

Act Number	Session	Bill Number	Total Number of Committee Pages	Total Number of House Pages	Total Number of Senate Pages
PA 71-863		797	3	11	2
<u>Committee Pages:</u> <ul style="list-style-type: none"> <i>Finance</i> 268-270 				<u>House Pages:</u> <ul style="list-style-type: none"> 5998-6008 	<u>Senate Pages:</u> <ul style="list-style-type: none"> 2916-2917

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
1971**

**VOL. 14
PART 13
5555-6226**

Wednesday, June 9, 1971

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MR. LAVINE (73rd):

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Not having the amendment in front of me, I would prefer to have the Clerk read the amendment, Mr. Speaker.

THE CLERK:

Could I have the amendment back please so that I can read it?

THE DEPUTY SPEAKER:

Will the Clerk please read Senate "A".

THE CLERK:

Senate Amendment Schedule "A", adopted by the Senate on June 4th.

Add section 11. Sec. 11 in substitute S.B. No. 1458 of the current session is repealed and the following is substituted in lieu thereof.

MR. PAPANDREA (78th):

Mr. Speaker, I don't mean to be rude and interrupt the Clerk, but there's been a request from the other side for this matter to be passed temporarily to give them time to acquaint themselves with the substance of the amendment.

THE DEPUTY SPEAKER:

The matter will be passed temporarily.

MR. PAPANDREA (78th):

Mr. Speaker, may we then proceed to the last item on page 8, Calendar No. 1570?

THE CLERK:

Bottom of page 8, Calendar No. 1570, substitute for S. B. No. 797, An Act Concerning a Simplified Procedure for the Assessment and Collection of The Succession Tax, as amended by Senate Amendment Schedule "A".

MR. HEALEY (87th):

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Mr. Speaker, I move acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the Senate.

THE DEPUTY SPEAKER:

Question is on acceptance and passage in concurrence. Will you remark?

MR. HEALEY (87th):

Mr. Speaker, the Clerk has Senate Amendment Schedule "A" and I ask that I be permitted to summarize it.

THE DEPUTY SPEAKER:

Without objection, the gentleman from the 87th to summarize Senate "A".

MR. HEALEY (87th):

Mr. Speaker, in practically its entirety, the amendment is strictly technical in picking up a few omissions in reference to other statutes which are concerned and cleaning up the language. About the only substantive item in the amendment is to add a definitive provision that under certain tax purposes only proceedings, the court of probate may act upon its own motion, even an application from a party in interest or the tax commissioner. In all other respects, it is simply to straighten out grammatical and technical errors in the bill. It is a good amendment and I recommend its adoption.

THE DEPUTY SPEAKER:

Will you remark further on Senate "A"? If not, the question is on its adoption.

MR. OLIVER (104th):

I'm pleased to support Mr. Healey on Senate Amendment Schedule "A".

THE DEPUTY SPEAKER:

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Will you remark further on Senate "A"? The question is on its adoption. All those in favor will indicate by saying aye. Opposed? Senate "A" is ADOPTED. Will you remark further on the bill as amended?

MR. HEALEY (87th):

Mr. Speaker, I'd be delighted. This bill represents a very substantial effort over a long period of time, with participation by the tax department, representatives of Bar Associations, representatives of various of the corporate fiduciaries throughout the state and representatives of the Connecticut Probate Assembly, and mirabile dictu, we finally after several years of effort have a bill upon which all are in agreement. I was assured in a telephone call from a counsel for the Connecticut Probate Assembly over the weekend that the bill in its present form is acceptable to them and they were the only even partial dissidents to the bill.

What it does, Mr. Speaker, I do have a closely typed four page summary but I don't really think it would serve the purpose of the House for me to read it, what it does it updates the procedures for the processing of the succession tax determination and payment. Under the present system, which just grew like Topsy, the Tax Department is forced to act upon certified copies of various documents and duplicate originals of various documents which come to it from time to time, willy-nilly, in the course of administration and it eventually gets a certified copy of the application for administration and if there be a will, a certified copy of the will. It sets up a file and does nothing. Then eventually, it gets a certified copy of the Inventory and certain other forms, either an E-1, the assessed value of real property, if that be important, or an E-2, a declaration if there have been no non-tax--no transfers, no non-probate transfers intended to avoid the tax, or an E-3 which

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does detail the taxable transfers of a non-probate nature and in every event, an E-3a with regard to powers of appointment. It then (machine skips for one or two phrases)...for tax purposes only and a certified copy of that then goes up to Hartford and is shuffled around in another file. And then, after a great deal of non-productive work, finally arrives the E-15, succession tax return and at that point finally the State Tax Department is able to get down and do its work. Then when it does do its work, everything has to go back to the Probate Court for the Probate Court to go through the formality of entering a decree, which in and of itself is a waste of time because in 99% of the instances, there is complete agreement between the parties as to the end result of the computation of the tax.

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The Probate Court remains the forum for the Tax Commissioner and for the taxpayer of the determination of the tax. The Probate Court remains the party with whom the tax return is filed and forwarded to the Tax Department. However, under the procedure contemplated by this bill, instead of the multitude of forms bouncing back and forth, requiring an acknowledgment, requiring postage, requiring clerical overhead and so forth and so on, there will be but one form which is transmitted to the Tax Department which will incorporate all the information necessary. It is my understanding that the Tax Department plans to have available two versions of this form, a relatively short one which would be used in the situation where everyone is convinced there is a non-taxable estate and all that we want to obtain is the concurrence of the Tax Department that that is the fact and then a more detailed form for use in a taxable estate which, as I say, will pull all of the papers together into one central place and at one central time so that all of this paperwork, shuffling back and forth, will be eliminated.

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The determination of the tax by the Tax Commissioner is, now I'm stumbling over my own words, the determination of the tax is then made by the Tax Commissioner, subject to appeal to the Probate Court. This, in and of itself, would save probably anywhere from a week to a month and considerably reduce the amount of paperwork that goes on

There is an additional substantive change. Under present law, the tax return is due twelve months after death and payment of the tax is due within fourteen months of death. The proposal in the bill is that this period be shortened in both instances to nine months, thereby accelerating payment, getting the money to the state faster, something which can be of very real importance in our present fiscal problems. I suggest to you, Mr. Speaker, that it's an excellent bill. It's to the advantage of all those who have any dealings with the Probate Court. As I remarked at the start, it is acceptable to all parties in interest and I urge its adoption.

THE DEPUTY SPEAKER:

Will you remark further on the bill?

MR. OLIVER (104th):

Mr. Speaker, the Clerk has an amendment.

THE DEPUTY SPEAKER:

Will the Clerk please call House "A"?

MR. OLIVER (104th):

Mr. Speaker, I will summarize if I may be permitted to do so.

THE CLERK:

House Amendment Schedule "A" offered by Mr. Oliver of the 104th.

MR. OLIVER (104th):

Mr. Speaker, if I may summarize?

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THE DEPUTY SPEAKER:

Please proceed.

MR. OLIVER (104th):

Mr. Speaker, this is a very simple amendment. It involves the question of the time for filing succession tax returns and payment of the tax. As Mr. Healey so aptly described in his bill, his bill provides that taxes and succession tax returns would both be filed at the nine month period rather than existing law, which is one year and fourteen months, one year for filing the succession tax return, fourteen months for payment of the tax. My amendment, Mr. Speaker, would make it an even one year in both cases that is.

And now, speaking on the amendment itself, that is, it would be one year to file a succession tax return, the existing period, and one year for payment of the tax. I think that this would serve then two purposes, one it would serve the salutary purpose of expediting and accelerating receipt by the state of these taxes, one of the mainstays of our tax form system in the State of Connecticut; and two, it would continue to give fiduciaries and their representatives time to do the needed paperwork and to administer the estate in an appropriate manner. I feel that if this amendment is not adopted, I feel that if this amendment is not adopted, Mr. Speaker, what will happen is that we must in about 30 to 50% of the cases, go back into the court and ask for extensions of time. I think that will be needless paperwork. This bill, otherwise, is an excellent bill, a wonderful bill which attempts to cut down on the paperwork, simplify and rationalize what is otherwise a very confusing part of our law and taxes, and I think my amendment would do it justice, not interfere with it. I think it's an excellent amendment and I urge its passage.

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MR. HEALEY (87th):

Mr. Speaker, I oppose the amendment. I oppose it for a great number of reasons. Point number one, the obligation to pay the inheritance and succession tax comes into existence instantaneously upon death. Obviously, there has to be some period of time in order to allow for proper administration, allow for the grant of administration, for instance, allow for the marshalling of the assets of the estate, allow for the evaluation of those assets, determine such things which are deductible items, such as debts of the decedent, determine their validity and amount and attend to their payment. However, this can be done in 99% of the cases in considerably less than the nine month period which is allowed. I would point out that application for administration should be applied for within one month of death. This is never actually spelled out precisely in the statute, except indirectly, and the requirement that a will must be filed with the Probate Court within one month and to fail to do so is a criminal act. Grant of administration, once the application is filed, in most instances is completed within a matter of approximately two weeks. It is an extremely rare situation where this takes as much as a month after the application.

Two things happen upon the grant of the application for administration: one, a three month period for limitation of time for presentation of claims is ordered by the Probate Court; and two, a two month period for preparation and filing of the Inventory is ordered by the Probate Court. We add all these things up, one month for the application, a maximum of one month for the grant, a three months for creditors, we have five months from date of death and by that time, in 99% of the cases, that estate ought to be in a position to complete its succession tax return. I would point out that the present law

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was enacted at a time when it was customary to allow six months for presentation of claims by creditors. Over the last four years, the custom has become almost universal to reduce that to three months, therefore, the fiduciary is three months ahead of where he had been before. We didn't shorten the time with respect to the succession tax but we ought to have. I know of no reason why the fiduciary should shortchange the state of the use of the money to which it's entitled by dragging this procedure out.

Now, as far as the situation is concerned where there are complications, and there will be in a very small minority of the cases, a sophisticated trust officer or attorney now simply goes ahead and makes a tentative estimated payment. He doesn't even bother to file the E-15. He ignores the twelve month rule. He simply makes an estimated payment on account and in accordance with standing procedures of the Tax Department, provided that that payment is within a certain number of percentage points of the actual tax as finally determined, there is no interest and there is no penalty for late filing of the return or for late completion of the payment. This option will still be available to the fiduciary. Therefore, he will not be under the necessity of a lot of additional paperwork in getting extensions. Second, in the bill itself the right of extension is in the Tax Commissioner rather than the necessity of a hearing before the Probate Court. It can be done by a telephone call or by a simple letter. The third point is that under revisions in the Internal Revenue Code, the federal estate tax has been shortened from a fifteen month period to a nine month period and the interest of uniformity of enforcement of laws, I suggest that Connecticut law should correspond.

I oppose the amendment, sir.

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May the Chair inquire of the gentleman from the 87th at what time the final exam is being taken? Will you remark further on the bill?

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MR. COSTELLO (72nd):

Mr. Speaker, I'd like to speak in favor of the proposed amendment. In those estates which have substantial succession tax returns to pay, succession taxes to pay, it's virtually unlikely they would be able to prepare and file a return within nine months. I agree that in 99% of all estates, you can do this because most estates don't have any succession tax to pay but in the larger estates, there is a great problem and in many cases, the fiduciaries are not attorneys, they're not trust officers, but oftentimes they are members of the families who do not thoroughly understand the procedures. It takes a long time for them to marshal the assets and do their duty. I think in the interest of a fair compromise here, it is a good amendment. I would support it.

THE DEPUTY SPEAKER:

Will you remark further?

MR. BINGHAM (157th):

Mr. Speaker, I rise to oppose the amendment. As explained by Rep. Healey, this is an excellent bill. If we accept this amendment, we will now, we will not be in conformity with federal law. The federal law requires that tax returns be returned in nine months. Further, for the reasons that Mr. Healey has so well stated, if we amend this bill now, it would be sent back to the Senate, we will not have any bill at all. We all agreed, the Bar Association agrees, the Judiciary Committee, judges, everyone else agrees it's an excellent bill and to amend this bill at this particular time would be foolhearty. I strongly urge that we reject this amendment.

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THE DEPUTY SPEAKER:

Will you remark further on the amendment? The gentleman from the 87th for the second time on House "A".

MR. HEALEY (87th):

Mr. Speaker, very briefly. Let's assume that I am completely all wrong and let's assume that Mr. Oliver is completely right. This bill becomes effective January 1, 1972. An amendment, if I am completely wrong and he is completely right, can certainly be put in in February of 1972 and no one will be prejudiced. However, if we start playing games and send this back to the Senate, we stand a very real chance in the logjam of losing a bill that is wanted by everyone. I beg the defeat of the amendment.

THE DEPUTY SPEAKER:

Will you remark further on House "A"? For the second time on House--

MR. OLIVER (104th):

Mr. Speaker, speaking for the second time--

THE DEPUTY SPEAKER:

Will the gentleman please wait until the Chair recognizes him? The gentleman from the 104th.

MR. OLIVER (104th):

Thank you, Mr. Speaker, recognized as opposed to see. Very, very briefly, the real problem, particularly with accelerating payment to nine months, is that at nine months if indeed you are in a position to file a succession tax return in a substantial estate, you are hardly going to be likely to be even able to pay 90% of the succession tax due. It's an extreme situation where there is going to be a liquidity problem. I think it's going to be unfair to trustees, to fiduciaries and I think it's unwise to accelerate

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it quite so much and this amendment is attempting to be a compromise. We, in this House, have never attempted to be on all fours, so to speak, with the federal government. I don't think we ought to be the tail wagged by the federal dog in this situation.

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And finally, I offered this in all sincerity. I think it's a very serious matter involving one of the prime tax raising devices of our state and involving one of the oldest aspects of our law, common law and statutory. I was not playing games with it. If my amendment is adopted, I will join in moving a reconsideration of the bill so that it can be transferred immediately to the Senate or suspension of the rules, as the case may be. It's a serious amendment. I urge it to be seriously considered either up or down.

THE DEPUTY SPEAKER:

Question is on adoption of House "A". All those in favor will indicate by saying aye. Opposed? The amendment FAILS. Will you remark further on the bill as amended by Senate "A"?

MR. HEALEY (87th):

Mr. Speaker, I now move passage of the bill as amended by Senate Amendment Schedule "A".

THE DEPUTY SPEAKER:

Will you remark further? If not, the question is on acceptance of the Joint Committee's favorable report and passage of the bill as amended by Senate "A" in concurrence. All those in favor will indicate by saying aye. Opposed? The bill is PASSED.

Doris Hagearty
House Transcriber

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SENATE

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Opposed, "nay". The ayes have it. The bill is passed.

THE CLERK:

CAL. NO. 1052. File No. 1529. Favorable report of the joint committee on Government Administration and Policy. Senate Bill 525. An Act Concerning the Organization of the Department of Agriculture and Natural Resources.

THE CHAIR:

Passed temporarily.

THE CLERK:

CAL. NO. 1070. File No. 1520. Favorable report of the joint committee on Finance. Substitute Senate Bill 1573. An Act Concerning State Referee Approval of Certain Negotiated Condemnations. Pass temporarily.

CAL. NO. 1073. File 1526. Favorable report of the joint committee on Judiciary. Substitute Senate Bill 797. An Act Concerning a Simplified Procedure for the Assessment and Collection of the Succession Tax.

SENATOR JACKSON:

Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill. Clerk has an amendment. I would waive the reading of the amendment and I would move adoption of the amendment.

The amendment to this bill is purely technical in nature. It clears up various sections in the bill where the present statute is inadvertently excluded by failure to properly bracket the material and new material in the bill was omitted in the file because it was not properly underscored.

There are a few other points, which I would like to bring out.

Section five, of this amendment are merely for the purpose of clarification and in section 6, the right of the Probate Court to appoint administra-

~~tion and in section 6, the right of the Probate Court to appoint administrators is preserved~~

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and in section 9, the right of the Tax Commissioner is clarified and he is able to appear at contested hearings on extensions of time.

THE CHAIR:

Question is on adoption of the amendment. Will you remark further? If not, all those in favor signify by saying, "aye". Opposed, "nay". The ayes have it. The amendment is adopted. Senator Jackson on the bill, as amended.

SENATOR JACKSON:

Mr. President, the bill, as amended, simplifies the tax procedures in settlement of estates by combing a large number of tax forms now used into one tax return. It also brings the states succession tax into conformity with the filing dates which have been recently advanced to nine months by the Federal Rules. Although the succession tax will still be administered through the Probate Court System, the use of one comprehensive tax return will reduce the burden of paper work the Probate Courts and State Tax Department and for those responsible for settling estates.

THE CHAIR:

Question is on passage of the bill, as amended. Will you remark further? If not, all those in favor signify by saying, "aye". Oppose, "nay". The ayes have it. The bill is passed.

THE CLERK:

CAL. NO. 1070. File No. 1520. Favorable report of the joint committee on Finance. Substitute Senate Bill 1573. An Act Concerning State Referee Approval of Certain Negotiated Condemnations.

SENATOR CUTILLO:

Mr. President I move acceptance of the joint committee's favorable report and passage of the bill.

**JOINT
STANDING
COMMITTEE
HEARINGS**

FINANCE

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Frank Berall: Gentlemen, there may be some confusion as to the bills here. With all due respect, because copies don't seem to be here or available, I wonder because of the technicality of this, if it might not something that should be discussed in Executive session. One thing I wish to point out, and I don't know if Mr. Hale is aware of it, he mentioned the problems of disclaimers and releases, there is a very detailed disclaimer bill which is under consideration this morning by the Judiciary Committee that the Bar Association drafted and support it. I suggest to this Committee with all due respect that this powers of appointment tax both versions perhaps be discussed a little more informally after everyone has had a chance to look them over, and with your permission Mr. Chairman, if there are no other questions, I would like on two other bills that we have in mind.

Rep. Spain: Are there any questions.

Frank Berall: Mr. Chairman, the other two bills we would like to, that we have an official position on, one of them may not - we are a little confused on what bills are actually up today. There is a bill ~~SB819~~ A UNIFORM TAX PROCEDURE CODE, which is not the old succession tax, and it has only been presented as a statement of purpose form, I do not know whether you wish to hear remarks on it today, or defer on it, but it is one of our bills. It's SB819, which has nothing to do with the succession tax.

Rep. Spain: Does not deal with the succession tax? Perhaps we would put off consideration on that to another time.

Frank Berall: Alright, thank you Mr. Chairman. We, also, have a bill whose number unfortunately we haven't been able to retrieve, dealing with the taxation of transfers to take effect at death. The statement of purpose of this bill is TO CONFORM THE PROVISIONS OF THE CONNECTICUT SUCCESSION TAX RELATING THE TRANSFERS TAKING EFFECT AT DEATH WITH CORRESPONDING PROVISIONS OF THE FEDERAL AND STATE TAX. Under the present Connecticut succession tax some variations in the language, tax and transfers intended to take effect at death with the Internal Revenue Code. The variations have lead to a separate body of Connecticut law in this area, including a decision of the Connecticut Supreme Court case called the "pape" case which has not really solved anything. The recommendation of the Bar Association this bill which is also somewhere in the legislature mills we have submitted full text be favorably passed on by this Session of the Legislature. The final bill that I'm authorized to speak on, is perhaps the most controversial of all, and I'm going to just mention it very briefly, just so you will know that our Association does favor it and you can consider it in light

Sub. SB 707

F. Berall: of the whole tax structure of the State of Connecticut. This is the bill number again unknown, that is designed to repeal the additional amount added to the succession tax. There is a 30% surtax that was added in succession tax by the 1961 Legislature. This bill is in simple terms designed merely to repeal that surtax. The Bar Association in recommending this bill for your considerations is fully aware that revenue consideration is of the main thing you have to worry about in reducing a tax of this nature and recommends it, only, if you consider it in the light of other revenue bills that you may be passing in this Session, regardless of what they tax that you can eliminate what is a hardship in the State Tax structure and is causing problems of loss of wealthy people to other States as they retire and realize that they have property other than insurance and a wife, and there is no marital deduction in Conn. that they are going to have to pay Connecticut's succession tax that are in the brackets of the $\frac{1}{4}$ million and $\frac{1}{2}$ million on upwards and is frequently higher than the death taxes they would be paying in, surprisingly enough, a State like New York. Now the representatives of the Bar Association considered this bill and think that it makes sense to pass it, to ease this burden, so that we don't lose some of our wealthiest citizens, so that we ultimately pick up this tax. And we caution you, gentlemen, of course, in view of the State's revenue needs that it can only be passed if a substitute revenue source can be found. I do not know how much this surtax produces and possibly Mr. Hale might have the figures on that. Thank you very much for your attention to the Bar Association' positions.

Rep. Spain: Are there any other questions.

Mr. Hale: May I ask your permission to speak once more. I was not aware, of course, that these other bills (2) were going to come up today, I am familiar with them. First with respect with the surtax, it would repeal the surtax, actually the surtax amounts accounts for 30% of the total revenue of the inheritance Department. The revenue last year was in the vicinity of \$42. million. I don't think the State can stand it at this time. Secondly, as to the bill involving gifts to take effect on death, in my opening remarks with respect to powers of appointment, I stated that I see no magic at all in adopting the Federal State Tax in its entirety. It is not by any means the very best taxing law that you can get. We have an excellent at, taxing law in Connecticut. Our Supreme Court, by judicial interpretation, has seen fit to put different interpretation upon us on a somewhat provision of our Statutes, that is provision somewhat to the Federal, but are not the same, because it has put this interpretation on it, we are able to go into certain areas which are just not covered by the Federal or State tax law.

Mr. Hale: I think ours is a better approach to it, a much better approach. We can reach more transfers that are escaping taxation under that statute than they can under the Federal and I might say to you that the Federal Government is very much interested in the history of our particular section and I think would be very happy to get theirs revised to conform to ours, rather than have ours revised to conform to theirs.

Rep. Spain: Thank you Mr. Hale. Any questions

C. W. Page: Mr. Chairman, just one final addendum. We have submitted in duplicate a written statement on the bill dealing with taxation of powers of appointments, so this Committee will both have a copy of it and so that another copy can be filed in the library, so if the bill is passed there will be some legislative history than can be referred to.

Original statement of the State Bar Association's position favoring HB6193 is attached.

Rep. ~~Spain~~† Mr. Tarrant, you waited very patiently, do you

J. Tarrant: I've been going to school here. Mr. Chairman, members of the Committee, I have some very small items for you today and I hope my bills will not get lost in all the proleptic s going on. The first one, gentlemen, is 5039. I drafted that bill for Rep. Fox and I think it is a good one, the law is still inaudible the manner of complying with is lessened considerably and saves a lot of compliance burden on the towns and we would save on that legislation. Bill 5048 to have every town in the State adopt the uniform fiscal year. It's an excellent idea, but it could costs some hardships, if these towns are forced in the idea, although I do know that the towns are giving it until 1975 to comply. Furthermore, even if it is passed, you would have to include a section ousting certain, several public acts that now apply to these towns and there is no such provisions in this bill before you. There are 18 towns that operate under special acts and you would have to have an ouster position somewhere in that clause. Bill 5989 this began as a housekeeping bill and we put that in, as the statement of purpose points out, ladies and gentlemen and this bill is necessary to avoid confusion in administering the exemption extended to the blind. You may recall that in the last Session, you permitted the blind to have additional exemption to which they had previously had, and that particular exemption should have been taken care of in this area in the statement of purpose, you'll find that out too. Bill 5995 this is another housekeeping bill which merely gives the Tax Commissioner powers to issue rulings and regulations consistent with law, of course, they will have