them that if any one of their bills ever becomes law, that we will send them a copy and give them the credit for doing so.

I think that it's very important, not only do we have our athletic teams come to Albany, but also our academic students who are doing extremely well. These youngsters have

already taken their exams for the year. And when we talked this morning about how bills are made, we wanted to be sure that they were comprehending what was going on.

And I have to tell you, we could take a lesson from them, because they really were paying attention, they really understood. And when we asked some pertinent questions, it was clear they understood that process.

And so one of the things that I hope that we will do today as they observe us as we go through the process of how we argue and debate -- we talked about what debate was and what a good argument really is about. And it's substantive, it's passionate, but it always should be pointed and germane.

So I thank you, Mr. President, for giving me the opportunity to introduce my third-graders, their parents and teachers from Grimes Elementary School.

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson, thank you. And I know that we will all be on our best behavior today.

We welcome the students from Grimes.

I'm going to call upon Senator DeFrancisco, who would like to add some comments.

SENATOR DeFRANCISCO: Yes. Senator Hassell-Thompson just mentioned to you that if you pass a law, you'll be recognized for it. I want to tell you that it can happen. I'm going to give you one example.

When I first got into the Senate, there was a group, a third-grade class -- that probably is married by now -- a third-grade class that suggested there's a Mother's Day, a Father's Day, there ought to be a Children's Day.

Well, we put a bill in, a bill was put in the Assembly, and it passed. And now it's law, there's a Children's Day.

Now, the good news is there's a Children's Day; the bad news, it's on a Sunday in June. So you still have to go to school.

(Laughter.)

SENATOR DeFRANCISCO: So it can be done. So if you have any good ideas, get them to Senator Hassell-Thompson and maybe you will be instrumental in having a law passed in the State of New York.

Thank you.

ACTING PRESIDENT GRIFFO: Let's give a round of applause to the students who are visiting us today from Grimes.

(Applause.)

ACTING PRESIDENT GRIFFO: We welcome you and thank you for your presence.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

At this time let's go to the reading of the controversial calendar and take up the first bill. I believe it's 515, by Senator Young.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 515, by Senator Young, Senate Print 748, an act to amend the Labor Law.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT GRIFFO: An explanation has been requested by Senator Breslin.

Senator Young.

SENATOR YOUNG: Thank you,

Mr. President. I'd be glad to explain the bill.

This bill amends Section 904 of the Labor Law to allow a cap on asbestos project notification fees of no more than $500 for asbestos projects dealing with the handling and the removal of asbestos in owner-occupied one-or-two-unit residential structures.

This bill actually originated from a request from the Jamestown City Council, and they wanted to have relief from the onerous regulations dealing with asbestos handling and the removal and demolition of one-and-two-family residential structures.

This bill addresses the fact that limited resources of funding exist or are available to municipalities in New York State in order to meet the federal asbestos standards and, as a result, neighborhood improvement and demolition activities are slowed down due to the high cost of meeting standards such as those related to asbestos removal.

In 2005 this bill was actually a departmental bill, but it did not pass the Assembly.

Current asbestos regulations in

New York State are found in Article 30, Section 904 of the Labor Law, and the section lists project notification fees of $500 for projects that are the size of 500 to 999 square feet or $1000 for project sizes of 1,000 or more square feet. So this would actually cap it at $500 to make it more affordable to do these neighborhood revitalization projects.

It's supported by the New York State AFL-CIO, and last year it passed unanimously in the Senate.

ACTING PRESIDENT GRIFFO: Senator Sampson.

SENATOR SAMPSON: Thank you, Mr. President. Would the sponsor just yield for just a question or two.

SENATOR YOUNG: Certainly.

ACTING PRESIDENT GRIFFO: Senator Young yields.

SENATOR SAMPSON: Through you, Mr. President. What this bill is capping is reducing the limit from $2000 to $500?

SENATOR YOUNG: It's capping it at a $500 fee.

And the reason is that the City of

Jamestown has run into a lot of issues. In my district we have the oldest housing stock not only in New York State, but actually in the entire country. So we have a lot of the older wood-frame homes that are very much deteriorated. And the city would like to do more neighborhood renewal, and they can't afford to tear these down.

Also, a lot of the homeowners who have to do remediation work are bypassing the system. So they're illegally doing it because they find it cost-prohibitive in order to pay the $1,000 fee.

So as a result, you have people doing this work illegally and actually violating a lot of the safety rules that are in place. So this is a way to correct those issues.

SENATOR SAMPSON: Through you, Mr. President, would the sponsor continue to yield?

ACTING PRESIDENT GRIFFO: The sponsor yields, Senator Sampson.

SENATOR SAMPSON: Through you, Mr. President. So basically the reduction or leveling out to $500 would still continue the

homeowner's responsibility to continue the abatement of asbestos if it exists?

SENATOR YOUNG: Yes.

SENATOR SAMPSON: Okay.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Sampson.

SENATOR YOUNG: Thank you.

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

Seeing none, hearing none, the debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: In relation to Calendar 515, absent from voting: Senators Adams, Diaz, Espaillat, Oppenheimer and Serrano.

Ayes, 50.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 578, by Senator McDonald, Senate Print 2502, an act to amend the State Finance Law.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT GRIFFO: An explanation has been requested by Senator Breslin, Senator McDonald.

If I could have just some quiet in the house so that we can hear the Senators, please.

Senator McDonald.

SENATOR McDONALD: Thank you, Mr. President.

This is a Dewey Loeffel Toxic Waste Site bill, an act to amend the Finance Law in relation to providing state reimbursement for lost tax revenue due to toxic contamination.

The purpose of the legislation was to provide reimbursement to municipalities who have lost tax revenue due to court-ordered and marketplace impacts of contamination from the state hazardous waste site known as Dewey Loeffel

Landfill.

The site has recently been named a Superfund site, but responsibility for the site also rests with the State of New York through settlement agreements and shared responsibility with the federal government.

The State Finance Law is amended by adding a new section of 54-m, which defines municipality. This section also defines lost tax revenue and provides the terms under which the reimbursement is provided.

The Dewey Loeffel State Hazardous Waste Site is located in Southern Rensselaer County in the Town of Nassau. It contains more than twice the contamination, more than twice the contamination of the infamous Love Canal waste site. It is estimated that more than 46,000 tons of toxic waste are buried in a failed-cap landfill.

Remediation of this site has been ongoing for decades, with no progress made in preventing the contamination from seeping from the site and contaminating additional properties. This contamination has significantly impacted property values as well as assessed

values of properties in the area.

Courts have continuously lowered tax assessments due to the contamination on adjacent and area properties. The result is significant financial hardship for the communities impacted by the ongoing toxic contamination.

The financial impact of the state hazardous waste site will continue for some time, as the Department of Environmental Conservation has indicated that decades of remediation are in store for the site.

The financial impact is approximately $80,000 annually for municipal reimbursement. However, under a settlement agreement with the polluters, the government pays nothing. The ultimate cost of this legislation will be borne by the responsible parties, the polluters.

ACTING PRESIDENT GRIFFO: Excuse me, Senator McDonald. Can we have some quiet, please, in the house.

Senator McDonald, you may continue.

SENATOR McDONALD: The financial impact, and I'll repeat that, of approximately

$80,000 annually will be paid for entirely by the polluters. This will continue forever or to the fact that the polluting party -- in this case, GE -- has fulfilled the remediation clause that the State of New York and the federal government have imposed. And it is upon their acceptance of full remediation that they would take away that number.

This community has suffered. It's small in population. It has a weak tax base. And it has a very dangerous location that's near there. It's not a matter of this happened recently; it's been going on for decades. And while many communities have had the opportunity to grow and expand their tax base, they have not.

And for all practical purposes, if we don't deal with this issue with these communities, that school system, that town, and parts of that county are going to be hurt substantially and may even go out of business. People can't sell their houses.

This gives them an opportunity to have some kind of financial support throughout the year. And additionally, it gives them the

opportunity to make sure that the remediation is going on in accordance with the federal agreement and the New York State Environmental Conservation agreement.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you. If the sponsor would please yield.

SENATOR McDONALD: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

Through you, Mr. President. I understand the dilemma for the Town of Nassau in Rensselaer County, and I actually empathize that contamination of land has an impact on local communities. It's one of the reasons I feel so strongly that we should not move forward with hydrofracking in this state.

But what is the rationale for the State of New York being liable to reimburse the town or towns for their perceived loss of property value? Why is that being handed to the state as a responsibility, to pay the town for some determination of lost property value?

SENATOR McDONALD: As I mentioned, the cost is being picked up by the polluter, in this case the General Electric Company. The state is not paying anything.

This situation has been going on for several decades, the Environmental Conservation Department and the federal government involved in it. In my own personal opinion, they have not been doing their job for these several decades. And it finally reached the point, the legal point where the town was being represented, that they were able to work out this agreement.

And I stress, again, the State of New York is not paying anything. The money is coming from the polluting parties.

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: I'm confused. I don't see where in the language of the bill it says the polluting party will pay the town the, quote, unquote, lost property value. It seems to

imply the State of New York's General Fund has to reimburse the municipality. So could you show me where in the bill --

SENATOR McDONALD: It's my understanding that the agreements between the polluting parties and the State of New York, they pay the state, the state turns around and pays the local communities.

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

SENATOR McDONALD: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: So there is some settlement agreement that specifically says the polluting party shall pay X amount per year to the State of New York and the State of New York shall pay X amount per year to fill-in-the-blank municipality?

SENATOR McDONALD: That's correct.

SENATOR KRUEGER: Could you tell me where I could find that?

SENATOR McDONALD: I can't do that right now, but I can.

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

SENATOR McDONALD: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: The bill memo estimates the cost to the state of $80,000 per year. That's the sponsor's memo. And that would be for all municipalities in the County of Rensselaer that lay claim to a loss in property value in the surrounding area of the landfill.

How is the $80,000 calculated? How do we know that it's going to be $80,000 per year?

SENATOR McDONALD: It was calculated by the local communities reporting to the state.

SENATOR KRUEGER: Through you, Mr. President, if the sponsor will continue to yield.

SENATOR McDONALD: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

So the way I read this bill, any town in the County of Rensselaer who believes that their property value has been devalued because of the existence of this toxic land site can send the bill to the state to pay them. Who is determining how much the property value has been devalued? And what evaluation method is being used by that entity?

SENATOR McDONALD: First off, these communities are communities that have already communicated with EnCon that they are affected negatively by the waste. So it's not any town or municipality in a large county like Rensselaer County, a large -- being geographically large.

They have already had a preagreement with EnCon. They have been talking for decades. And they have stated the impacted areas. So it's not any county saying, Hey, we're impacted and we're 25 miles away.

They went through the process with the Environmental Conservation Department, they agreed upon the impact, they agreed with General Electric, the polluting party, and the federal government, and this is the agreement that came

to bear.

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: So there is a Town of Nassau that has this landfill in it. But I'm assuming there are towns north, east, south, west of Nassau, all that might also be in Rensselaer County. Are they entitled to make the argument that their property value went down because of the contaminated landfill in Nassau County? And can their chief financial officers make an argument saying they're entitled to money also?

SENATOR McDONALD: Yeah, but they wouldn't be part of this agreement. You could say that you're impacted by these pollutions even in New England or in New York City or Buffalo, but they're not part of the agreement.

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

SENATOR McDONALD: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: So there's actually an agreement in writing that lays all of this out, and it may or may not be the same document earlier referred to as the settlement; is that correct?

SENATOR McDONALD: That's correct.

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

SENATOR McDONALD: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

If there is said agreement and settlement, why is the state being asked to do anything through statute? Why isn't the polluter simply making the payment to the municipality?

SENATOR McDONALD: Because the attorneys in Environmental Conservation and the appropriate government agencies wanted to do it this way.

SENATOR KRUEGER: Through you, Mr. President, if the sponsor will continue to

yield.

SENATOR McDONALD: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: So this is a bill being supported by the Governor?

SENATOR McDONALD: The Environmental Conservation Department, correct. The executive branch of the state, the Governor, and the appropriate people.

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

SENATOR McDONALD: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

Then why isn't DEC, the Department of Environmental Conservation, submitting this as a program bill if it's actually what they would like?

SENATOR McDONALD: You would have to ask them.

I'm submitting it as the Senator who's responsible for 46,000 tons of toxic waste

buried into the ground, twice the amount of contamination of Love Canal -- which got a great deal of attention, justifiably so -- and the concern that it has for the health and the goodwill of the people of my community and their environmental survival. And I'm not going to wait around after several decades of nothing happening.

So the issue to you, okay, is, quite bluntly, are we going to back up our environmental concerns with some action for small communities, or are they left out because they haven't had the availability of administration and legal support in such small communities and they don't have the funds to pay for it?

This has been around for a long time, and it shouldn't go any farther.

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

SENATOR McDONALD: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you. I appreciate the sponsor's answers.

I think he makes a valid point about he is the Senator for this area and feels responsibility for the I think he said 46,000 people in the immediate community. I don't know if that's the Town of Nassau or the --

SENATOR McDONALD: I didn't say 46,000 people in the area, I said 46,000 tons of toxic waste buried in somebody's back yard.

SENATOR KRUEGER: Thank you. I stand corrected. I heard the number.

So there's 1276 Superfund sites throughout the state. This is one of them. How does this legislation not set a precedent for the State of New York to make the same agreement with all 1276 Superfund site local municipalities?

SENATOR McDONALD: Well, I think you take each and every site individually.

And I think you can't get away from confusing 46,000 people with 46,000 tons of solid waste.

We have a responsibility. This in essence is one of the larger Superfund sites and one of the most unfair Superfund sites because they don't have the population or the tax base, the volume of people, if you will, to be able to

present their case. And this has been going on for decades, and all things have been doing is getting worse.

So the best answer to that is we take the most significant issues of the 1200 Superfund sites, address them piece by piece. They're not all the same. They're not all equal.

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

SENATOR McDONALD: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: So again, I want to keep it clear, I am very empathetic with the dilemma for communities that have been polluted. And again, there are 1,276 separate Superfund sites throughout the state.

I agree with the sponsor that I am also frustrated that it takes decades to get any cleanup of these sites and that there is very great confusion about whether polluters will be held liable, whether the federal government plays some role, whether the state government, whether the local government. And this is one example of

these 1276 Superfund sites. And the sponsor continues to validly point out that there's been decades without resolution.

My dilemma is I don't think this type of legislation is the way or the precedent that this government should be setting for allowing localities to declare their land has been devalued and the state that should replace the property tax value.

And I'm willing to accept that there is some settlement that says all of this is already an agreement in place, although I really wish the sponsor had a copy of the settlement so that we could all see that this is the formal agreement. But I'm still stuck with why this one location now.

Now, the EPA took control of this site in March 2011. Was the settlement and agreement pre-2011 when the EPA took over this site?

SENATOR McDONALD: Okay, you've mentioned several questions. Okay?

One question, you mentioned the settlement. It was closed, the site was closed in 1968. EnCon didn't actually start acting till

1980.

The other thing that I thought was misleading was you said that the state -- you seemed to refer to it -- and let nobody be unclear on this issue. The state is not paying, and to say anything otherwise is misleading intentionally.

The polluter -- and that's been a long-standing process that we've had in New York State, is when you're able to get the polluter to fix something, you won the court case or you won the public relations case or the administrative case, you're foolish if you don't take advantage of it.

So to imply that the state is paying is not listening. It's coming through the state from the polluter. This is one of those rare occasions where we won something on this issue. Not to act quickly on that is foolish, and it's endangering the health and the financial strength of that community.

We're dealing with EnCon and the federal government. That is why we're so slow in responding.

Another reason we're slow in

responding is these small rural communities get glossed over.

Now, I'm happy to work with anybody on any pollution problem in New York State. And I would recommend, if this is indeed a successful agreement, this could be a prototype for the communities that you referenced, for them to call us and find out how do we get a polluter of this magnitude finally to the table that we've been trying since 1968.

They started dumping this toxic waste in this community in 1952. Can you imagine that? There was probably very little environmental regulations at the time.

So the question is you will allow this community, this rural community, to evaporate off the face of the earth till we get all 1200 of these other entities concluded, yet we have been pursuing a solution with the polluter, with the federal government finally paying attention, with the state government finally paying attention.

And now my community is going to be punished because we say, Well, if you're doing it for them, we'll do it for everybody.

Well, the community and the people who have those sites in their community, this is one of the times where they can learn from that small rural community. But geographic isolation is not the answer to our problems. The people in the Town of Nassau, a small rural community, are no different than the people in a large city or a large suburban area. This is critical to their survival.

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

SENATOR McDONALD: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you. I appreciate the sponsor's responses.

And again, the 1276 Superfund sites are throughout the state. They are no doubt in small communities as well as large cities as well as suburbs.

So I'm really trying to understand how this, as a precedent for the State of New York, could have pluses and minuses. And the reason I keep pointing out that it would cost an

estimated $80,000 annually to the state is because that's what the sponsor's memo says it will cost.

So again, trying to get sort of further into the issue, I'm -- just so I can double-check, I'm assuming that the settlement we're discussing is an April 12, 2012, settlement with General Electric; is that correct?

SENATOR McDONALD: That's correct.

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

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: That requires General Electric to pay $10 million to the State of New York?

SENATOR McDONALD: That's correct.

SENATOR KRUEGER: Thank you.

And through you, Mr. President, if the sponsor would yield.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Who is then responsible for the actual cleanup work?

SENATOR McDONALD: I mentioned that earlier, that the responsibility is with the polluter, the General Electric Company.

And the judgment, I mentioned that earlier on, is the mediation will be reviewed by the federal government and the State EnCon Department. They will determine when mediation is concluded and satisfactory.

And once again, I'll reiterate, anybody telling you that the state is paying $80,000 to this project, okay, annually is misleading. It's $80,000 coming from a private-sector company that took decades of legal hassling between the federal government and the state government even to pay attention to this little tiny town to get that agreement.

Now, that's significant. If I were another community or a legislator concerned about this, I would be paying attention. And the questions I would be asking is, How did you do that? We didn't do that in my community. How did you achieve getting them to pick up that cost?

ACTING PRESIDENT GRIFFO: Senator Krueger.

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

SENATOR McDONALD: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: So repeating, this is a settlement, April 12, 2012, by General Electric to pay $10 million for the cleanup of this site. The $10 million, I believe the last time I asked the question I asked did it come to the state. But I've just been informed that perhaps because the EPA took over control of the site in 2011, that actually the $10 million goes from GE to the EPA. Does the sponsor know which is correct?

SENATOR McDONALD: I don't have a clear answer for you, whether it's the state or the federal government, because it's a partnership between the state and the federal government reviewing this.

My speculation is that some of the money, if not all the money, goes from the federal government to the Environmental Conservation Department of New York State and

eventually to the local communities who are impacted by it. So originating with the General Electric Company.

SENATOR KRUEGER: Through you, Mr. President, again --

ACTING PRESIDENT GRIFFO: On the bill?

SENATOR KRUEGER: I may have additional questions, but first I'll be on the bill. Thank you very much, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger on the bill.

SENATOR KRUEGER: So my dilemma is several.

One, we don't have the settlement in front of us. And we don't know, I think the sponsor just answered he's not sure whether the $10 million from General Electric goes to the state or goes to the federal government for the cleanup of the site.

If the money goes to the federal government, it's not clear how the state is getting $80,000 a year from General Electric to pay itself back for the $80,000 it will now be picking up of property tax costs.

If the $10 million is going to the Department of Environmental Conservation, which I don't think it is -- again, for cleanup -- it's also not clear that the money is intended or even available to be provided as transferable tax-hole-filling reimbursement to the town or towns that could apply for it, because it may be structured specifically within the settlement that all monies must be used for direct cleanup of the contamination.

I can agree with the sponsor that the state has shared responsibility for failing to get this taken care of for decades, as he pointed out. If the original case was started in 1968 and EnCon only got involved or DEC only got involved in 1988, there was 20 years where I don't know today who was doing what or why, but clearly there wasn't anything going on.

From '88 to 2011, there was apparently a failure to communicate by someones between GE and Environmental Conservation agencies, perhaps state and federal. Clearly this led to some significant change in 2011, because the EPA came and took over the site.

So my dilemma when looking at this

bill is I can agree completely with the sponsor that the town has paid a completely un -- no, it's not a strong enough word. It is outrageous what happened to the community. It is outrageous that if some private corporation was dumping into their ground, polluting, creating toxic waste, potentially, I'm assuming, risking the health of the people of the town, not just the land values, it is completely outrageous that from 1968 to 2011 nobody really seemed to be getting anything done.

So I just want it on the record that I 100 percent agree and understand with the sponsor and the people of this town how outrageous the situation is.

It doesn't change the fact that my dilemma is I just don't see how this bill, written this way, is the right solution.

Because rather than it being a bill that says there is money coming from the polluter -- in this case, General Electric -- and there is a settlement and the settlement should require X amount of money annually to go to the town to make up for a loss in the value of the properties until the contamination is cleaned

up -- if that was the bill in front of me, I would say yes, excellent, if we need it in statute to make sure it gets paid, let's put it in statute that the polluter is obligated to make the payments to the town for the lost valuation. I would argue that's the least they could do, including the cost of cleanup.

But that isn't the bill I have in front of me. I have a bill that again says, in its fiscal impact note, that it will cost the state $80,000 annually. I have a bill that says the local chief financial officer will determine what the lost valuation of the land shall be that should be paid to them. I have a bill that says any locality in the County of Rensselaer could make application for this money.

And I have the dilemma of 1276 Superfund sites throughout the state where perhaps they would have a very strong argument for asking for the exact same law to be passed for them.

And maybe there were no settlements or money flowing anywhere between polluter and somebody in government in those other sites because the law as written doesn't say anything

about this would only apply if there's a settlement in place, and if the polluter is providing at least that amount of money, and then and only then the state as a pass-through would be obligated to pay this money.

So, Mr. President, I can't vote for this bill. I want to help the people of Nassau. I think the sponsor has made a totally legitimate case for why somebody is responsible for helping the town out when they have gone through so much, and clearly the value of the land surrounding the area --

ACTING PRESIDENT GRIFFO: Senator McDonald, why do you rise?

SENATOR McDONALD: I'd like to respond.

ACTING PRESIDENT GRIFFO: Senator Krueger, do you yield to Senator McDonald's question?

SENATOR KRUEGER: Would the Senator mind if I finish my last sentence?

ACTING PRESIDENT GRIFFO: Senator McDonald, I could do one of two things. We can let Senator Krueger conclude -- would you like to just speak on the bill, or do you want to ask a

question?

SENATOR McDONALD: I'll speak on the bill.

ACTING PRESIDENT GRIFFO: Conclude, please.

SENATOR KRUEGER: Thank you.

So again, simply in closing, I want to help this town. I don't think this bill is the right way to get from Point A to Point B. I think there could be a right way to get from Point A to Point B, perhaps through amendments to this bill or perhaps through a different bill that was laid out in such a way that it was clear that the settlement obligations must go, among other things, for these purposes.

So I wish I could vote yes on this bill, but I have to vote no.

Thank you, Mr. President. Now I'm happy to answer any questions.

ACTING PRESIDENT GRIFFO: Thank you, Senator Krueger.

Senator McDonald.

SENATOR McDONALD: I'd like to call the vote.

ACTING PRESIDENT GRIFFO: Okay.

Are there any other Senators wishing to be heard?

Seeing none, hearing none, debate is closed and the Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: In relation to Calendar Number 578, those recorded in the negative are Senators Addabbo, Avella, Krueger, Montgomery, Perkins, Rivera, Serrano, and Squadron.

Absent from voting: Senators Adams, Diaz, Espaillat, Peralta, and Stewart-Cousins.

Ayes, 42. Nays, 8.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number

583, by Senator Johnson, Senate Print 4740C, an act to amend the Vehicle and Traffic Law.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT GRIFFO: Senator Johnson, an explanation has been requested by Senator Breslin.

SENATOR JOHNSON: Yes, this is a bill dealing with drunk drivers and -- well, drunk and drivers under the influence of drugs.

There's presently a penalty for this conviction of $250 a year for three years. But that's not enough to really prevent these people from doing it again. So I've introduced a bill which says you have to take an accident prevention course. It's a six-hour course, actually not a big thing. And, further, you've demonstrated that you took that course before -- as an additional penalty to taking that course.

This course has been used in the past. It demonstrates that people learn something from this course and they don't repeat the same things again, in most cases.

SENATOR SAMPSON: Through you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator

Sampson.

SENATOR SAMPSON: Would the sponsor yield for just one question.

ACTING PRESIDENT GRIFFO: Does the sponsor yield?

SENATOR JOHNSON: Yes.

SENATOR SAMPSON: Through you, Mr. President. Senator Johnson, I just want to know the difference between the mandatory participation in the Motor Vehicle Accident Prevention Program and when dealing with the Driver Responsibility Assessment Program. Is there a difference between the two?

SENATOR JOHNSON: I'm sorry, I didn't get the question. Would you repeat it for me?

SENATOR SAMPSON: Senator, I just want to know if there's a difference between the Motor Vehicle Accident Prevention Program and the Driver Responsibility Assessment Program. Is there a difference?

SENATOR JOHNSON: It would have made a difference in their conduct, because these courses are demonstrated to be effective in reducing collisions and violations and having a

positive affect on recidivism.

Would you like me to say it again?

SENATOR SAMPSON: No, I didn't hear, Senator Johnson. I'm sorry, I didn't hear you, I apologize.

ACTING PRESIDENT GRIFFO: Senator Sampson, would you like that repeated?

SENATOR SAMPSON: Yes, thank you.

ACTING PRESIDENT GRIFFO: Senator Johnson, would you just repeat the answer, please?

SENATOR JOHNSON: Yeah, there is what they call a Driver Responsibility Assessment, and that requires them to pay $250 each year for three years. That's the penalty. But that doesn't seem to do much about recidivism.

But taking the course like this has been demonstrated to be effective in eliminating collisions and violations by the -- in other words, to eliminate recidivism. They won't do it again. The money doesn't scare them, but taking the course educates them. And that's what makes a difference.

SENATOR SAMPSON: Through you,

Mr. President, would the sponsor yield for a last question?

ACTING PRESIDENT GRIFFO: Senator Johnson, will you yield to an additional question?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR SAMPSON: Through you, Mr. President, is there a surcharge for this driver prevention course?

SENATOR JOHNSON: There's not a surcharge. But I think there is a certain small fee for taking that course.

SENATOR SAMPSON: Thank you very much.

On the bill.

ACTING PRESIDENT GRIFFO: Senator Sampson on the bill.

SENATOR SAMPSON: Thank you very much. Thank you very much, Senator Johnson.

This bill is definitely much needed. As a person who practices criminal defense and does a quite a number of DWI cases, I think this additional course to alleviate some of

the recidivism is important.

So I want to thank you very much for that bill, Senator Johnson.

SENATOR JOHNSON: Glad to.

ACTING PRESIDENT GRIFFO: Thank you, Senator Sampson.

Seeing and hearing no other Senator wishing to speak, debate is closed. The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Absent from voting: Senators Adams, Diaz, Espaillat, Huntley, Martins, Peralta and Stewart-Cousins.

ACTING PRESIDENT GRIFFO: We still have one bill remaining. I'd ask the members to please remain close to the chamber.

Announce the results.

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 587, by Senator DeFrancisco, Senate Print 6469, an act to amend the State Finance Law.

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

Seeing none, hearing none, debate is closed, and the Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Absent from voting: Senators Adams, Diaz, Espaillat, Huntley, Peralta and Stewart-Cousins.

Ayes, 49.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

SENATOR LIBOUS: Mr. President, is there any further business at the desk?

ACTING PRESIDENT GRIFFO: There is

no further business.

SENATOR LIBOUS: There being no further business, I move that we adjourn until Monday, May 7th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT GRIFFO: On motion, the Senate stands adjourned until Monday, May 7th, at 3:00 p.m., intervening days being legislative days.

Senate adjourned.

(Whereupon, at 12:27 p.m., the Senate adjourned.)