ALBANY, NEW YORK

May 10, 1993

3:08 p.m.

REGULAR SESSION

SENATOR HUGH T. FARLEY, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT FARLEY: Senate will come to order. Senators will please find their seats.

Rise with me for the Pledge of Allegiance to the Flag.

(Whereupon the Senate joined in the Pledge of Allegiance to the Flag.)

If you will please bow your heads for a moment of silent prayer.

(Whereupon there was a moment of silence.)

Secretary will begin by reading the Journal.

THE SECRETARY: In Senate, Friday, May 7. The Senate met pursuant to adjournment. Senator Bruno in the chair upon designation of the Temporary President. The Journal of Thursday, May 6, was read and approved. On motion Senate adjourned.

ACTING PRESIDENT FARLEY: Hearing no objection, the Journal will stand approved as read.

The order of business:

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 Libous.

ACTING PRESIDENT LIBOUS: Thank you, Mr. President. On page 37, I offer the following amendments to Calendar Number 581, Senate Print 4294, and ask that the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: Without objection.

Senator Daly.

SENATOR DALY: Mr. President. On behalf of Senator Sears, I wish to call up his bill, Number 3452A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT FARLEY:

Secretary will read Senator Sears' bill.

THE SECRETARY: By Senator Sears, Senate Bill Number 3452A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT FARLEY: Senator Daly.

SENATOR DALY: I now move to reconsider the vote by which that bill passed.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT FARLEY: The bill is before the house.

Senator Daly.

SENATOR DALY: I now offer the following amendments.

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

Are there any other motions on the floor?

Senator Saland.

SENATOR SALAND: I would like to star Calendar 424, on page 22, Bill Number 4332. And I would like to remove the star from Calendar 516. That's Senate 3642.

ACTING PRESIDENT FARLEY: Bill is starred at the request of the sponsor, and the star is removed.

Senator Volker.

SENATOR VOLKER: Mr. President. Can I make an inquiry? Has there been any new Court of Appeals decision inhibiting our ability to handle the session since I left the LOB?

ACTING PRESIDENT FARLEY: I don't recall.

SENATOR VOLKER: Thank you.

ACTING PRESIDENT FARLEY: Senator Present, we have some substitutions. Secretary will read the substitutions.

THE SECRETARY: On page 5 of today's calendar, Senator Hannon moves to discharge the Committee on Housing and Community Development from Assembly Bill Number 1762 and

substitute it for the identical Calendar Number 690.

ACTING PRESIDENT FARLEY: Substitutions ordered.

THE SECRETARY: On page 30, Senator LaValle moves to discharge the Committee on Higher Education from Assembly Bill Number 7119 and substitute it for the identical Calendar Number 594.

ACTING PRESIDENT FARLEY: Substitution is ordered.

Senator Present, what's your pleasure?

SENATOR PRESENT: Mr. President. Let's go to non-controversial calendar, please.

ACTING PRESIDENT FARLEY: Non-controversial, the Secretary will read.

THE SECRETARY: On page 21, Calendar Number 346, by Senator Skelos, Senate Bill Number 3860A.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it

aside.

THE SECRETARY: Calendar Number 395, by Senator Kuhl.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 436, by Senator Libous.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 499, by Senator -

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 505, by Senator Skelos, Senate Bill Number 1422B, Economic Development Law.

ACTING PRESIDENT FARLEY: Read

the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 530, by Senator Lack, Senate Bill Number 3765, an act to amend the Labor Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number

531, by Senator Lack, Senate Bill Number 3766A, Workers' Compensation Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 536, by Senator Cook, Senate Bill Number 1282, an act to amend Chapter 668 of the Laws of 1977.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

I'm sorry. Ayes 38, nays 1, Senator Leichter recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 530.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 566.

SENATOR PRESENT: Lay it aside for the day, please.

ACTING PRESIDENT FARLEY: Lay that aside for the day.

THE SECRETARY: Calendar Number 568, by Senator Cook.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 571, by Senator Mega, Senate Bill Number 2089, Executive Law and the Criminal Procedure Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: 573, by Senator Marino, Senate Bill Number -

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: 574, by Senator Johnson, Senate Bill Number 1961, Environmental Conservation Law.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

SENATOR JOHNSON: For the day.

ACTING PRESIDENT FARLEY: For the day.

THE SECRETARY: Calendar Number 594, substituted earlier today, by member of the Assembly McEneny, Assembly Bill Number 7119, amends Chapter 132 of the laws of 1990, authorizing the State University of New York to contract for research development.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: 595, by Senator Kuhl, Senate Bill Number 2667, an act to amend the Navigation Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: 602, by Senator Velella.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: 603, by Senator

Velella, Senate Bill Number 4504, an act to amend the Insurance Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 604, by Senator Stafford, Senate Bill Number 439A, Retirement and Social Security Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 605, by Senator Padavan.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 606, by Senator Trunzo, Senate Bill Number 2742, Retirement and Social Security Law.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 607, by Senator Trunzo, Senate Bill Number 3511, Retirement and Social Security Law.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 609, by Senator Trunzo, Senate Bill Number 4649, Education Law, in relation to employer

contributions.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 612, by Senator Marino, Senate Bill Number 3589, an act to amend the Public Authorities Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT FARLEY: That

bill is passed.

THE SECRETARY: Calendar Number 614.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

Senator Present, that's the first time through.

SENATOR PRESENT: Mr. President. Let's take up the controversial calendar.

ACTING PRESIDENT FARLEY: Controversial. Secretary will read.

THE SECRETARY: On page 21.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT FARLEY: Lay it aside temporarily.

THE SECRETARY: Page 22, Calendar Number 395, by Senator Kuhl, Senate Bill Number 3414A, an act to amend the Agriculture and Markets Law.

SENATOR KUHL: Lay it aside until

tomorrow, please.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

SENATOR KUHL: Read the last section.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41, nays 1. Senator Leichter recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 436, by Senator Libous, Senate Bill Number 1526, an act to amend the Environmental Conservation Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT FARLEY: Explanation has been asked for, Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. This bill will allow Sunday hunting for three Sundays during the year from November 22nd to December 14th in the counties of Broome, Cayuga, Chenango, Cortland, Madison, Onondaga, Oswego, Tioga, and Tompkins Counties.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

SENATOR GOLD: Will Senator yield to one question?

ACTING PRESIDENT FARLEY: Senator Libous?

SENATOR LIBOUS: Yes, I will, Senator.

ACTING PRESIDENT FARLEY: Senator yields.

SENATOR GOLD: Yes, Senator, as you know, this is supported by DEC.

SENATOR LIBOUS: Yes.

SENATOR GOLD: And it is opposed by SPCA, Sierra Club, et cetera, some of the church councils. This would allow three Sundays, is that it?

SENATOR LIBOUS: It's not every Sunday. It would only require that there be Sunday hunting during the season which will run, this year, 1993, between November 22nd and December 14th.

SENATOR GOLD: Would you yield to one other question?

SENATOR LIBOUS: Yes, sir.

SENATOR GOLD: I'm not a hunter, but why is it that we have a law today that prohibits people from hunting on any Sunday? What is the argument?

SENATOR LIBOUS: Well, it's funny you asked that question, Senator, because Mr. President, what we did is a little research. And, you know, Sunday hunting is allowed in most of the state to the east of us. Unfortunately, it is not allowed in this region and to the

west.

But we did a little bit of research, and we believe that basically at the turn of the century, in the Southern Tier particularly -- and this is DEC Region Number 7 -- it was exclusively farmed at that time, and it really didn't have an adequate habitat for deer. And, subsequently, the deer herds moved in, into the Adirondacks and up from Pennsylvania. And then in the late '20s, the depression hit, and the agriculture bottomed out, and that left many farmers with no choices but to sell their land to the state.

And as time went on, we found that the deer hunting became -- actually, I guess the deer herd became aggressively collecting in this area. And then, basically, from what we can tell, there was no purpose at that time. We recognize now, though, there is a need for increasing it for three days during the regular big game season, because there is a lot of herd. They need to manage the herd and control it.

SENATOR GOLD: Yes. Senator, if you'll yield to one more question?

SENATOR LIBOUS: Yes, Mr. President. I'll do so.

SENATOR GOLD: Is there any reason why we don't allow hunters to hunt every Sunday? I mean we have a hunting season. Let them hunt seven days a week.

SENATOR LIBOUS: Actually, Mr. President, they can hunt every Sunday, but they can't hunt big game at the present time. They can hunt squirrel and other types of animals right now every Sunday.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 436 are Senators Galiber, LaValle, Maltese, Nozzolio, Onorato,

Padavan and Present. Ayes 39, nays 7.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 499, by Senator Larkin, Senate Bill Number 1644, proposing amendment to the constitution.

SENATOR HALPERIN: Explanation.

ACTING PRESIDENT FARLEY: Explanation. Senator Larkin.

Lay it aside temporarily. Oh, I didn't see you there, Senator Larkin. Sorry.

SENATOR LARKIN: Mr. President. This is the second passage of this Constitutional Amendment. It passed unanimous last year. This resolution authorizes the Constitutional Amendment to allow local governments to issue bonds with level or declining debt service and to issue zero coupon bonds provided contributions are made to a sinking fund to cover any interest which is not paid annually or included in leveling or declining debt service. This would be the second passage of this bill.

ACTING PRESIDENT FARLEY: On the resolution. Call the roll on the resolution.

(The Secretary called the roll on the resolution.)

THE SECRETARY: Ayes 45, nays 2. Senators Galiber and Gold recorded in the negative.

ACTING PRESIDENT FARLEY: The resolution is adopted.

THE SECRETARY: Calendar Number 568, by Senator Cook, Senate Bill Number 4156, an act authorizing the Commissioner of General Services to sell and convey certain land in the town of Ulster.

ACTING PRESIDENT FARLEY: Read the last section.

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

SENATOR LEICHTER: Lay it aside.

SENATOR COOK: Mr. President.

ACTING PRESIDENT FARLEY: Senator Cook.

SENATOR COOK: Is there some

problem with the bill?

ACTING PRESIDENT FARLEY: Senator Halperin, why do you rise?

SENATOR HALPERIN: Could you please -- I would like to have the vote reconsidered by which Calendar Number 499 just passed.

ACTING PRESIDENT FARLEY: Well - I guess we can.

Senator Present, is that agreeable with you?

Call the roll on reconsideration on the resolution that just passed by Senator Larkin.

(The Secretary called the roll on reconsideration.)

ACTING PRESIDENT FARLEY: The resolution is before the house.

SENATOR HALPERIN: Would Senator Larkin please provide an explanation?

Oh, he did? Sorry.

ACTING PRESIDENT FARLEY: He did already.

SENATOR LARKIN: I already did.

SENATOR HALPERIN: Well, Senator, could you then yield to a question?

SENATOR LARKIN: Yes.

SENATOR HALPERIN: As I understand -

SENATOR COOK: Mr. President. Point of order. Another bill has been called and I thought we were awaiting the Minority Leader on that.

SENATOR GOLD: Senator, you are absolutely correct. It doesn't always mean much here. Senator Cook, first of all, could you let me have one day on your bill, aside from everything else?

SENATOR COOK: Yes.

ACTING PRESIDENT FARLEY: Just a moment. I want to get some order in where we are going in the proceeding. Senator Halperin asked for reconsideration of a resolution that just passed. Out of courtesy, there seemed to be no objection and we reconsidered the resolution it is before the house.

Senator Halperin, did you have a question that you wanted to ask Senator Larkin?

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Thank you. Mr. President, what happened was exactly accurate. Senator Cook's bill was on the floor. We asked for a moment. If we can just straighten that out, I'm sure we will be back on the same place in a second. Senator Cook has graciously agreed to give us one day on his bill. So if we can just do that and lay it aside for the day and come right back here, I think we will show due respect for Senator Cook.

ACTING PRESIDENT FARLEY: We will lay Senator Cook's bill aside for the day.

SENATOR GOLD: Thank you, Mr. President.

We're currently on Senator Larkin's resolution.

SENATOR LARKIN: Yes, Mr. President.

SENATOR HALPERIN: Mr. President. Would Senator Larkin yield to a question, please?

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT FARLEY: Senator Larkin.

SENATOR HALPERIN: I understand the purpose of this bill, which is I think is laudable. The bill, of course, affects the entire state, and I'm particularly concerned about the impact upon an existing procedure within the city of New York and existing policy as relates to zero coupon bonds. Now, as I understand it, this bill would require a reserve to be established for zero coupon bonds. Is that accurate?

SENATOR LARKIN: Yes, sir.

SENATOR HALPERIN: And that presently it's my understanding that the city of New York issues zero coupon bonds in such a manner as to have an equal amount, more or less, coming due on an annual basis. Is that

correct?

SENATOR LARKIN: Yes.

SENATOR HALPERIN: So, then, the concern that's been expressed to me by representatives of the City is that since they have a payment schedule that does not result in what one might refer to as ballooning but, rather, in a level payment schedule as it is, based upon the due dates and the issuance dates of the bonds that what this might do is to cause money to be set aside that would otherwise be able to be used for the needs of the budget, which I think we all recognize are very severe in the city of New York, and might not really provide any great protection because the way that the bonds are issued already is being done in a responsible manner.

Have you dealt with this issue? Have you considered this question?

SENATOR LARKIN: Yes, we did look at it. Last year, it was brought up in a milder fashion by the city of New York. They never followed through on what they wanted to do until

a couple of days ago.

But, as you just mentioned, this doesn't only affect the city of New York. This affects the entire state of New York; and without this, the rest of the state cannot do anything. The Association of Counties, the Conference of Mayors, Association of Towns and School Districts are all supportive of this because it gives a level playing field with the zero coupon bonds.

The compelling reason that the city of New York gave when they gave the outline of the three factors of how they were doing it, in my opinion the difference is not as great as they make it out to be.

SENATOR HALPERIN: Well, then finally, Senator, if you'll just -

ACTING PRESIDENT FARLEY: Senator, will you yield to another question?

SENATOR LARKIN: Yes, sir.

SENATOR HALPERIN: Senator, you said when this bill passed last year, the City raised some issues and it was not until two

weeks ago that you heard from them again?

SENATOR LARKIN: Senator, it was just about a week ago when the city of New York finally realized that this was going to happen. Since January, everybody knew that this was the second year for passage of this bill, and nobody in the city of New York contacted me. Until this came on the Third Reading Calendar was the first time that the city of New York contacted us.

We, at the request of Senator Goodman, laid it aside, and we have had nothing further except for their one memo. They didn't come up. They didn't say we would like to see this done; we would like to see that done. If they have such a great interest, I just don't think a memo to say, "A memo in opposition." What do you have to offer?

Why should the rest of the state be held hostage for the city of New York? I don't think New York City should be held hostage for the rest of the state.

SENATOR HALPERIN: Senator

Larkin, if you will yield to another question? Has this bill passed the Assembly yet?

ACTING PRESIDENT FARLEY: Senator Larkin.

SENATOR LARKIN: No.

SENATOR HALPERIN: Thank you very much, Senator.

On the bill.

ACTING PRESIDENT FARLEY: On the bill. That's on the resolution.

SENATOR HALPERIN: On the resolution, excuse me.

I do have some concern about the impact this might have, as I described to you. I understand that the amount of money involved is not that great, although I think at this point in time the City of New York can use every dollar it has. However, given the fact that the Assembly has not yet acted on the bill and that apparently, according to what you said, the City has not acted expeditiously, maybe the passage of this bill will cause them to raise the issue with the appropriate degree of urgency in the

Assembly so that we can try to deal with the problem that the City has brought forth to me. But, on the other hand, I wouldn't want to stand in the way of the rest of the state being able to enter into the bond market in ways that may be very important to them. So I will vote for this legislation, but I would hope that some kind of compromise can be worked out to try to deal with the problem the City has.

ACTING PRESIDENT FARLEY: On Senator Larkin's resolution, will the Secretary call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49, nays 2, Senators Galiber and Gold recorded in the negative.

ACTING PRESIDENT FARLEY: The resolutions adopted.

THE SECRETARY: Calendar Number 573, by Senator Marino, Senate Bill Number 3588, Executive Law, in relation to discretionary release on parole.

ACTING PRESIDENT FARLEY: Senator

Galiber.

SENATOR GALIBER: Can we have an explanation?

SENATOR VOLKER: I know I'm not as handsome or as erudite as Senator Marino, but I will certainly try to answer if I can. Yes, Senator.

SENATOR GALIBER: I just asked for an explanation on it.

SENATOR VOLKER: Sure.

SENATOR GALIBER: Or maybe I can ask a couple of questions.

SENATOR VOLKER: Sure.

SENATOR GALIBER: With your background and we have -

ACTING PRESIDENT FARLEY: Senator Galiber, I'm going to ask you to talk into the mike even though he's at your back, and then you can turn around and listen to his answer.

SENATOR GALIBER: All right. Mr. President. Senator Volker's background would suggest that he is aware of a problem that this creates. The Parole Board at the present time

takes into consideration all these factors that are now covered by this bill not the second go-round but first go-round.

So, Mr. President, I ask the sponsor or my colleague who is giving an explanation, what is the need for this? And do you agree at the present time the long-termers in particular that the Parole Board looks at factors, factors that look at how they would react and how dangerous to the community they would be?

SENATOR VOLKER: Senator, I think the genesis of this bill, and I know it very well, we try to monitor as much as possible - and keep in mind, Senator Marino, prior to being Majority Leader, in his younger days was chairman of Crime and Corrections, as you well know. It seems to me that you, Senator, were ranking and on that committee and very, very active.

SENATOR GALIBER: In my other life.

SENATOR VOLKER: In your other

life. And I have to remember we were all together, as the saying goes, in many trying times in those days. But if you look back at what has happened here and look at what is happening in the parole system over the last few years, my characterization of this bill is maybe something like a nudge. What's been really happening here is on the second -- on the reconsideration, it appears almost as if the Parole Board has been just without any question letting people out, and there seems to me -- and there have been some people, by the way, asking us in their zeal to let people out of prison. And, by the way, Senator, I assume you realize that although I know that the head of the Parole Board has taken some steps to try to stem the tide a little bit that the number of people being paroled today is probably at an all time high without question.

We are paroling people or sending them to work release or sending them into various programs at a rate that is way beyond anything that we have done in the past. It is

something that we do not generally talk about. Certainly, some states that have these varied programs that some people have been trying to get us to do are doing people in greater numbers because the law is so open-ended that it's allowing them to do it. But make no mistake about it. We are paroling an enormous amount of people in this state right now.

On reconsideration, there seems to be an attitude developing and among some parole people that they should really not look at the file almost. Just let them out. In fact, as you and I well know, Senator, there has been a proposal for virtual automatic parole on second consideration, which we have rejected over the years.

What we're trying to do here - what Senator Marino is trying to do here and the language, "reasonable possibility", is language that, as I say, is strong enough and yet not very strong intending to say to a Parole Board member: You must look at the file; and if there is any indication that something that person did

could make him a danger to the community, then that consideration should be made at the time that his reconsideration is taken up as far as parole is concerned. It gives that parole member, Parole Board member, the ability and the legal ability to make a decision that it's arguable maybe he or she could not make now. And that's what this bill really is.

I don't think that Senator Marino envisions, and I certainly don't, that this is going to mean that all sorts of people are going to be held on second consideration that maybe weren't before, but I think it may give a little more authority to the Parole Board, and also maybe a little message to the Parole Board, that they had better be a little more diligent in taking a look at some of the inmates who are being let out on parole in the street.

ACTING PRESIDENT FARLEY: Senator Galiber.

SENATOR GALIBER: Senator. Mr. President. Will Senator yield for a question?

ACTING PRESIDENT FARLEY: I'm

sure he will. Senator Volker.

SENATOR GALIBER: Senator, do we have any memo in opposition or in favor of this piece of legislation from the parole commissioner or from the board?

SENATOR VOLKER: To my knowledge, Senator, I do not know of a memo in favor or against, and I suspect that there is none either for or against.

Of course, Senator, in all due respect, it probably is a little unlikely that the Parole Board -- they might put one out against one of my bills but probably less likely to put one out against Senator Marino's bill, frankly, although I have heard nothing from the Parole Board in objection to this bill, to be very honest with you.

SENATOR GALIBER: Will the Senator yield for another question?

SENATOR VOLKER: Certainly.

ACTING PRESIDENT FARLEY: I'm sure he will.

SENATOR GALIBER: Senator, do you

feel this is redundant, this bill? You mentioned earlier that at the present time the Parole Board is looking, I believe, very carefully at the files. I think perhaps the category that we make reference to or you imply this could be applicable to the young persons on the earned eligibility, those who are not in the long-term category. Are those the ones this is directed at, if you know?

SENATOR VOLKER: No, Senator. Let me just say this to you. If you look at the history of this bill, in one sense, I guess, maybe I had thought in the past that it might be a bit redundant, because this bill has not been released from my committee in the past. I don't remember now whether this year this bill is in, but a similar bill was in my committee. It may have been in Crime and Corrections this year. I just don't remember. I didn't really look at it. I think maybe this is in Crime and Corrections, but a similar bill.

But, very honestly, Senator, we have been looking at the numbers, the parole

numbers, and I think really what this bill is designed to do is maybe as a reminder to the Parole Board that you have to be very, very careful when you are dealing with some of the serious people that we have in our system.

You know, Senator, we don't have -- we have only a handful of non-violent people in our system, and most of those people are DWI people who -- we have a lot of people who are DWI. I have been looking at that lately because we have been criticized because we're not putting people away for driving while intoxicated. Well, I have news for a lot of people. We are. And I would suspect we're probably putting more people away for driving while intoxicated today than -- I'm just guessing, but I've got to believe more than any state in the Union, because most of the so-called non-violent inmates that we have in our system appear to be driving while intoxicated people.

But, on the other hand, we have a system that is -- although it is filled, we also

have a lot of inmates applying for parole who have violent backgrounds. And I think it seemed to Senator Marino that it was appropriate to put legislation in of this nature to remind the Parole Board members that they should be looking at the background of the people who they are reconsidering for parole, and that it is still their duty and their ability to hold those people if it seems that they could create some sort of danger to the community.

SENATOR GALIBER: Senator, one other question.

SENATOR VOLKER: Sure.

SENATOR GALIBER: Senator -

ACTING PRESIDENT FARLEY: Senator Volker, will you yield for one more question?

SENATOR VOLKER: Certainly.

SENATOR GALIBER: Senator, do you know of any particular incident in Senator Marino's district that would motivate this kind of legislation, isolated situation? Usually that's what happens in cases like this.

SENATOR VOLKER: I really can't,

Senator, but I will say this. I think you are aware that there have been a number of incidents in the last year involving people on parole who have committed subsequent crimes, some pretty heavy crimes. I really couldn't say to you that they were reconsidered people. I really couldn't. And I don't know, Senator Marino might be able to tell you that, but I just don't know if there was any specific incident.

SENATOR GALIBER: All right. Thank you, Senator.

Mr. President, on the bill.

ACTING PRESIDENT FARLEY: On the bill. Senator Galiber.

SENATOR GALIBER: Mr. President. Parole has been a very ticklish situation for many, many years for some of us, not necessarily those who would suggest that there are some legislators who are coddling inmates and want to open up the flood gates and let them out. That's not so. But what has happened in the past and will happen in the future if this piece of legislation goes through, it will pour salt,

if you will, on an already open wound.

That second go-round when a person is turned down the first go-round, that person is not in the small category of one to three or three to six. Those persons are turned down who are long-termers, and you are adding to, giving to the Parole Board something that they don't even want, very frankly, and that is, there is enough pressure put on the Parole Board now for those long-terms who have been in jail for some 15 or 20 years, and they keep going back after every two years, and they take into consideration the nature of the crime which is a kind of a catch-all phrase, and they send them back.

This piece of legislation is not wanted even by the Parole Board, very frankly. They feel that they have adequate space to do this if they want to in the first instance. All this really does is add another tool onto the parole commissioner's list of instruments that they have to use to satisfy a political climate, a political climate. They have persons in jail,

some of whom are 60, 70, 75 years of age. Can't even walk over, if you will, the barbed wire. They can't even walk over, and they are being turned back on a day-to-day basis.

I had a matter last week before the Appellate Division, Senator Volker. A young man who -- an old man now, because he spent some 20 years in jail on an allegation that he shot and killed a police officer out of uniform. He killed a person who happened to be a police officer. And the theory is they keep sending him back, and the parole commissioner says never. As long as he has been found guilty of killing a police officer, we will never let him out. Bad statement. Didn't really mean to say it that way, but it came up in the discussion last Friday.

What has happened here is that there are pressures being applied to the Parole Board to take those long-termers, most of whom don't create any problems any more -- don't even create any problems any more. They are part of, if you will -- almost part of the administration

in our prison system. Trustees, almost like a para-person. Para -- not paralegals but para professionals, almost, in a way of speaking.

So, Mr. President, this piece of legislation adds another weight to the Parole Board. I don't think they want it. I personally believe, and I don't know for a fact, that this was a case, an isolated case that might have happened in Senator Marino's Senatorial District. We all do this. We have a knee-jerk reaction. Something happens in our district, and we come in and we throw in a piece of legislation.

But there are prisoners now that come before the Parole Board -- and as I said last Friday, because this person has persistently said, "I didn't do it," they hold it against him. So between the nature of the crime and the seriousness and whether they go back in the community, this is merely a redundant piece of legislation. Dangerous only in the sense that it gives those persons who are on the parole commission who react, if you will,

to the public and react to political pressure another tool to deal with.

This is not needed. It's a bad piece of legislation. I vote no.

ACTING PRESIDENT FARLEY: Read the last section of Senator Marino's bill.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56, nays 3. Senators Galiber, Gold and Leichter recorded in the negative.

ACTING PRESIDENT FARLEY: Bill is passed.

THE SECRETARY: Calendar Number 602, by Senator Velella.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number 605, by Senator Padavan, Senate Bill Number

1854, Administrative Code of the city of New York.

SENATOR GOLD: Hold on one second.

Explanation.

ACTING PRESIDENT FARLEY: Explanation. Senator Padavan.

SENATOR PADAVAN: Mr. President. This legislation would amend the Administrative Code and the Retirement and Social Security Law to include district attorney investigators in the current 20-year retirement system that all policemen in the city of New York, and many statewide, are in. Within the City, they are the only policemen who are not in that pension system, and this law would allow them to be so.

ACTING PRESIDENT FARLEY: Senator Halperin.

SENATOR HALPERIN: Would Senator Padavan yield to a question?

ACTING PRESIDENT FARLEY: Senator Padavan.

SENATOR PADAVAN: Yes.

SENATOR HALPERIN: I know there are a number of bills pending which would enable -- and I think we've already done it for the correction officers -- enable various union members to buy into similar benefits; but they, as I said, have to buy into it. In this case, these investigators are being elevated to a -- I don't know if you call it a higher tier or certainly being given greater benefits without buying into it.

I understand there is a major bill that may be coming down pretty soon as relates to the Transit Workers Union where, once again, they are willing to buy into the better benefits. I'm concerned about establishing a precedent with this legislation that might be very, very costly to the City and the state as time goes on by re-opening this. But on the other hand, you mentioned that there were no police anywhere in the city that have -

SENATOR PADAVAN: That are not in the pension system.

SENATOR HALPERIN: That are not

in that?

SENATOR PADAVAN: Yes, these are the only ones left.

SENATOR HALPERIN: They don't have to pay for it? So these would be the only police officers?

SENATOR PADAVAN: There are 173 of them who currently are not in that system. Every other police officer in the city of New York in any of the components.

SENATOR HALPERIN: Every new employee of the police department goes into the same system that this bill would pus these individuals into.

SENATOR PADAVAN: Yes. Section 13-225 of the retirement system. They are all in it.

SENATOR HALPERIN: Okay. Thank you, Senator.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Mr. President. If Senator Padavan would yield, I

would just like to follow up on Senator Halperin's question, which is -

SENATOR PADAVAN: Yes.

ACTING PRESIDENT FARLEY: Senator Padavan.

SENATOR LEICHTER: Are these investigators police officers?

SENATOR PADAVAN: Yes.

SENATOR LEICHTER: Do they go through the police academy?

SENATOR PADAVAN: I can't answer that part of it, but they are police officers. They function as police officers. I'm sure as a practicing attorney, you know what they do for the district attorney.

SENATOR LEICHTER: No, I don't.

SENATOR PADAVAN: Well, they function as police officers within the D.A.'s office under his direction, meaning they investigate, they make arrests. They do all the things that any police detective would do outside the D.A.'s office. It presents all of the difficulties as well as dangers of that type

of position.

SENATOR LEICHTER: And I just want to understand how they are hired and how they are trained. Do they come up through the regular police process? You said that you don't believe they go to the academy, but do they come off the police list? Do they take the exam for the police department?

SENATOR PADAVAN: I believe they do. See, these people have been in this office, in this position, for many years, so I can't tell you as a matter of fact what list they got off of. They may have been a police officer and transferred to the D.A.'s office. I understand many of them -- how many, I don't know, but some fall into that category. They have may have been a transit police officer, a housing police officer, an NYPD police officer, and transferred into the D.A.'s office. They could have been a member of the State Police. They could have been a state trooper. There are a variety of ways they could have gotten to this position, but they are obviously all trained for it, and

they are all New York City police officers.

SENATOR LEICHTER: Mr. President. Would Senator Padavan yield to a question?

ACTING PRESIDENT FARLEY: Senator Padavan.

SENATOR LEICHTER: Senator, if, indeed, they were regular police officers and then transferred, wouldn't their pension benefits continue?

SENATOR PADAVAN: Not necessarily. No, because they move -- the answer to your question is the pension benefits are with the position not from where they came from. The current position that we are seeking to change does not provide for a 20-year pension system.

SENATOR LEICHTER: Senator, if you would be good enough to continue to yield.

SENATOR PADAVAN: Sure.

SENATOR LEICHTER: Yeah. I can not argue with your answer, because I'm really not knowledgeable in this area, but it is my

belief that once you are in the police pension system and you transfer into one of these positions in the district attorney's office, it's hard for me to believe that you wouldn't continue to be covered.

Senator Padavan, do you know historically why these people if, as you say, they are in all manner and means tantamount to being police officers who are not covered in the police pension system?

SENATOR PADAVAN: Historically, no, I don't.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Briefly on the bill.

ACTING PRESIDENT FARLEY: On the bill.

SENATOR LEICHTER: My concern is, and I gather it must have been Senator Halperin's concern because he asked questions that I thought were pertinent, is that while I

think all of us want to be as generous as we possibly can be with public employees and certainly those who go and risk their lives and we appreciate how important the service is, but one of the things that we find is there becomes a greater and greater pension burden on the city of New York and on local governments as a result of the action that we take.

And we're being asked please reduce expenditures. Many of you on the other side of the aisle get up and you rail about big expenditures. Well, one of the biggest expenditures is all of these pension benefits that we give. And I'm just frankly unsure, Senator, whether this is a meritorious something. That it was a mistake; it was overlooked; it should be done; we're rectifying a wrong; or whether we are giving the sort of a benefit, Senator, that we would like to give if we could be very generous but that we can't be that free with public monies. I'm not sure I know the answer to that, but I am concerned.

ACTING PRESIDENT FARLEY: Read

the last section.

SENATOR PADAVAN: Mr. President. Just one second.

ACTING PRESIDENT FARLEY: Senator Padavan.

SENATOR PADAVAN: You're right, Senator. Obviously, we have to be concerned about the fiscal impact of everything we do here. The fiscal information we received is that this would cost 500,000 a year. That comes from the appropriate fiscal authorities that gives us that kind of information. So we are talking about $500,000 that the city of New York would have to provide annually with regard to these individuals that it does not at this moment in time provide.

However, Senator, I think we have to look a little bit beyond that. I would think if I were a district attorney in the city of New York dealing with some -- I guess just virtually every county -- some very serious issues in terms of criminality and I need people working for me who are the best that are available to

have with me doing this kind of work, I would not want to feel that I got someone in that position who is not as capable with the background and experience that someone seeking a similar if not identical position in one of the other police components that serves the people of the city of New York.

What I am suggesting to you in terms of future recruitment, if not dealing with the equity of the current situation -- and, frankly, I would not have sponsored this bill if I did not feel there is an inequality here. But looking even beyond that in terms of the economics that you have raised, I think it's important that the district attorneys be on the same playing field as every other law enforcement component in the city of New York in terms of the kind of individuals that they have working for them in a police capacity. And pension systems are obviously one of the considerations that lead people to seek law enforcement as a career. And so I think you have to look at it not in terms of only the

$500,000 but the performance level down the road.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Senator Padavan yield to a question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT FARLEY: Senator Padavan.

SENATOR GOLD: Senator, first of all, you said that the district attorneys should not be disadvantaged. Have the District Attorneys Association filed a memo in support of this?

SENATOR PADAVAN: The District Attorneys Association have not filed any memo at all, to my knowledge. If you have one, I'd be happy if you shared it with me, but I have not received from them any communication. But I would suspect that past history being any gauge that if they had some opposition to this bill, they would let me know.

As a matter of fact, last Wednesday I received a call from our district attorney in Queens County on another bill that hopefully we will be dealing with in the near future involving pension systems that he called up about. So I'm sure that if he had a problem with this bill, although I didn't ask him to be accurate, he would have told me.

SENATOR GOLD: Will the gentleman yield to another question?

ACTING PRESIDENT FARLEY: Senator Padavan.

SENATOR GOLD: Yes, Senator Padavan. Isn't this bill in actuality -- since the city of New York is the municipality involved and they oppose it, isn't this really nothing more than a mandate on local government that is unfunded?

SENATOR PADAVAN: It's a mandate, but I don't believe it's unfunded.

SENATOR GOLD: Are we giving them the money?

SENATOR PADAVAN: We gave them

authorization, Senator. It's called "Safe Streets Safe Cities."

SENATOR GOLD: Right. Are we giving them the money for this?

SENATOR PADAVAN: It's 2.4 billion.

SENATOR GOLD: Thank you.

SENATOR PADAVAN: Part of that money, if I may answer you fully -

SENATOR GOLD: Sure. Of course.

SENATOR PADAVAN: Part of those funds earmarked in the "Safe Streets Safe Cities" plan are to go to district attorneys to enhance their capability and capacity to function more effectively within the criminal justice system in the city of New York.

SENATOR GOLD: Thank you. Will the Senator yield to one more question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT FARLEY: Senator Padavan.

SENATOR GOLD: Senator, we gave them the money to do what they want to do. Now

we're telling them what to do. Isn't that a mandate unless we fund it?

SENATOR PADAVAN: Senator, every pension bill that we deal with in this house historically or any time in the future that goes beyond state pensions for any locality, whether it's correcting someone's oversight or correcting a mistake or whatever, is a mandate on that local government. And in the course of the session, as you know, we deal with scores of that type of legislation.

To that extent, it is a mandate, but it's one that falls within our jurisdiction. Local government cannot, even if they wanted to, enact this legislation. The district attorneys whom I feel personally - it's a personal opinion -- support this legislation, although they have not, I repeat, sent a memo. And for that reason, we have to do it if anybody is going to do it.

SENATOR GOLD: Thank you. On the bill, Mr. President.

ACTING PRESIDENT FARLEY: On the

bill.

SENATOR GOLD: Senator Padavan, I don't think in all the years I have listened to you that I've ever thought you were more wrong. You say that every pension is a mandate. Senator, that just isn't so. We get requests up here day in and day out where there are negotiated conditions for pension from various groups and municipalities, and they need us to pass the legislation, so we pass it at their request.

Senator, I'm getting a little tired of hearing people who have Rs-C or just plain Rs behind their title, indicating their political party, talking about not giving unfunded mandates to localities. And day after day in this chamber, we get one from one of you or another of you. And that's what this is.

The city of New York is in financial condition similar to most governments around this country, and they are doing a budget. We say the district attorneys would want it. Well, they haven't asked for it. This

is not a D.A.'s bill. Believe me, the district attorneys negotiate with the City and they negotiate with the state very, very well. And there is nobody who respects the D.A.s more than I, but we're taking that negotiation process and we're violating it.

There is no memo in support. There is a memo in opposition. They are not involved in this. And, Senator, we know where the bill came from.

Now, in the memo from the city of New York, it talks about participants making certain contributions, other groups that have had similar legislation by negotiation or whatever, and there is a way of funding it. And this bill is absolutely a mandate, an unfunded mandate. It's that in Albany, it's that in Syracuse, it's that in New York City. It's an unfunded Republican mandate on the locality. That's what it is.

Somebody made the comment that - I think it was you, Senator Padavan, that we want to be generous. We're being generous with

other people's money. If you want to be generous with your money, be generous with your money. But it's a lot of nerve to take a locality and tell them that they are going to be generous, and then say that we don't mandate.

The $500,000 a year may not be a lot of money, but it's New York City's 500,000. It's not our 500,000. That's the bottom line. If the Republicans in this house want to put up 500,000 a year so that the New York City district attorneys can get, quotes, "better people", unquotes, as Senator Padavan is indicating, I tell you that many of us from New York City would be delighted to receive that money.

But if you are not giving us the money, just call this what it is. This is a Republican-sponsored, nonfunded mandate on a locality. And we got one day, and each day that they are on the floor we're going to call them and we're going to start making a scrapbook, and then at the end of the session whoever wins the lottery, the last Republican to stand up and

talk about how they are against nonfunded local mandates, we'll let you read the scrapbook.

ACTING PRESIDENT FARLEY: Senator Padavan.

SENATOR PADAVAN: Just a matter of information for those who may not be aware of it. This bill is sponsored in the Assembly by 16 Democrats from the city of New York.

So I would, therefore, take issue with any categorization that it is a Republican, quote, mandate. If it's a mandate -- and it is -- it's a bipartisan mandate for the reasons that I articulated in response to questions from Senator Leichter and others.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: I said it's a Republican mandate for one reason. We happen to be in a house where the Majority are Republicans, and it's convenient for them to take credit when they want it and not when they don't want it. You participate in, quotes,

bipartisan taxes to the extent of $5 billion in two years, and then you say it's always the other house doing it.

Senator Padavan, if there were 16 Democratic Assemblymen who want to impose a nonfunded mandate on the city of New York, that's their business. I don't think you should touch it, because that's not what I hear out of your party all the time.

Now, if you want to touch it and you agree with that as a philosophy then let's start talking about what party owns or doesn't own the protection of local governments throughout this state.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 605 are Senators

Daly, Farley, Galiber, Gold and Leichter. Ayes 50, nays 5.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 606, by Senator Trunzo, Senate Bill Number 2742, an act to amend the Retirement and Social Security Law.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Mr. President, on the bill.

I'm going to vote for this bill. This is a general pension extender, and there's a lot of things in there that ought to be extended.

But let me just tell you one of the things that is in there which I wish was not in there and which certainly makes the point how this Legislature has added to the cost of localities, has given some pension benefits that are totally wrong. They are unconscionable.

This one is the heart bill that goes to police officers -- maybe it's also included in here for firemen -- which has been shown to be such an abuse benefit that we've given, where police officers are entitled to retirement by claiming that there is some heart disease that they have that is deemed to be related to their occupation; and, therefore, they retire without a greater pension.

Just last week, Newsday had a series showing some of the abuses. One of them was a police surgeon who was allowed to retire on two-thirds benefit. Not that he was in any fire fight that may have caused some heart strain. He did what my surgeon does. He operates on people. Certainly not a reason to give that person a greater benefit. Nevertheless, he got it. We've had all sorts of numerous cases where police officials who sat behind the desk were entitled to retire by claiming that there was some impairment of their heart.

But even those officers who are

out there walking the beat and God knows, we owe them so much. But if we're going to give them money, give it to them on a proper, rightful basis. To do it on the basis that there is some stress and strain on their heart which shows up in heart disease is medically unfounded. Study after study has shown that that is not the case, that we don't consider whether the people who have some heart ailment when they retire, whether it's genetic, did it run in their family, were they smokers, did they do other things that may have caused that condition. To attribute by law that there is some relationship between the service of a police officer or the services of a fireman is just wrong.

And it's cost the people of this state, because I gather this is a statewide bill -- I know that Senator Cook had a bill that would have given the benefits for volunteer firefighters. But certainly in the city of New York, it's cost millions and millions of dollars. You know, you get up -- particularly those on the other side of the aisle -- and

you, at times, talk about how the City squanders its monies, and those of you who come from the City demand that you get better services. Well, one of the reasons the city doesn't have money is because of these pension benefits.

I guess I have the reputation here of being a big spender, of being friendly with labor and so on. I'm proud to be friendly with labor, but I think these pensions are just absolutely wrong. They are unjustified.

Now, this bill, as I said, has a lot of provisions in there that I think we have to extend, but at least we ought to know that we gave away an awful lot of money without any reason, without any basis. I guess partly it's because we do appreciate the work of police officers, and I guess partly it's because we appreciate the political power of police organizations. It's unfortunate.

ACTING PRESIDENT FARLEY: Senator Volker.

SENATOR VOLKER: Mr. President. I guess I got to. I normally don't respond to

New York City legislation; but, Senator Leichter -- Senator Leichter, you know, I have listened to this dissertation on pensions, and I have to kind of chuckle a little bit.

Senator, New York City police officers are probably -- not probably -- have without question one of the most dangerous jobs in the world. The rate over the years of police officers in this country killed or injured, New York City has been at the top or near the top for years. Now, thankfully, that has declined somewhat. It's Los Angeles. Actually, the numbers haven't declined. It's just that Los Angeles has now taken over as the capital city of maimings and killings and so forth.

The reason they're not at the top of the list is because they have so many people, so they do it on a per capita basis. But on an actual base, they have really taken over the market, so to speak.

But, Senator, I always am amazed when I listen to these protestations about spending in the city of New York. Senator, I

will guarantee you that I will take one program that the city of New York puts on every year, and it will more than pay for all of the pensions for the city police and firemen in the city of New York. I will guarantee you that each year, whatever mayor it is, offers up a new program that's going to save the city of New York and then comes back and says it's terrible that we are forced to pay our police and firemen these outrageous pensions and if we could just somehow save that money.

But keep in mind, Senator, we don't negotiate pensions for the city of New York, and we don't negotiate pay. They do it themselves, and they are the first ones to brag about the police and firemen in the city of New York and then oftentimes complain about what it costs.

Senator, it ain't cheap to protect the city of New York as policemen or firemen. It isn't cheap at all, and I know you understand that, Senator. But I'm only going to tell you that one of the things I think that

really aggravates me about some of the things that I hear out of the city is that I know they appreciate the actions of police and firemen, but sometimes I wonder if they realize that there is a price to be paid, and that price to be paid is that they have to have adequate and decent pensions for those people because certainly they aren't paid enough to justify those people being on the streets of New York.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Senator Volker, don't do that. Don't do that. What you did was wrong. Because you gave the impression that in some respect I was unwilling to recognize the work that police officers did or was unwilling to see that they are paid or unwilling to give them an adequate pension. That was not my argument. You want to give them a larger pension? That's fine, put it up front. You want to give them more pay? Put it up front. But don't do it through a phony argument that in some respects these people

suffer strain on their heart which results in heart ailments.

That's my argument. My argument is that that is medically unfounded. I didn't say that they shouldn't get good pensions, and I didn't say they shouldn't get good pay. I'm saying that we shouldn't do it where the Legislature makes a medical judgment that all medical experts say is nonsense and that we have seen abused.

And let me ask you. You have risen, so I will ask you. Do you think a police surgeon should be allowed to retire on a greater pension claiming that he has heart disorder because of the work that he did as a surgeon?

ACTING PRESIDENT FARLEY: Senator Volker, do you yield to this question?

SENATOR VOLKER: Mr. President, sure I yield. Senator, I'm not aware that a police surgeon did that. That may be true.

But Senator, I'm going to respond by saying to you there is ample evidence. One of the things that really

aggravates me, Senator, is there is ample evidence that law enforcement officers have a far higher rate, heart rate. It's the New York Times editorial board that doesn't want to believe some of the doctors who say they have a much higher heart rate and didn't give a damn sometimes, I think, about some of the medical evidence that says those people do have a much higher rate.

And Senator, there is ample evidence over the years that police officers do have a far higher rate and that, in fact, in some ways it may save the city of New York money not to have to go through the litigation involved in trying to redetermine some of the heart cases that they have in the police department and the fire department.

SENATOR LEICHTER: Mr. President. Let me just point out -

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: -- Senator Volker, that the leading heart experts, and I

studied the documentation on this. The leading heart experts, Dr. Dudley from Texas and so on, say there is absolutely no proof that the work of a police officer or, for that matter, the work of a fireman, which I guess physically is much more strenuous, will cause heart ailments, and you can't show me one credible medical report that shows that's the case.

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Volker.

SENATOR VOLKER: Will Senator Leichter yield to a question?

ACTING PRESIDENT FARLEY: Senator Leichter, will you yield?

SENATOR LEICHTER: Yes.

SENATOR VOLKER: Who was Dr. Dudley hired by?

SENATOR LEICHTER: I don't know.

SENATOR VOLKER: Wasn't he hired by the Conference of Mayors, the city of New York, to make a determination on heart ailments?

SENATOR LEICHTER: Senator, I don't know if that's the case or not. He is a very respected doctor. Experts usually get paid for giving expert advice, but I don't think that means that their findings are wrong or should be disbelieved, and I assume that the medical report that you are going to bring forth was paid for by the PBA.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 607, by Senator Trunzo, Senate Bill Number 3511, Retirement and Social Security Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 614, by Senator Wright, Senate Bill Number 4108, State Administrative Procedure Act.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT FARLEY: Senator Leichter asked for an explanation.

Senator Wright.

SENATOR WRIGHT: Mr. President. The act would amend the State Administrative Procedure Act to change an optional publication of a regulatory agenda to a mandatory publication requirement for six state agencies, the six largest, most frequent producers of regulations or revisions thereto.

SENATOR LEICHTER: Will Senator

Wright yield to a question, please?

ACTING PRESIDENT FARLEY: Senator Wright, would you yield to Senator Leichter?

SENATOR WRIGHT: I will, Mr. President.

SENATOR LEICHTER: Senator, my notes on this bill show that a similar bill that we passed last year was vetoed by the Governor.

SENATOR WRIGHT: That is correct, Senator. It is not reflected in the memorandum of support. That is inadvertently deleted in its preparation. But, in fact, it did pass both houses and was rejected by the Governor.

SENATOR LEICHTER: Is this the identical bill that was vetoed by the Governor?

SENATOR WRIGHT: Yes, it is.

SENATOR LEICHTER: Do you know what the Governor's objection was to the bill that we passed last year?

SENATOR WRIGHT: In his message, the Governor related that he felt that it was overly burdensome to the agencies involved to prepare the regulatory agendas. I, in turn,

don't share that feeling that it's burdensome to those agencies but, in fact, feel that the burden is being placed upon the small businesses and local governments being adversely affected by the regulations; and, therefore, we need to provide greater public information and vehicle for participation.

SENATOR LEICHTER: Good. I agree with you.

SENATOR WRIGHT: Thank you.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Present, that is it.

SENATOR PRESENT: Mr. President, there being no further business, I move we

adjourn until tomorrow at 3:00 p.m.

ACTING PRESIDENT FARLEY: Senate will stand adjourned until tomorrow at 3:00 p.m.

(Whereupon, at 4:22 p.m., the Senate adjourned.)