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ALBANY, NEW YORK

May 18, 1993

3:43 p.m.

REGULAR SESSION

SENATOR HUGH T. FARLEY, Acting President

STEPHEN F. SLOAN, Secretary

1 P R O C E E D I N G S

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

5 Will you please rise with me for
6 the Pledge of Allegiance to the flag.

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

9 Today, in the absence of visiting
10 clergy, we will bow our heads for a moment of
11 silent prayer.

12 (Whereupon, there was a moment of
13 silence.)

14 Secretary will begin by reading
15 the Journal.

16 THE SECRETARY: In Senate,
17 Monday, May 17. The Senate met pursuant to
18 adjournment, Senator Farley in the chair upon
19 designation of the Temporary President. The
20 Journal of Friday, May 14, was read and
21 approved. On motion, Senate adjourned.

22 ACTING PRESIDENT FARLEY: Hearing
23 no objection, the Journal will stand approved as

1 read.

2 The order of business:

3 Presentation of petitions.

4 Messages from the Assembly.

5 Messages from the Governor.

6 Reports of standing committees.

7 We have a report from a standing
8 committee. Secretary will read.

9 THE SECRETARY: Senator Stafford,
10 from the Committee on Finance, reports the
11 following nomination:

12 Daniel B. Tauriello, of Buffalo,
13 member of the State Board of Parole.

14 ACTING PRESIDENT FARLEY: Senator
15 Volker.

16 SENATOR VOLKER: Mr. President.
17 I rise to put forth the name of Dan Tauriello.

18 You know, I do it I guess with
19 mixed feelings. For those of you that are
20 wondering -- probably most of you realize this
21 is Joe Tauriello's brother, who served with us
22 in Senate for so many years -- with the
23 distinction, as Senator Padavan makes it very

1 clear.

2 I date back a lot longer with Dan
3 Tauriello, because we go back a long time in our
4 law enforcement days. Dan, frankly, has been a
5 guy who has been primarily in charge for many
6 years of protecting dignitaries. I suppose
7 that's probably one of the ways that the
8 Governor probably would notice Danny, because he
9 is the guy that has always been protecting him
10 and protecting so many of the people in the
11 Buffalo area when they come in from outside.

12 But other than that, I got to say
13 this, that he has not only been a fine police
14 officer, he is also a fine gentleman; and I mean
15 that very sincerely; and I haven't the slightest
16 doubt that he will make an excellent member of
17 the Parole Board. Certainly, nobody knows the
18 streets any better than Dan and knows the
19 problems of the streets and the individuals that
20 unfortunately clash with the law.

21 I would like to highly recommend
22 him and say it's probably one of the best
23 appointments to the Parole Board that the

1 Governor has ever made. And I say once again
2 that I'm very proud to stand here and say not
3 only that he deserves to be on the Parole Board
4 but also that he is a good friend, and that I
5 wish him the best of luck.

6 ACTING PRESIDENT FARLEY: Senator
7 Masiello.

8 SENATOR MASIELLO: Thank you very
9 much, and certainly I rise, too, to second the
10 nomination of my great friend, Dan Tauriello, to
11 the Parole Board.

12 The Tauriellos and the Masiellos
13 are like family back in Buffalo, Western New
14 York. As a matter of fact, we all come from the
15 same little province in Italy.

16 But aside from that, all of you
17 know that I took Dan's brother's place, Joe
18 Tauriello, here in the Senate; and those are big
19 shoes to fill and I'm still working hard trying
20 to fill those shoes. And you make sure you tell
21 Joe I'm doing that.

22 But certainly -- Dale Volker
23 alluded to that -- Dan Tauriello comes to this

1 chamber with a wonderful reputation in the city
2 of Buffalo and in Western New York. He is
3 highly respected and regarded by law enforcement
4 people throughout the community, but also
5 civicly, he has offered much and given much to
6 the Buffalo community especially the west side
7 of Buffalo; and his intelligence, his expertise,
8 his knowledge, will go a long way to making him
9 a superb member of the Parole Board, and I'm
10 thrilled that Governor Cuomo has found it in his
11 heart, especially in his mind, to appoint you to
12 this position.

13 SENATOR GOLD: Mr. President.

14 ACTING PRESIDENT FARLEY: Senator
15 Gold.

16 SENATOR GOLD: Will the Senator
17 yield to a question?

18 SENATOR MASIELLO: Absolutely,
19 especially from you, Senator Gold.

20 SENATOR GOLD: I'm sorry. Yes, I
21 got confused for a minute. In other words -- I
22 was prepared to debate against this violently.
23 This is not Joseph Tauriello. This is the

1 brother, is that what you're saying?

2 SENATOR MASIELLO: This is Dan
3 Tauriello.

4 SENATOR GOLD: Oh! Oh, that
5 one's all right.

6 SENATOR MASIELLO: Thank you very
7 much.

8 ACTING PRESIDENT FARLEY: On the
9 resolution. On the nomination, rather. On the
10 nomination, all in favor say aye.

11 (Response of "Aye.")

12 Those opposed, nay.

13 (There was no response.)

14 The ayes have it.

15 We're fortunate to have Dan
16 Tauriello right with us in the gallery. And on
17 behalf of the state of New York state Senate,
18 let me congratulate you on this appointment and
19 say how much we not only appreciate you but the
20 Tauriello family and your brother. Best wishes
21 and good luck.

22 (Applause)

23 Senator Present, we also have

1 some other nominees. Shall we do them?

2 SENATOR BRUNO: Do the nominees.

3 ACTING PRESIDENT FARLEY: Thank
4 you. Secretary will read.

5 THE SECRETARY: Senator Stafford,
6 from the Committee on Finance, reports the
7 following nominations:

8 Member of the State Council on
9 Home Care Services, Roslyn Bilford of Syracuse;
10 Joan E. Caserta of White Plains; Philip G.
11 DiSorbo of Scotia; Alexine L. Janiszewski of
12 Williamsville; and Sally J. Leiter of
13 Pittsford.

14 Member of the Battery Park City
15 Authority, Martin S. Begun of New York City.

16 Member of the Buffalo and Fort
17 Erie Public Bridge Authority, Rita J. Crangle of
18 Buffalo.

19 Member of the Board of Oswego
20 Authority, Christopher C. Dain of Oswego.

21 Member of the Advisory Council to
22 the Commission on Quality of Care for the
23 Mentally Disabled, Judy Eisman of Great Neck.

1 Member of the Mental Health
2 Services Council, Phyllis Harrison-Ross, M.D.,
3 of New York City.

4 Member of the Board of Directors
5 of the Great Lakes Protection Fund, Ronald J.
6 Scrudato, Ph.D., of Oswego.

7 Member of the Life Care Community
8 Council, Adele Shiman Trobe of Somers.

9 Member of the Board of Visitors
10 of the St. Lawrence Psychiatric Center, Orman
11 Bomyea of Malone.

12 Member of the Board of Visitors
13 of the Mid-Hudson Psychiatric Center, Thomas
14 Colligan of Middletown.

15 Member of Board of Visitors of
16 the Oswald D. Heck Developmental Disabilities
17 Services Office, Basil Hick of Castleton.

18 Member of the Board of Visitors
19 of the Middletown Psychiatric Center, Robert R.
20 Hoag of Middletown.

21 Member of the Board of Visitors
22 of the Rome Developmental Disabilities Services
23 Office, Doris Latimer of Rome.

1 Member of the Board of Visitors
2 of the Rome Developmental Disabilities Services
3 Office, Arthur A. Wood of Kent.

4 ACTING PRESIDENT FARLEY: On the
5 nominees. All those in favor, say aye.

6 (Response of "Aye.")

7 Those opposed, nay.

8 (There was no response.)

9 The ayes have it. The nominees
10 are confirmed.

11 Senator Present.

12 SENATOR BRUNO: Mr. President, I
13 move that we adopt the Resolution Calendar with
14 the exception of Resolution 1413.

15 ACTING PRESIDENT FARLEY: On the
16 resolutions with the exception. All in favor,
17 say aye.

18 ((Response of "Aye."))

19 Those opposed nay.

20 (There was no response.)

21 The Resolution Calendar is
22 adopted.

23 Senator Present.

1 SENATOR BRUNO: Mr. President.

2 Will you recognize Senator Holland.

3 ACTING PRESIDENT FARLEY: Senator
4 Holland.

5 SENATOR HOLLAND: Mr. President.

6 On Resolution 1390, it's a long-term care
7 resolution asking that the federal government
8 assist the state in the cost of this.

9 Mr. President, as you know, our
10 state is being strangled by a program that
11 although well-intentioned has become an
12 albatross around the neck of New York State
13 taxpayers.

14 Long-term care is the fastest
15 growing component of Medicaid. It is already
16 the most expensive part of the program, and its
17 rapid growth shows no sign of abatement. We
18 have tried to address the problem of long-term
19 care at the state level by instituting reforms
20 such as nursing home without walls program, the
21 long-term care insurance experiment through the
22 Robert Wood Johnson Foundation, but it is
23 obvious that this is a national problem and

1 should be treated as such.

2 Before us we have a call. It is
3 a call which Washington needs to heed. It is a
4 call for responsibility. It is a call for
5 vision. But most of all, it is a call for
6 action, and I am calling on all of you here
7 today, my fellow legislators, to let your voice
8 be heard in our nation's capital and support
9 this resolution that will affect not only the
10 elderly but those in the work force as well as
11 our children.

12 Thank you, Mr. President.

13 ACTING PRESIDENT FARLEY: Thank
14 you, Senator Holland.

15 Senator Present.

16 SENATOR PRESENT: Would you
17 recognize Senator DeFrancisco, please.

18 ACTING PRESIDENT FARLEY: Senator
19 DeFrancisco.

20 SENATOR DeFRANCISCO: I request
21 that Senate Resolution Number 1413 be read in
22 its entirety. Mr. Fisher, who is being honored,
23 is present with us today.

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ACTING PRESIDENT FARLEY:

Secretary will read the resolution.

I'm going to ask that the Senate please be quiet for the reading of this resolution. We have the honoree here in the chamber.

THE SECRETARY: Legislative Resolution Number 1413, by Senator DeFrancisco, honoring Marine Victor T. Fisher upon his selection as the 1992 Marine of the Year by the National Marine Corps League.

WHEREAS, it is incumbent upon the people of the state of New York to recognize those individuals within our midst who have made significant contributions to the quality of life of those who reside within its borders.

Marine Victor T. Fisher has proven to be an invaluable asset not only to the Marine Corps League, where he commenced service in 1963, but as an active and involved member of the community as a whole.

In recognition of his unique dedication to his career, his community, and his

1 country, he has been singled out as the 1992
2 Marine of the Year by the National Marine Corps
3 League.

4 Throughout his career, Marine
5 Fisher has served with honor and integrity with
6 the Greater Syracuse Detachment and held many
7 offices on the departmental and national levels,
8 including the Marine Corps League's National
9 Sergeant at Arms, the Department of New York
10 Military Order of the Purple Heart's Sergeant at
11 Arms, the Marine Corps League Department of New
12 York State's Sergeant at Arms, and the Sergeant
13 at Arms of the Memorial Association of the city
14 of Syracuse and Onondaga County.

15 Marine Fisher initiated the Star
16 Spangled Banner project which educates the
17 public on proper care and display procedures for
18 our nation's flag and diligently advises
19 presidents, governors, police chiefs and
20 government officials when he cites instances of
21 improper care and display.

22 Despite the demands of his
23 professional position, he always finds time to

1 lend a hand with the Marine Corps Reserves
2 annual Toys for Tots Campaign, the state
3 children's hospital doll collecting drive and
4 the American Cancer Society's annual fund
5 raiser.

6 Marine Fisher has assisted the
7 St. Lawrence Detachment and the St. Lawrence
8 Seaway Festival Committee for the past eight
9 years as the area hosts the Marine Corps Drum
10 and Bugle Corps for a series of special concerts
11 and parade performances that the community looks
12 forward to.

13 Marine Fisher received the Chapel
14 of Four Chaplains Humanitarian Award in 1991 for
15 a lifetime of outstanding humanitarian service
16 profoundly affecting the quality of life in our
17 community and nation.

18 He also was awarded the Chapel of
19 Four Chaplains Bronze Medallion in 1992 for
20 exemplary individual commitment to religious,
21 cultural and racial understanding and to the
22 cause of world service and world peace.

23 Marine fisher has exhibited

1 uncommon consideration and respect for his
2 fellow man and possesses qualities that
3 distinguish him as an exceptional contributor to
4 his community, state and nation.

5 Now, therefore, be it resolved,
6 that this legislative body pause in its
7 deliberations and honor Marine Victor T. Fisher
8 upon the occasion of his selection as 1992
9 Marine of the Year by the National Marine Corps
10 League; and be it further

11 Resolved, that a copy of this
12 resolution be transmitted to Victor T. Fisher in
13 recognition of this notable and extraordinary
14 accomplishment.

15 ACTING PRESIDENT FARLEY: Senator
16 DeFrancisco.

17 SENATOR DeFRANCISCO: Mr.
18 President. I am truly honored that this body
19 would take its valuable time to honor Victor
20 Fisher. I have known Victor for about fifteen
21 years, and he and his wife, June, are here
22 today.

23 He was not honored last year

1 because the award took place after session was
2 over, and I wasn't here. But I think anyone who
3 was here in my position would have honored Vic
4 Fisher.

5 You know, we debate bills all the
6 time about how we should treat everybody the
7 same way and how we should not discriminate
8 against people, how we should not deal with
9 people differently no matter what their status
10 or preferences might be.

11 If there were more people in this
12 world like Victor Fisher, we could save an awful
13 lot of time because this man is truly an
14 individual of decency and integrity.

15 He served our country as well as
16 anybody could possibly be expected to serve it,
17 and I'm very, very pleased that we stopped in
18 our deliberations to honor him today, and I
19 thank all of you for taking the time to do so,
20 and I would hope that this resolution passes
21 unanimously.

22 ACTING PRESIDENT FARLEY: Senator
23 Holland.

1 SENATOR HOLLAND: Mr. President,
2 as a former Marine and a member of the Marine
3 Corps League from Rockland County, I certainly
4 want to join with my colleagues here to honor
5 the 1992 Marine Corps League Member of the Year,
6 Victor Fisher, and say to him that I'm sure Jack
7 Nash and Ernie Pomeroy from my detachment join
8 me and us in honoring him.

9 Thank you.

10 ACTING PRESIDENT FARLEY: Thank
11 you. On the resolution. All those in favor,
12 aye.

13 (Response of "Aye".)

14 Those opposed, nay.

15 (There was no response.)

16 The resolution is unanimously
17 carried.

18 Mr. Fisher -

19 I'm sorry, Senator Stavisky.

20 SENATOR STAVISKY: Mr.
21 President. On resolution 1318, which has
22 already passed, some members have expressed a
23 desire to go on as co-sponsors of the

1 resolution. May we open up the sponsorship at
2 the desk?

3 ACTING PRESIDENT FARLEY: Senator
4 Stavisky, just -- we're in the middle of passing
5 a resolution here.

6 The resolution is passed.

7 Mr. Fisher, we're honored to have
8 you in our chamber. Congratulations on this
9 outstanding award. I know there's a number of
10 Marines that serve in this Senate, and each and
11 every one of them are very proud of you.

12 Congratulations.

13 (Applause)

14 Senator Stavisky.

15 SENATOR STAVISKY: Mr.
16 President. I'm sorry that I interrupted the
17 introduction.

18 On Calendar Resolution Number
19 1318, would you please open that for multiple
20 sponsorship of any members of the chamber. I
21 know Senator Levy and others wish to be added
22 for sponsorship. Please open it up at the desk.

23 ACTING PRESIDENT FARLEY: That's

1 your resolution?

2 SENATOR STAVISKY: In honor of
3 Jim Valvano.

4 ACTING PRESIDENT FARLEY: Oh,
5 yes. I thought we opened that up the other day,
6 but let's open up 1318 to anybody who wishes to
7 be a sponsor.

8 Senator Present.

9 SENATOR PRESENT: Let's do a
10 little housekeeping right now.

11 ACTING PRESIDENT FARLEY: Yes.
12 Okay, a little housekeeping. The housekeepers,
13 we'll start with Senator Volker.

14 SENATOR VOLKER: Mr. President.
15 On page 44, I offer the following amendments to
16 Calendar Number 859, Senate Print Number 3401,
17 and ask that said bill retain its place on the
18 Third Reading Calendar.

19 ACTING PRESIDENT FARLEY: Without
20 objection, the bill will retain its place.

21 Hold on, he's got another one.

22 SENATOR VOLKER: Mr. President.
23 On behalf of Senator Sears, we would like to

1 star Senate 861. Senate 861.

2 ACTING PRESIDENT FARLEY: The
3 bill is starred at the request of the sponsor.

4 Are you finished, Senator Volker?

5 SENATOR VOLKER: Yes.

6 ACTING PRESIDENT FARLEY: Okay.
7 Senator Saland.

8 SENATOR SALAND: Mr. President.
9 On page 50, I offer the following amendments to
10 Calendar Number 644, Senate 4560, and ask that
11 the bill retain its place on the Third Reading
12 Calendar.

13 ACTING PRESIDENT FARLEY: Without
14 objection, the bill will retain its place.

15 Senator Cook.

16 SENATOR COOK: Mr. President. On
17 behalf of Senator Velella, who at the moment is
18 otherwise disposed, on page 27, I offer the
19 following amendments to Calendar 712, Senate
20 Print 2589, and ask that said bill retain its
21 place on Third Reading Calendar.

22 ACTING PRESIDENT FARLEY: The
23 amendments will be received, and the bill will

1 retain its place on Third Reading Calendar.

2 Senator Holland.

3 SENATOR HOLLAND: Mr. President.

4 On behalf of Senator levy, ask that a sponsor
5 star be placed on Calendar 766, Senate 5434;
6 Calendar 768, Senate 5557; Calendar 849, Senate
7 184, please.

8 ACTING PRESIDENT FARLEY: Without
9 objection.

10 Senator Libous.

11 SENATOR LIBOUS: Thank you, Mr.
12 President. I would like to place a sponsor star
13 on several of my bills that are on the
14 calendar. Calendar Number 805.

15 ACTING PRESIDENT FARLEY: 805 is
16 starred.

17 SENATOR LIBOUS: 811.

18 ACTING PRESIDENT FARLEY: 811 is
19 starred.

20 SENATOR LIBOUS: 827.

21 ACTING PRESIDENT FARLEY: 827 is
22 starred.

23 SENATOR LIBOUS: 893.

1 ACTING PRESIDENT FARLEY: 893 is
2 starred.

3 SENATOR LIBOUS: And 894.

4 ACTING PRESIDENT FARLEY: 894 is
5 starred.

6 SENATOR LIBOUS: And I thank you,
7 Mr. President.

8 ACTING PRESIDENT FARLEY: That's
9 a lot of stars.

10 Senator Stavisky.

11 SENATOR STAVISKY: Mr.
12 President. Some minor record clearing. If I
13 had been in the chamber on Calendar 662, Bill
14 4479 I would have been recorded in the negative.

15 If I had been in the chamber at
16 the time that calendar 660, Bill 3205, had been
17 voted on, I would have been voted in the
18 negative; and similarly Calendar 432, Bill 2549.

19 I wish the record to reflect
20 that.

21 ACTING PRESIDENT FARLEY: The
22 record will so show.

23 Senator Sheffer.

1 SENATOR SHEFFER: Mr. President.
2 I would like to place a sponsor star on Calendar
3 753, Print Number 3321, please.

4 ACTING PRESIDENT FARLEY: 753 is
5 started at the request of the sponsor.

6 Senator Present.

7 SENATOR BRUNO: Mr. President. I
8 would like to call an immediate meeting of the
9 Rules committee in Room 332.

10 ACTING PRESIDENT FARLEY: There
11 will be an immediate meeting of the Rules
12 Committee in Room 332.

13 We have some substitutions. All
14 right to do those?

15 Secretary will read the
16 substitutions.

17 THE SECRETARY: On page 11 of
18 today's Calendar, Senator Farley moves to
19 discharge the Committee on Rules from Assembly
20 Bill Number 2853 and substitute it for the
21 identical Third Reading 173.

22 ACTING PRESIDENT FARLEY:
23 Substitution ordered.

1 THE SECRETARY: On page 10,
2 Senator Spano moves to discharge the Committee
3 on Rules from Assembly Bill Number 6436 and
4 substitute it for the identical Third Reading
5 476.

6 ACTING PRESIDENT FARLEY:
7 Substitution ordered.

8 THE SECRETARY: On page 21,
9 Senator Spano moves to discharge the Committee
10 on Rules from Assembly Bill Number 1335A and
11 substitute it for the identical Third Reading
12 598.

13 ACTING PRESIDENT FARLEY:
14 Substitution ordered.

15 THE SECRETARY: On page 41,
16 Senator Wright moves to discharge the Committee
17 on Rules from Assembly Bill Number 6557 and
18 substitute it for the identical Calendar Number
19 835.

20 ACTING PRESIDENT FARLEY:
21 Substitution is ordered.

22 THE SECRETARY: On page 27,
23 Senator Velella moves to discharge the Committee

1 on Insurance from Assembly Bill Number 672 and
2 substitute it for the identical Third Reading
3 6713. The Senate bill is high; the Assembly
4 bill is not.

5 ACTING PRESIDENT FARLEY:
6 Substitution is ordered.

7 Senator Kuhl, we're ready for the
8 calendar. What is your pleasure?

9 SENATOR KUHL: Senator Farley.
10 Senator Espada wanted to address the floor.

11 ACTING PRESIDENT FARLEY: Senator
12 Espada.

13 SENATOR ESPADA: Thank you, Mr.
14 President. I would like unanimous consent to be
15 recorded in the negative on Calendar Number 660.

16 ACTING PRESIDENT FARLEY: Is that
17 today's calendar?

18 SENATOR ESPADA: Yesterday.

19 ACTING PRESIDENT FARLEY: Well,
20 actually, you can't do that. What you will have
21 to do, Senator Espada, is say that if you were
22 here that you would have voted in the negative.

23 SENATOR ESPADA: Thank you very

1 much, Mr. President. If I had been here
2 yesterday, I would have voted nay on Calendar
3 Number 660.

4 ACTING PRESIDENT FARLEY: The
5 record will so show.

6 SENATOR ESPADA: Thank you very
7 much.

8 ACTING PRESIDENT FARLEY: Senator
9 Kuhl, I guess it's you.

10 SENATOR KUHL: Mr. President.
11 May we begin with the non-controversial
12 calendar, please.

13 ACTING PRESIDENT FARLEY:
14 Non-controversial. Secretary will read.

15 THE SECRETARY: On page 15,
16 Calendar Number 339, by Senator Sears, Senate
17 Bill Number 3452B, Agriculture and Markets Law,
18 in relation to manufacturer's information.

19 ACTING PRESIDENT FARLEY: Read
20 the last section.

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

23 ACTING PRESIDENT FARLEY: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 47, nays
4 one, senator Kuhl recorded in the negative.

5 ACTING PRESIDENT FARLEY: The
6 bill is passed.

7 THE SECRETARY: Also Senator
8 Daly.

9 ACTING PRESIDENT FARLEY: Hold on
10 just a second.

11 Senator Dollinger.

12 SENATOR DOLLINGER: Which
13 calendar was that, 330?

14 ACTING PRESIDENT FARLEY: That
15 was 339.

16 Results.

17 THE SECRETARY: Ayes 46, nays 2,
18 Senators Daly and Kuhl recorded in the
19 negative.

20 ACTING PRESIDENT FARLEY: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 357, by Senator Stafford, Senate Bill Number

1 3287, legalize, validate, ratify and confirm the
2 acts of a town board, town supervisor, town
3 collecting officer.

4 ACTING PRESIDENT FARLEY: Lead
5 the last section.

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

8 ACTING PRESIDENT FARLEY: Call
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 48.

12 ACTING PRESIDENT FARLEY: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 458, by member of the Assembly Lentol, Assembly
16 Bill Number 6457, Civil Practice Law and Rules,
17 in relation to the use of depositions.

18 SENATOR FARLEY: Read the last
19 section.

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

22 ACTING PRESIDENT FARLEY: Call
23 the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes 48.

3 ACTING PRESIDENT FARLEY: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 465, by Senator Hannon.

7 SENATOR KUHL: Lay it aside for
8 the day.

9 ACTING PRESIDENT FARLEY: Lay it
10 aside for the day.

11 THE SECRETARY: Calendar Number
12 480, by Senator Lack, Senate Bill Number 937,
13 Civil Service Law, in relation to the duration
14 of eligible lists.

15 SENATOR GOLD: Lay it aside.

16 ACTING PRESIDENT FARLEY: Lay it
17 aside.

18 THE SECRETARY: Calendar Number
19 610, by member of the Assembly wine /STAOEPB.

20 SENATOR TRUNZO: Lay it aside for
21 the day.

22 ACTING PRESIDENT FARLEY: Lay it
23 aside for the day.

1 THE SECRETARY: Calendar Number
2 613, by Senator Wright, Senate Bill Number 4106.

3 SENATOR LEICHTER: Lay it aside.

4 ACTING PRESIDENT FARLEY: Lay it
5 aside.

6 THE SECRETARY: Calendar Number
7 654, by Senator Volker.

8 SENATOR GOLD: Lay it aside for
9 Senator Montgomery, please.

10 ACTING PRESIDENT FARLEY: Lay it
11 aside.

12 THE SECRETARY: Calendar Number
13 669, by Senator Volker, Senate Bill Number 4013,
14 an act to amend the Criminal Procedure Law and
15 the Correction Law.

16 ACTING PRESIDENT FARLEY: Read
17 the last section.

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

20 ACTING PRESIDENT FARLEY: Call
21 the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 48.

1 ACTING PRESIDENT FARLEY: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 671, by Senator Padavan, Senate Bill Number
5 4166, an act to amend the Penal Law.

6 ACTING PRESIDENT FARLEY: Read
7 the last section.

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

10 ACTING PRESIDENT FARLEY: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 50.

14 ACTING PRESIDENT FARLEY: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 687, by Senator Hannon, Senate Bill Number
18 3171A, Private Housing Finance Law.

19 SENATOR LEICHTER: Lay it aside.

20 ACTING PRESIDENT FARLEY: Lay it
21 aside.

22 THE SECRETARY: Calendar Number
23 701, by Senator Farley, Senate Bill Number 1023,

1 to allow David Young retroactive membership in
2 the local employee retirement system.

3 SENATOR GOLD: Lay it aside.

4 ACTING PRESIDENT FARLEY: Lay it
5 aside.

6 THE SECRETARY: Calendar Number
7 703, by Senator Kuhl, Senate Bill Number 3430,
8 Retirement and Social Security Law.

9 ACTING PRESIDENT FARLEY: There
10 is a home rule message here at the desk.

11 Read the last section.

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

14 ACTING PRESIDENT FARLEY: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 50.

18 ACTING PRESIDENT FARLEY: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 706, by Senator Spano.

22 SENATOR KUHL: Lay it aside for
23 the day, please.

1 ACTING PRESIDENT FARLEY: Lay it
2 aside for the day.

3 THE SECRETARY: Calendar Number
4 714, by member of the Assembly Bragman, Assembly
5 Bill Number 505, Insurance Law, requiring the
6 disclosure and credit life insurance policies.

7 ACTING PRESIDENT FARLEY: Read
8 the last section.

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

11 ACTING PRESIDENT FARLEY: Call
12 the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes 50.

15 ACTING PRESIDENT FARLEY: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 715, by Senator Velella, Senate Bill Number
19 4998.

20 SENATOR KUHL: Lay it aside.

21 ACTING PRESIDENT FARLEY: Lay it
22 aside.

23 THE SECRETARY: Calendar 716, by

1 Senator Velella, Senate Bill Number 4999, an act
2 to amend the Insurance Law, in relation to
3 reduction in homeowners insurance rates.

4 ACTING PRESIDENT FARLEY: Read
5 the last section.

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

8 ACTING PRESIDENT FARLEY: Call
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 50.

12 ACTING PRESIDENT FARLEY: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 730, by Senator Kuhl, Senate Bill Number 3408,
16 Agriculture and Markets Law, in relation to the
17 definition of the term food salvager.

18 ACTING PRESIDENT FARLEY: Read
19 the last section.

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

22 ACTING PRESIDENT FARLEY: Call
23 the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes 50.

3 ACTING PRESIDENT FARLEY: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 733, by Senator Johnson, Senate Bill Number
7 3934, General Business Law, in relation to
8 limitations to certain contracts.

9 SENATOR GOLD: Lay it aside.

10 ACTING PRESIDENT FARLEY: Lay it
11 aside.

12 THE SECRETARY: Calendar Number
13 739, by Senator Levy, Senate Bill Number 4045.

14 SENATOR KUHL: Lay it aside for
15 the day.

16 ACTING PRESIDENT FARLEY: Lay it
17 aside for the day.

18 THE SECRETARY: Calendar 741, by
19 Senator Maltese, Senate Bill Number 4519,
20 Executive Law, requiring certain notices.

21 SENATOR LEICHTER: Lay it aside.

22 ACTING PRESIDENT FARLEY: Lay it
23 aside.

1 THE SECRETARY: Calendar Number
2 742, by Senator LaValle, Senate Bill Number
3 4564, establish the New York State Waste
4 Management Institute.

5 ACTING PRESIDENT FARLEY: Read
6 the last section.

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

9 ACTING PRESIDENT FARLEY: Call
10 the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes 50.

13 ACTING PRESIDENT FARLEY: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 743, by Senator DeFrancisco, Senate Bill Number
17 4905, Executive Law and the State Finance Law.

18 ACTING PRESIDENT FARLEY: There
19 is a local fiscal impact note here at the desk.

20 Read the last section.

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

23 ACTING PRESIDENT FARLEY: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 50.

4 ACTING PRESIDENT FARLEY: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 754, by Senator Holland, Senate Bill Number
8 3535, relocate the Spring Valley Toll Plaza of
9 the New York State Thruway.

10 ACTING PRESIDENT FARLEY: Read
11 the last section.

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

14 ACTING PRESIDENT FARLEY: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 50.

18 ACTING PRESIDENT FARLEY: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 757, by Senator Levy, Senate Bill Number 3886A,
22 directing the Commissioner of Transportation to
23 develop test pilot programs.

1 ACTING PRESIDENT FARLEY: Read
2 the last section.

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

5 ACTING PRESIDENT FARLEY: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 49, nays
9 one, senator Libous recorded in the negative.

10 ACTING PRESIDENT FARLEY: The
11 bill is passed.

12 Senator Leichter.

13 SENATOR LEICHTER: May I have
14 unanimous consent to be recorded in the negative
15 on Calendar 754.

16 ACTING PRESIDENT FARLEY: 754,
17 Senator Leichter will be in the negative.

18 Continue, Mr. Secretary.

19 THE SECRETARY: Calendar Number
20 758, by Senator Levy, Senate Bill Number 3887,
21 New York City charter and the Public Authorities
22 Law.

23 ACTING PRESIDENT FARLEY: Read

1 the last section.

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

4 ACTING PRESIDENT FARLEY: Call
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes 50.

8 ACTING PRESIDENT FARLEY: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 772, by Senator Lack, Senate Bill Number 2028,
12 an act to amend the Labor Law.

13 ACTING PRESIDENT FARLEY: Read
14 the last section.

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

17 ACTING PRESIDENT FARLEY: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 50.

21 ACTING PRESIDENT FARLEY: The
22 bill is passed.

23 THE SECRETARY: Calendar Number

1 783, by Senator Lack, Senate Bill Number 1334A,
2 Family Court Act, in relation to the definition
3 of person in need of supervision.

4 ACTING PRESIDENT FARLEY: Read
5 the last section.

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

8 ACTING PRESIDENT FARLEY: Call
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 50.

12 ACTING PRESIDENT FARLEY: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 784, by Senator Saland, Senate Bill Number 1555,
16 Criminal Procedure Law.

17 ACTING PRESIDENT FARLEY: Read
18 the last section.

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

21 ACTING PRESIDENT FARLEY: Call
22 the roll.

23 (The Secretary called the roll.)

1 THE SECRETARY: Ayes 50.

2 ACTING PRESIDENT FARLEY: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 786, by Senator Saland, Senate Bill Number 4686,
6 Social Services Law, in relation to the
7 discharge of children from foster care.

8 ACTING PRESIDENT FARLEY: Read
9 the last section.

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

12 ACTING PRESIDENT FARLEY: Call
13 the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes 50.

16 ACTING PRESIDENT FARLEY: The
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 787, by Senator Saland, Senate Bill Number 4687,
20 an act to amend the Social Services Law.

21 ACTING PRESIDENT FARLEY: Read
22 the last section.

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT FARLEY: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 50.

6 ACTING PRESIDENT FARLEY: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 788, by Senator Saland, Senate Bill Number 4867,
10 Social Services Law, in relation to notice of
11 surrender proceedings.

12 SENATOR GOLD: Lay it aside.

13 ACTING PRESIDENT FARLEY: Lay it
14 aside.

15 THE SECRETARY: Calendar Number
16 789, by Senator Saland, Senate Bill Number 4868,
17 Family Court Act, in relation to the placement
18 of children.

19 ACTING PRESIDENT FARLEY: Read
20 the last section.

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

23 ACTING PRESIDENT FARLEY: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 50.

4 ACTING PRESIDENT FARLEY: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 790, by Senator Saland.

8 SENATOR KUHL: Lay it aside.

9 ACTING PRESIDENT FARLEY: Lay it
10 aside.

11 THE SECRETARY: Calendar Number
12 791, by Senator Saland.

13 SENATOR KUHL: Lay it aside.

14 ACTING PRESIDENT FARLEY: Lay it
15 aside.

16 THE SECRETARY: Calendar Number
17 796, by Senator Johnson, Senate Bill Number
18 3367A, Environmental Conservation Law.

19 ACTING PRESIDENT FARLEY: Read
20 the last section.

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

23 ACTING PRESIDENT FARLEY: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 50.

4 ACTING PRESIDENT FARLEY: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 802, by Senator Stachowski, Senate Bill Number
8 1297, Education Law, in relation to school lunch
9 periods.

10 ACTING PRESIDENT FARLEY: Read
11 the last section.

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

14 ACTING PRESIDENT FARLEY: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 50.

18 ACTING PRESIDENT FARLEY: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 812, by Senator Present, Senate Bill Number
22 4883, Education Law, in relation to computation
23 of approved operating expense.

1 ACTING PRESIDENT FARLEY: There
2 is a local fiscal impact note here at the desk.

3 Read the last section.

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

6 ACTING PRESIDENT FARLEY: Call
7 the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes 50.

10 ACTING PRESIDENT FARLEY: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 816, by Senator Skelos.

14 SENATOR GOLD: Lay it aside.

15 ACTING PRESIDENT FARLEY: Lay it
16 aside.

17 THE SECRETARY: Calendar Number
18 817, by Senator Maltese, Senate Bill Number
19 1648, an act to amend the Correction Law.

20 ACTING PRESIDENT FARLEY: Read
21 the last section.

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

1 ACTING PRESIDENT FARLEY: Call
2 the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes 49, nays 1,
5 Senator Waldon recorded in the negative.

6 ACTING PRESIDENT FARLEY: The
7 bill is passed.

8 THE SECRETARY: Also Senator
9 Smith recorded in the negative.

10 ACTING PRESIDENT FARLEY: Senator
11 Galiber also in the negative.

12 THE SECRETARY: In relation to
13 Calendar Number 817, Senators Galiber, Pataki,
14 Smith and Waldon recorded in the negative. Ayes
15 46, nays 4.

16 ACTING PRESIDENT FARLEY: That
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 819, by Senator Cook, Senate Bill Number 2288,
20 an act to amend the Correction Law.

21 ACTING PRESIDENT FARLEY: Read
22 the last section.

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT FARLEY: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 49, nays 1,
6 Senator Espada recorded in the negative.

7 ACTING PRESIDENT FARLEY: The
8 bill is passed.

9 THE SECRETARY: Calendar 821, by
10 Senator Maltese, Senate Bill Number 3799, an act
11 to amend the Executive Law, in relation to a
12 crime victims or crime victims representatives.

13 ACTING PRESIDENT FARLEY: Read
14 the last section.

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

17 ACTING PRESIDENT FARLEY: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 50.

21 ACTING PRESIDENT FARLEY: The
22 bill is passed.

23 THE SECRETARY: Calendar Number

1 822, by Senator Present, Senate Bill Number
2 1832D, an act to amend the Real Property Law.

3 ACTING PRESIDENT FARLEY: There
4 is a home rule message here at the desk.

5 Read the last section.

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

8 ACTING PRESIDENT FARLEY: Call
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 50.

12 ACTING PRESIDENT FARLEY: The
13 bill is passed.

14 THE SECRETARY: Calendar 823, by
15 Senator Cook, Senate Bill Number 2410, proposing
16 amendment to the Constitution.

17 SENATOR GOLD: Lay it aside.

18 ACTING PRESIDENT FARLEY: Lay
19 that bill aside.

20 SENATOR LEICHTER: Mr. President.

21 ACTING PRESIDENT FARLEY: Senator
22 Leichter.

23 SENATOR LEICHTER: Mr.

1 President. Calendar 819, could we please
2 reconsider the vote by which that bill passed.

3 ACTING PRESIDENT FARLEY: Call
4 the roll on reconsideration of Senator Cook's
5 bill, 819.

6 (The Secretary called the roll on
7 reconsideration.)

8 THE SECRETARY: Ayes 50.

9 ACTING PRESIDENT FARLEY: The
10 bill is before the house.

11 Lay it aside.

12 THE SECRETARY: Calendar Number
13 831, by member of the Assembly Gottfried,
14 Assembly Bill Number 2200, Social Services Law,
15 in relation to payment of interest by providers
16 of medical assistance.

17 SENATOR HOLLAND: Lay it aside.

18 ACTING PRESIDENT FARLEY: Lay it
19 aside.

20 THE SECRETARY: Calendar Number
21 833, by Senator Holland, Senate Bill Number
22 3656, an act to amend the Social Services Law.

23 SENATOR SMITH: Lay it aside.

1 ACTING PRESIDENT FARLEY: Lay it
2 aside.

3 THE SECRETARY: Calendar Number
4 835, by member of the Assembly Singer,
5 substituted earlier today, Assembly Bill Number
6 6557, an act to amend the Social Services Law.

7 ACTING PRESIDENT FARLEY: Read
8 the last section.

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

11 ACTING PRESIDENT FARLEY: Call
12 the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes 51.

15 ACTING PRESIDENT FARLEY: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 837, by Senator Levy, Senate Bill Number 787, an
19 act to amend the Vehicle and Traffic Law.

20 ACTING PRESIDENT FARLEY: Read
21 the last section.

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

1 ACTING PRESIDENT FARLEY: Call
2 the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes 51.

5 ACTING PRESIDENT FARLEY: The
6 bill is passed.

7 THE SECRETARY: Excuse me. Ayes
8 50, nays 1, Senator Johnson recorded in the
9 negative.

10 ACTING PRESIDENT FARLEY: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 839, by Senator Cook, Senate Bill Number 2409,
14 an act to amend the Vehicle and Traffic Law.

15 SENATOR GOLD: Lay it aside.

16 ACTING PRESIDENT FARLEY: Did you
17 say lay it aside?

18 Lay it aside.

19 THE SECRETARY: Calendar Number
20 840, by Senator Sears, Senate Bill Number 3471,
21 an act to amend the Public Health Law and the
22 Executive Law.

23 ACTING PRESIDENT FARLEY: Read

1 the last section.

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

4 ACTING PRESIDENT FARLEY: Call
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes 51.

8 ACTING PRESIDENT FARLEY: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 841, by Senator DeFrancisco, Senate Bill Number
12 3716, an act to amend the Military Law.

13 ACTING PRESIDENT FARLEY: Read
14 the last section.

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

17 ACTING PRESIDENT FARLEY: Call
18 the roll.

19 (The Secretary called the roll.)

20 SENATOR DOLLINGER: I just rise
21 to ask to abstain on this ballot.

22 ACTING PRESIDENT FARLEY: Without
23 objection, Senator Dollinger will abstain.

1 THE SECRETARY: Ayes 50.

2 ACTING PRESIDENT FARLEY: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 844, by Senator Larkin, Senate Bill Number 4354,
6 an act to amend the Education Law.

7 SENATOR GOLD: Lay it aside.

8 ACTING PRESIDENT FARLEY: Lay it
9 aside.

10 THE SECRETARY: Calendar Number
11 845, by Senator DeFrancisco, Senate Bill Number
12 4476, Executive Law, in relation to veterans
13 credits.

14 ACTING PRESIDENT FARLEY: Read
15 the last section.

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

18 ACTING PRESIDENT FARLEY: Call
19 the roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes 51.

22 ACTING PRESIDENT FARLEY: The
23 bill is passed.

1 THE SECRETARY: Calendar Number
2 847, by Senator DeFrancisco.

3 SENATOR GOLD: Lay it aside.

4 ACTING PRESIDENT FARLEY: Lay it
5 aside.

6 THE SECRETARY: Calendar Number
7 850, by Senator Spano, Senate Bill Number 953,
8 an act to amend the Penal Law.

9 ACTING PRESIDENT FARLEY: Read
10 the last section.

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

13 ACTING PRESIDENT FARLEY: Call
14 the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes 51.

17 ACTING PRESIDENT FARLEY: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 854, by Senator Johnson, Senate Bill Number
21 1624, an act to amend the Penal Law.

22 ACTING PRESIDENT FARLEY: Read
23 the last section.

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

3 ACTING PRESIDENT FARLEY: Call
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes 49. Nays
7 2. Senators Gold and Leichter -- and Senator
8 Montgomery.

9 ACTING PRESIDENT FARLEY: Hold
10 on. Negatives raise your hands.

11 THE SECRETARY: Those recorded in
12 the negative on Calendar Number 854 are Senators
13 Espada, Gold, Leichter, Montgomery and Smith.
14 Ayes 46, nays 5.

15 ACTING PRESIDENT FARLEY: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 866, by Senator Bruno, Senate Bill Number 5001,
19 Labor Law, in relation to the payment of manual
20 workers.

21 ACTING PRESIDENT FARLEY: Read
22 the last section.

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT FARLEY: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 52.

6 ACTING PRESIDENT FARLEY: The
7 bill is passed.

8 Senator Present, that's the first
9 time through.

10 SENATOR BRUNO: Mr. President.
11 Let's go through the controversial calendar.

12 ACTING PRESIDENT FARLEY:
13 Controversial.

14 THE SECRETARY: On page 18,
15 Calendar Number 480, by Senator Lack, Senate
16 Bill Number 937, Civil Service Law, in relation
17 to the duration of eligible lists.

18 SENATOR GOLD: Explanation.

19 ACTING PRESIDENT FARLEY:
20 Explanation has been asked for. Senator Lack.

21 SENATOR LACK: Thank you, Mr.
22 President. This bill would amend Civil Service
23 Law Section 56 to extend during the life of the

1 Eligibility List 6643 for Fire Marshal, the Fire
2 Department in the city of New York, until the
3 number of positions that have been lost to the
4 department are filled by candidates on such
5 lists or for an additional two years from the
6 expiration date that was fixed by such list,
7 whichever date would occur first.

8 SENATOR GOLD: Mr. President.

9 ACTING PRESIDENT FARLEY: Senator
10 Gold.

11 SENATOR GOLD: Yes. Senator Lack
12 yield to a question?

13 SENATOR LACK: Sure.

14 ACTING PRESIDENT FARLEY: Will
15 you yield to Senator Gold?

16 SENATOR LACK: Of course.

17 SENATOR GOLD: Senator, are you
18 aware of the memorandum filed by the City in
19 opposition?

20 SENATOR LACK: Yes, Senator, I
21 realize it's a little bit of an anomalous
22 situation here. There's a memorandum filed by
23 the Mayor of the city of New York in

1 opposition. There is also a home rule message
2 at the desk in which the City Council of the
3 city of New York passed a home rule in support
4 of the bill.

5 SENATOR GOLD: I appreciate your
6 helping me clarify that.

7 ACTING PRESIDENT FARLEY: Read
8 the last section.

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

11 ACTING PRESIDENT FARLEY: Call
12 the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes 52.

15 ACTING PRESIDENT FARLEY: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 613, by Senator Wright, Senate Bill Number 4106,
19 Administrative Procedure Act.

20 SENATOR DOLLINGER: Explanation.

21 ACTING PRESIDENT FARLEY:
22 Explanation has been asked for. Senator Wright.

23 SENATOR WRIGHT: Thank you, Mr.

1 President. The bill amends the Administrative
2 Procedures Act and addresses two issues. One is
3 to restrict state agencies from exceeding the
4 rulemaking process and increasing standards
5 beyond the established standards of the federal
6 government, and the second purpose is to require
7 state agencies to accept compliance at the state
8 level if they achieve compliance with the
9 federal standards. The intent is to restrict
10 the rulemaking authority of agencies unless
11 expressly approved by the Legislature to exceed
12 the federal standards.

13 SENATOR GOLD: Mr. President,
14 will the gentleman yield to a question?

15 SENATOR WRIGHT: Mr. President, I
16 will yield.

17 (Senator Padavan in the chair.)

18 SENATOR GOLD: Mr. President.
19 Will the gentleman yield to a question?

20 SENATOR PADAVAN: Will the Senator
21 yield?

22 SENATOR WRIGHT: Yes.

23 SENATOR GOLD: Senator, I

1 understand the language of the bill, but what I
2 don't understand is the following. A state
3 agency cannot, according to New York State law,
4 promulgate any rule or regulation, none, unless
5 it is specifically authorized by the New York
6 State Legislature; isn't that a fact?

7 SENATOR WRIGHT: That's correct.

8 SENATOR GOLD: Senator yield to
9 another question.

10 ACTING PRESIDENT PADAVAN:

11 Senator Wright yield?

12 SENATOR WRIGHT: I do, Mr.
13 President.

14 SENATOR GOLD: Senator, your bill
15 says that they shall not by rule or regulation
16 go past a certain point. Isn't it a fact,
17 Senator, that that's really up to us? They can
18 not pass rules and regulations that go anywhere
19 unless this Legislature gives them the enabling
20 legislation. Otherwise, the rule or regulation
21 itself can be stricken down as in violation of
22 law. Isn't that true?

23 SENATOR WRIGHT: In fact, what

1 you find is that while the enabling legislation
2 by the very nature of enabling legislation tends
3 to be general, the regulations themselves tend
4 to be far more specific, and liberties will be
5 taken in terms of that rulemaking process that
6 may, in fact, exceed the federal standards
7 without specific state enabling legislation to
8 do that.

9 And while there is an oversight
10 process to review that rulemaking, in fact it is
11 not sufficiently tight enough that many of those
12 issues are addressed.

13 SENATOR GOLD: Will the Senator
14 yield to another question?

15 Senator, I don't have the exact
16 section in front of me. It may be subdivision
17 16 of Article III, something like that, in our
18 state Constitution, which basically says that we
19 can not pass any legislation that adopts in it
20 the laws of any other state or the federal
21 government unless we actually take the language
22 and put it in. That article of the Constitution
23 has been emasculated by our courts, which as

1 bright as they are sometimes don't read our
2 Constitution.

3 But Senator, in effect, isn't
4 that what your bill is doing in a general way?
5 You are saying that a state agency getting the
6 rulemaking authority from the state Legislature
7 is bound, no matter what we say, to whatever
8 happens to be at the time a federal regulation.
9 Therefore, you are subjecting our rulemaking and
10 our legislation to the whim what may or may not
11 be a federal rule at the time. Isn't that in
12 effect what happens?

13 SENATOR WRIGHT: So, in effect, I
14 believe, Senator, what we're doing is by
15 enacting this legislation we're establishing the
16 state's practice of adhering with those minimum
17 federal requirements unless we as a body and the
18 other house specifically decide that we want to
19 exceed those standards, and we say so in the
20 enabling legislation.

21 SENATOR GOLD: Well, that's the
22 part I'm trying to find here, and I apologize.
23 Is there language in your bill which

1 specifically says that they cannot exceed the
2 federal standard unless authorized by us to use
3 that phrase?

4 SENATOR WRIGHT: In fact we do.
5 "The state agency shall not promulgate a state
6 rule that imposes requirements which are greater
7 than those imposed by a federal law or rule
8 unless the agency is specifically authorized by
9 state law to exceed federal standards for such a
10 rule."

11 SENATOR GOLD: Fine. Senator
12 will yield to a question? How would you envision
13 a statute would read that does that?

14 SENATOR WRIGHT: I'm sorry.

15 SENATOR GOLD: How would you
16 envision the language of a statute that would do
17 that?

18 SENATOR WRIGHT: Well, I would
19 envision -- first of all, we've had
20 circumstances. I think the most recent example
21 would be the air quality standards as it relates
22 to low emission vehicles, where we had an agency
23 proceeding with standards significantly in

1 excess of the minimum federal requirements; and,
2 in fact, it required action by both houses of
3 the Legislature to specifically say that's not
4 our intent; that's not our purpose. Had this
5 legislation in fact been in place at that
6 particular time, we would not have had to act
7 accordingly.

8 SENATOR GOLD: All right.
9 Senator, if you yield to a question? Isn't it a
10 fact in the situation you just discussed that
11 the Legislature was able to handle that
12 situation appropriately under existing law? I
13 mean are there other -- and if I may, just to
14 give you a chance to respond. Had there been
15 other situations where we've had to do that as a
16 legislative body with any degree of regularity?

17 SENATOR WRIGHT: Well, there have
18 been situations. In that particular case, yes,
19 there was a remedy. However, it's not
20 necessary. I don't believe that the Legislature
21 should have to go through that process where it
22 actually restricts an administrative agency
23 that's exceeding its authority and intent of the

1 statute.

2 More importantly, there are other
3 instances. An example would be standards for
4 landfill closures as they apply to local
5 governments. There are federal standards and
6 then state standards that exceed those federal
7 standards that place an additional burden on
8 those local governments that have not been
9 explicitly approved by this Legislature but have
10 been approved in a broader context of dealing
11 with the environmental concerns of landfill
12 closure. Those circumstances have sufficient
13 costs and requirements on the agency -- on the
14 local government. That's why I believe we need
15 to control it on the front end rather than the
16 Legislature reacting after the fact in
17 rescinding or recalling those actions.

18 SENATOR GOLD: Mr. President.
19 I'm going to yield to Senator Leichter.

20 SENATOR LEICHTER: Thank you.
21 Would Senator Wright yield?

22 ACTING PRESIDENT PADAVAN: Will
23 the Senator yield?

1 SENATOR WRIGHT: I will, Mr.
2 President.

3 SENATOR LEICHTER: Senator, is it
4 your view that the bureaucrats down in
5 Washington have a better idea of the needs of
6 the people of the state of New York than we do
7 here in the state?

8 SENATOR WRIGHT: No, sir, it is
9 not. My view is that, in fact, they are dealing
10 on the national perspective, and they establish
11 those standards that apply equally to all 50 of
12 the states, thereby providing in effect a level
13 playing field relative to New York State and its
14 ability to compete with those other 50 states.
15 It then becomes the wisdom of this legislative
16 body and our executive branch to determine
17 whether or not those standards, in fact, meet
18 New York State's needs; and if they do not, we
19 have the right and the obligation to impose
20 additional standards, and we do that
21 legislatively. This does not prevent that. It
22 simply provides for a rational process of
23 putting in place the federal standards,

1 eliminating the duplication and the conflicts
2 that occur between the two. Then if we deem
3 that there are additional requirements, we have
4 the opportunity to enact same.

5 SENATOR LEICHTER: Well, Senator,
6 in the first instance, is it not correct, you
7 take the idea of the regulations of the people
8 within the Beltway are more suitable and more
9 appropriate for the people of the state of New
10 York than the regulations that might be made
11 here within the state of New York?

12 SENATOR WRIGHT: No, Senator.

13 SENATOR LEICHTER: Isn't that
14 what your bill does?

15 SENATOR WRIGHT: No. In fact,
16 what it does is it accepts the federal standards
17 as they apply to all of the states as a baseline
18 for the basis of comparison; and working off
19 that federal baseline, we then determine whether
20 or not that is sufficient for the needs of New
21 York State or whether additional action is
22 required.

23 And I would anticipate that in

1 many instances that, in fact, is what the
2 agencies would be doing, recommending
3 legislation to us that would address those
4 issues.

5 SENATOR LEICHTER: But am I not
6 correct, Senator, based on what you just said
7 that in the first instance it's the people down
8 in Washington who know more about what we need
9 here in New York State than what we decide
10 locally?

11 SENATOR WRIGHT: No.

12 SENATOR LEICHTER: Because you
13 are making -- you're making that decision that's
14 made by the bureaucrats down in Washington as
15 the baseline that should apply in the state of
16 New York. Isn't that what your bill does?

17 SENATOR WRIGHT: No, that is
18 not. There are a number of occasions where
19 Washington assumes that they know best, and I
20 think we've all seen examples of that. Once
21 they do that, we then have an obligation or an
22 opportunity to respond. This gives us a basis
23 of comparison from which to respond.

1 SENATOR LEICHTER: But, Senator
2 -- if Senator Wright would be good enough to
3 continue to yield.

4 ACTING PRESIDENT PADAVAN:
5 Senator yield?

6 SENATOR WRIGHT: I will.

7 SENATOR LEICHTER: But, Senator,
8 is it a fact, until we act -- and this
9 Legislature is not known to act quickly -- the
10 decision that is made in Washington binds us
11 here in the state of New York. We've had the
12 boys and the girls within the Beltway decide
13 what we're going to do here in New York State.
14 I wonder -- is that your position -- Washington
15 knows best?

16 SENATOR WRIGHT: No, I'm not
17 saying that at all. But, in fact, Washington
18 has the authority which they exercise on
19 occasion whether we concur with that authority
20 or not.

21 SENATOR LEICHTER: And am I also
22 correct in understanding your bill that where
23 additional action may be desirous for the people

1 of the state of New York, nothing can be done
2 until the Legislature meets and authorizes it?
3 Is that correct?

4 SENATOR WRIGHT: That's correct.
5 And I did firmly believe that's appropriate,
6 Senator, that, in fact, we have agencies that
7 are acting as legislators in exceeding standards
8 and pursuing their own agenda on many occasions;
9 and, in fact, that should be the prerogative of
10 the elected officials and the elected
11 Legislature.

12 SENATOR LEICHTER: Senator
13 Wright, if you would be good enough to continue
14 to yield? Senator, isn't it a fact that when
15 Washington wishes, the national government,
16 those people within the Beltway that you seem to
17 have so much faith in, when they want to preempt
18 the field that under the commerce clause -- and
19 that just about covers any action -- they have
20 the power to do so? Isn't that a fact?

21 SENATOR WRIGHT: I'm not
22 conversant with the commerce clause; but in
23 terms of general federal action, certainly they

1 can supersede states.

2 SENATOR LEICHTER: Right. And
3 there are instances where the federal government
4 establishes a national minimum course of action
5 and then says to the states, knowing that there
6 are variations in the 50 states, that the states
7 may act in this area even though there exist
8 federal laws or federal regulations that the
9 states are free to impose different standards or
10 higher standards, if you will. Isn't that the
11 case?

12 SENATOR WRIGHT: Generally, as I
13 understand it, it's equal to or greater than.

14 SENATOR LEICHTER: Right. And -

15 SENATOR WRIGHT: My bill, in
16 effect, accepts the equal to and says, if we're
17 going to have greater than, this legislative
18 body should act or at least consider whether or
19 not it should be pursued to a higher standard.

20 SENATOR LEICHTER: And, of
21 course, if the Legislature is not in session,
22 then the Legislature would not be in a position
23 to act even though there may be a need to do so.

1 SENATOR WRIGHT: Well, there, in
2 fact, may be -- if there were a sufficiently
3 compelling need, there are terms to address that
4 in terms of convening the Legislature. But my
5 experience is such that generally the rule
6 making process is sufficiently prolonged that
7 the Legislature will be back in session before
8 things are finalized.

9 SENATOR LEICHTER: Good. Thank
10 you very much, Senator Wright.

11 SENATOR WRIGHT: Thank you,
12 Senator.

13 SENATOR LEICHTER: I appreciate
14 Senator Wright's candid and full explanation,
15 and I think we see very clearly what the bill
16 does; that it gives preeminence to the
17 bureaucrats in Washington and says to the people
18 here in New York State that except under those
19 limited circumstances where you are going to
20 have action by the Legislature, your state
21 officials cannot act, and what Washington says
22 is the minimum standard will become the standard
23 for New York.

1 So you may have situations where
2 there is a need because of peculiar and
3 particular situations here in New York State -
4 it may involve landfills; it may involve a need
5 to clean up water, to clean up air -- that we're
6 going to be handcuffed by Senator Wright's bill
7 if it ever becomes law until the Legislature
8 acts.

9 Now, I just want to point out,
10 and I'm sure, Senator Wright, you are aware of
11 it, there are thousands of areas where the state
12 needs to enact regulations. We may all feel
13 that at times the regulations aren't
14 particularly salutary. Sometimes they may not
15 even be needed, but most of the regulations
16 people have no problems with.

17 Those regulations are made to
18 protect the people of the state of New York, and
19 they cover an enormous range of areas, and to
20 require in every instance where there is also
21 some federal statute or federal regulation in
22 that particular area that our state officials
23 cannot act in the interest of the people of the

1 state of New York until the Legislature first
2 considers it would be thousands of different
3 actions that would be required by the
4 Legislature.

5 And, Senator Wright, I'm sure
6 you've noticed in the few months that you have
7 been with us that we're not exactly known for
8 acting expeditiously, for bringing the two
9 houses together, for getting the Governor to
10 lead us. I guess in part it's the nature of the
11 legislative process.

12 But because of the complexities
13 of our modern life, you need regulatory action.
14 The Legislature sets the overall course of
15 action. But you would require that the
16 Legislature act in minutiae in many areas where
17 you have some federal minimum standard that has
18 been established, and the federal government
19 never intended that the state could not try to
20 meet local conditions.

21 I am troubled by that basic
22 premium, Senator, in your bill; which is, that
23 what Washington does and those people down in

1 Washington who may be thinking of a condition in
2 Wyoming or in South Dakota that that is more
3 appropriate for New York State and that you
4 would not trust New York State officials to do
5 what's necessary and needed and proper for the
6 welfare of the people of the state of New York
7 until you can get the Legislature together and
8 they can deal with all this minutiae.

9 I tell you, sir, you are leaving
10 the people of the state of New York unprotected.
11 You are paying enormous deference to the people
12 down in Washington, and I don't want to give
13 them that sort of power over the people of the
14 state of New York, and I think you are going to
15 find out that you are really hamstringing
16 effective government in the state of New York.

17 SENATOR GOLD: Mr. President.

18 ACTING PRESIDENT PADAVAN:

19 Senator Gold.

20 SENATOR WRIGHT: I don't share
21 that view, obviously -

22 SENATOR GOLD: No, I don't mind.

23 ACTING PRESIDENT PADAVAN:

1 Senator Wright.

2 SENATOR WRIGHT: -- from the
3 perspective that I think that we are hamstrung
4 now by the fact that we have agencies
5 promulgating excessive regulation, in many
6 instances merely to pursue their own agenda, to
7 justify the existence of the agency itself and
8 its participation in rulemaking. I think we, in
9 fact, should be restricting just that process.

10 I think there are a number of
11 instances in New York State where the federal
12 minimums are appropriate to New York State;
13 that, in fact, we have a natural inclination for
14 some reason in our rulemaking to try to exceed
15 those federal standards, and in many instances
16 put ourselves in an uncompetitive situation
17 relative to other states in this nation.

18 So I think there is merit to
19 pursuing. I don't see ourselves being involved
20 in a great deal of minutiae. In fact, I see us
21 -- by virtue of that practice that there is, in
22 fact, a very deliberative legislative practice
23 that reviews those rules will eliminate an awful

1 lot of rules that are not necessary, that are
2 redundant and merely being pursued by the
3 agencies themselves.

4 SENATOR GOLD: Mr. President.

5 ACTING PRESIDENT PADAVAN:

6 Senator Gold.

7 SENATOR GOLD: Thank you.

8 Senator Wright, you answered a couple of
9 questions for me. I'm not asking you to yield,
10 Senator.

11 But, Senator Wright, I asked you
12 a few questions; and while you quoted accurately
13 some language from your bill, you didn't give me
14 an accurate answer as to what the bill does, and
15 that's because we didn't get far enough.

16 Your bill says -- page 1, lines
17 12 to 16, that the agency shall not impose a
18 standard higher than a federal standard, and
19 then you said, "unless we specifically authorize
20 it." So that sounds like we're in very good
21 shape.

22 Except that when you get to lines
23 16 to 19 which says, "Any person subject to the

1 requirements by both the state and the federal
2 government, the agency must accept if they've
3 complied with the federal government."

4 So, Senator, if this Legislature
5 authorized standards for our people which we
6 thought were better for our people and went past
7 the federal standards and the agency followed
8 the dictates of the New York State Legislature
9 and Governor, they -- under your bill, it would
10 be meaningless, because the person affected only
11 has to comply with the federal government's
12 directives, anyway.

13 So on the one hand, Senator,
14 you've got the language that you pointed out to
15 me which makes it sound like everything is fine
16 because the New York State Legislature is
17 keeping control, but you take that right away.
18 Because while the lines 13 and 15 allow the New
19 York State Legislature and the Governor to
20 suggest stricter compliance, when the individual
21 who must comply does not comply, you have given
22 them a legislative out, and I think that's the
23 problem.

1 If you eliminated that
2 subdivision 2, then maybe, Senator, you could
3 make the argument that the agency itself can't
4 go past the federal government and leave it in
5 the hands of the Legislature; but as long as you
6 have that escape clause in there, this bill
7 absolutely voids the right of the Legislature,
8 the Governor, or anyone in the state of New York
9 to set standards that we think might be better
10 for our people.

11 SENATOR WRIGHT: Mr. President.

12 ACTING PRESIDENT PADAVAN:

13 Senator Wright, there has not been a question
14 asked, so I'm disposed to follow a list.

15 SENATOR WRIGHT: Okay.

16 ACTING PRESIDENT PADAVAN:

17 Senator Saland.

18 SENATOR SALAND: Thank you, Mr.
19 President. I would like to commend Senator
20 Wright for bringing this bill before us today.

21 And I heard mention during the
22 course of somebody's comments earlier -- and I
23 apologize, I didn't hear the entire debate -

1 about concern that somehow or other the whole
2 process would be hamstrung because it would
3 require that the process would stand still until
4 the Legislature acted.

5 Well, I think what Senator Wright
6 has done with this bill is basically to say that
7 the Legislature shall be preeminent; that we
8 shall not place ourselves in a situation in
9 which we shall have people who are not
10 responsive to the electoral process, people who
11 are not even responsive very often to many of
12 the elected officials including many of the
13 people who reside in this house, and the other
14 house for that matter, having the final say.

15 ACTING PRESIDENT PADAVAN: Why do
16 you rise, Senator Leichter?

17 SENATOR LEICHTER: Will Senator
18 Saland yield?

19 SENATOR SALAND: At the
20 conclusion of my remarks, I'm be very happy to
21 yield.

22 SENATOR LEICHTER: Thank you.

23 SENATOR SALAND: I think that it

1 is somewhat tortuous to -- to somehow or other
2 impose upon Senator Wright the kinds of
3 interpretation that some have attempted to
4 ascribe to him here today.

5 What we're really talking about
6 is that commonplace phrase that comes into so
7 many of our bills, to the effect that "the
8 Commissioner shall promulgate such reasonable
9 rules and regulations," being replaced in
10 appropriate instances with different language,
11 language to the effect of either giving him the
12 authority to exceed the federal regulations or
13 language that either by reason of this bill
14 would or by reason of language contained in any
15 subsequent act dealing with promulgation of
16 regulations would merely say that you are bound
17 by whatever would be the federal authority to
18 the extent that this body determined that
19 federal authority would be accurate.

20 And I'm not at all troubled by
21 that nor am I troubled by the idea that somebody
22 who complies -- where the Legislature has made
23 that determination that compliance with the

1 federal statute is adequate or federal
2 regulations is adequate, somebody who complies
3 is effectively also complying for state
4 purposes, as well. It is a legislative
5 determination. It is not something that's been
6 abdicated to an agency or a bureaucrat. The
7 determination will be made in part by this
8 house, and I think that's where the authority
9 should lie.

10 I've had instances where people
11 have come to me. Not too long ago, a health
12 provider came to me with two forms. One was
13 fifty-some-odd pages long; one was four-plus
14 pages long. They both dealt with the same
15 health provider. They both sought the same
16 information. The four-page form surprisingly
17 was the federal form; and the equally
18 surprisingly -- I am see being facetious -- the
19 fifty-some-odd page was the state form.

20 That really is not the way we
21 ought to be doing business here in New York. I
22 think it may require more of us as the elective
23 body to be more discerning in how we extend that

1 authority to our regulators, but I think we're
2 up to that task.

3 ACTING PRESIDENT PADAVAN:
4 Senator Leichter.

5 SENATOR LEICHTER: Thank you,
6 Senator Saland. Let me ask you this question.
7 I would be interested in Senator Wright's answer
8 to it also, if he chooses to.

9 Senator, if the concern is -- and
10 I gather that's what underlies this -- that we
11 have regulations that are promulgated by our
12 state agencies that are unnecessary, that are
13 cumbersome, that do not carry out the will of
14 the people of the state of New York, we as a
15 Legislature have the power, and I dare say the
16 obligation, right now to strike down those
17 regulations, and that's how we ought to proceed.

18 But you are doing it, frankly, in
19 a round-about way which imperils action by the
20 state where -- and by state agencies where there
21 would be no problem whatsoever. If Senator
22 Wright's concern is that by -- or Senator Wright
23 thinks he's achieving his purpose by having us

1 accept as a -- not as a minimum but becomes as a
2 maximum really of any action, that action which
3 is taken by the people within the Beltway, and
4 nothing can be done by state officials until we
5 act as a sort of a prophylactic measure to keep
6 those state agencies from enacting regulations
7 that we don't want, why in the first instance
8 don't we just be more vigilant in acting against
9 improper state regulations?

10 I'm sorry I made that question so
11 long. It could have been stated much more
12 simply.

13 (Laughter.)

14 SENATOR SALAND: I think I
15 understand the question.

16 Let me start off by saying that
17 we in New York suffer from somewhere in the area
18 of about four and a half miles worth of
19 regulations were they extended end to end, some
20 23- to 24-, 25,000 feet worth of regulation.
21 Certainly an unenviable record, one which I
22 would hope that Senator Wright's bill today
23 would take us on the path to correcting.

1 I don't view this as somehow or
2 other the emasculation of federalism. I think
3 it just places a burden upon us -- you're
4 talking about prophylactics. I'm talking about
5 emasculation. Excuse me. Let's get this on the
6 same wave length. I don't think it does
7 anything but put the onus on us, Senator
8 Leichter, to be more responsive and perhaps a
9 little more discriminating in the way we extend
10 the authority to our agencies to regulate.

11 I don't think we're being
12 preempted by the fed's. I think what we're
13 saying is that due to the kinds of experiences
14 that many, if not all of us, have had with those
15 who regulated in New York, we think that it's
16 excessive regulation. We think this is the
17 means by which to deal with the excessive
18 regulation, and we're not waiving our ability in
19 those cases where legislatively we determine
20 that there should be a more extensive
21 requirement by New York State to do that.

22 SENATOR LEICHTER: If Senator
23 Saland will yield to just one more question, and

1 I'll make it shorter. It will be the last one
2 because I know other people want to speak on
3 this.

4 But, Senator Saland, I don't know
5 whether it was fully responsive to my concern,
6 but that was maybe because my question was sort
7 of cumbersome.

8 But why? If you are concerned
9 about these miles and miles of regulations, why
10 aren't you putting in bills striking down this
11 regulation, taking away that authority from an
12 agency? In other words, you've got all the power
13 -- you and me, you more than me, but all of us
14 collectively here in this Capitol. Let's do
15 it. Why do it in such a round-about way which
16 may leave the people of the state of New York
17 unprotected?

18 SENATOR SALAND: Thank you,
19 Senator. I would just also try to respond
20 briefly. I think this is a well-organized,
21 comprehensive way within which to deal with the
22 issue. It certainly makes it a front burner
23 issue. And I think that were we to attempt to

1 take those four-plus miles worth of regulations
2 and do them one at a time, there really wouldn't
3 be the ability to do it in the kind of more, I
4 think, expeditious, comprehensive fashion that
5 this bill can accomplish.

6 Thank you.

7 ACTING PRESIDENT PADAVAN:

8 Senator Dollinger.

9 SENATOR GOLD: Will Senator
10 Saland yield to one question?

11 ACTING PRESIDENT PADAVAN: Excuse
12 me?

13 SENATOR GOLD: Will Senator
14 Saland yield to one question?

15 SENATOR SALAND: To you, Senator
16 Gold, always.

17 ACTING PRESIDENT PADAVAN: Does
18 the Senator yield?

19 SENATOR SALAND: Certainly.

20 SENATOR GOLD: Senator, my
21 concern is very specific. I understand your
22 support of the concept, of the general concept
23 as explained by Senator Wright. But isn't it a

1 fact that line 16 to 19 on page 1 undoes our
2 capacity to be able to do anything once we pass
3 this law?

4 SENATOR SALAND: I -- I would
5 think that those lines merely reaffirm. The
6 intent of Senator Wright basically says that
7 when somebody acts in compliance that compliance
8 is adequate.

9 SENATOR GOLD: Yes. Well,
10 Senator, my point is that if you -

11 SENATOR SALAND: I think the
12 first provision presupposes the second.

13 SENATOR GOLD: Yes. But what I'm
14 saying is that if you agree with line 16 through
15 19, which is fine, doesn't line 16 through 19
16 absolutely void lines 13, 14 and 15? That's all
17 I'm getting at. Don't those lines void the
18 other lines?

19 SENATOR SALAND: I don't believe
20 so, Senator. I believe -- I do believe they are
21 consistent. I do believe -

22 SENATOR GOLD: You say that with
23 a straight face?

1 SENATOR SALAND: Excuse me?

2 SENATOR GOLD: You believe they
3 are consistent.

4 SENATOR SALAND: I believe
5 they're consistent.

6 SENATOR WRIGHT: Mr. President.

7 ACTING PRESIDENT PADAVAN: We
8 have a list. I already excluded Senator Daly,
9 inadvertently, but I did recognize Senator
10 Dollinger, and he is next and then Senator Daly
11 and then you.

12 SENATOR DOLLINGER: Thank you,
13 Mr. President. Will the Senator yield to a
14 question? Senator Wright, if you will yield to a
15 question?

16 ACTING PRESIDENT PADAVAN:
17 Senator Wright, do you yield?

18 SENATOR WRIGHT: I'm looking
19 forward to the opportunity. Yes, Senator.

20 SENATOR DOLLINGER: I'll give you
21 a chance to fill in the blank, too.

22 My first question, Senator, is,
23 is this proposal retroactive on the body of

1 regulations, the 27 miles or 24 miles or 24,000,
2 whatever that number is that Senator Saland
3 talked about? Is this proposal retroactive on
4 all the current state regulations?

5 SENATOR WRIGHT: No, in fact, it
6 is not, Senator. The effective date talks about
7 October 1 of '93 as related in the bill. But
8 inasmuch as we would like to go back and address
9 all of those regulatory issues, in fact this
10 goes forward. And the reason for that is very
11 simply, as Senator Leichter points out, to go
12 through the process of recalling and correcting
13 all of those issues, in fact, has one additional
14 requirement that this procedure would modify;
15 and that is approval by the Governor.

16 So that where this house
17 identifies an issue and the Assembly concurs so
18 that the Legislature has, in fact, acted and
19 said, "We believe that this is an inappropriate
20 regulation," in fact the very executive that
21 oversees that agency then has to concur with
22 that legislative intent to roll back that
23 regulation promulgated by his own agency or her

1 own agency. Therein lies the concern.

2 By placing a procedure in place
3 in the beginning so that this Legislature, in
4 effect, acts and provides its legislative
5 authority and authorization, we are restored to
6 the appropriate role of making laws and
7 providing the policy of this state and not the
8 appointive bureaucrats. And I think that's a
9 significant difference.

10 SENATOR DOLLINGER: Okay. Just
11 so I understand it, Mr. President, it's not
12 intended then to affect any prior regulations.
13 It will go into effect October 1st and apply to
14 all the regulations promulgated after that.

15 SENATOR WRIGHT: That is
16 correct.

17 SENATOR DOLLINGER: Okay.

18 SENATOR WRIGHT: We need to
19 establish a particular time frame.

20 And I would point out, in looking
21 at the issues as identified by Senator Gold,
22 that it appears that we've agreed with the
23 initial provisions now that relate to statute

1 and, therefore, have to deal with the
2 requirement; and those requirements as related
3 in 16 through 19 are very specific where they
4 talk about being imposed by a state statute, the
5 very procedure that we're talking about -- the
6 Legislature has acted.

7 And, in fact, if the Legislature
8 does not -- if, in fact, the Legislature imposes
9 a higher standard, that higher standard would
10 have to be met. This talks about a similar
11 requirement. So if we have a higher standard
12 than the federal, they are certainly not
13 similar. In the instance that they are similar,
14 we're saying we accept federal compliance to
15 meet state compliance, because the example
16 Senator Saland used is a very good one. In
17 fact, you have both federal and state statute
18 achieving the same thing except we require
19 50-plus pages to do it when the federal
20 government requires several.

21 That's the kind of issue that's
22 important to growing the business community and
23 dealing with the concerns that our businesses

1 and local governments have raised.

2 SENATOR DOLLINGER: Mr. Chair
3 man, I'm having some difficulty hearing Senator
4 Wright.

5 ACTING PRESIDENT PADAVAN: Yes, I
6 understand. May we have some order, please, in
7 the chamber, particularly in the rear.

8 Thank you, gentlemen.

9 SENATOR DOLLINGER: If Senator
10 Wright would just yield to another question.

11 ACTING PRESIDENT PADAVAN:
12 Senator Wright yield?

13 SENATOR WRIGHT: Certainly, Mr.
14 President.

15 SENATOR DOLLINGER: The use of
16 the term "standard" in this bill is a term of
17 art in the regulatory environment. Is that a
18 fair statement, Senator?

19 SENATOR WRIGHT: I'm sorry,
20 Senator.

21 SENATOR DOLLINGER: The use of
22 the term "standard", I'm trying to find out what
23 you mean by the term "standard". It's used.

1 It's a term of art that you use in this bill
2 about federal standards. Generally, my
3 understanding is that those standards apply, for
4 example, in parts per million for presence of
5 certain items in water testing. But is it
6 intended to apply simply in the ecological area,
7 or does the term "standard" have a broader
8 meaning as used in this bill?

9 SENATOR WRIGHT: No, the term
10 "standard" can be applied to any particular
11 area whereby the federal government establishes
12 a standard incorporated within its rule and
13 regulation that must be met regardless of it
14 being in a particular environmental area or
15 other areas.

16 SENATOR DOLLINGER: Again, Mr.
17 President, if Senator Wright would yield? What
18 is the effect if the federal government changes
19 the standard after we've promulgated our
20 regulation?

21 SENATOR WRIGHT: Well, Senator,
22 that would depend on the actions the federal
23 government took. If, in fact, the federal

1 government exceeded New York State's existing
2 requirements at a particular point in time, they
3 have established a new base line; therefore, a
4 new federal minimum; and that, in fact, applies
5 to New York State without New York State taking
6 any action. That's required on the state.
7 That's the minimum.

8 SENATOR DOLLINGER: But -- again,
9 through you, Mr. President -- if the federal
10 government rolled back the regulatory
11 requirement, our regulation at that point would
12 be meaningless. Is that correct?

13 SENATOR WRIGHT: Well, it would
14 depend on the actions the state Legislature had
15 taken in promulgating that rule. If we
16 established a standard that exceeded the federal
17 standard and the federal government rolled back
18 their standard, in fact we still exceed the
19 federal standard. And that was specifically
20 authorized by this Legislature if this bill was
21 in effect.

22 SENATOR DOLLINGER: Is it fair to
23 say -- again through you, Mr. President, with

1 Senator Wright continuing to yield -- that this
2 Legislature will have to be fully conversant
3 with federal regulatory principles, with federal
4 regulatory standards, before it can enact any
5 specific piece of legislation that will require
6 rulemaking or rule promulgation by any one of
7 the agencies that exist in this state?

8 SENATOR WRIGHT: No, I don't
9 believe that's the case, Senator.

10 SENATOR DOLLINGER: Now how will
11 we know whether or not we want to give them the
12 authority to exceed the federal standard if we
13 don't know what the standard is?

14 SENATOR WRIGHT: Any more than
15 you currently know. You rely on the agencies to
16 provide that information and recommendation, and
17 you rely on various oversight, such as the
18 committee that I co-chair with an Assembly
19 colleague that oversees those processes.

20 SENATOR DOLLINGER: Okay. Final
21 question. Do you have any estimate of how much
22 time this will take for the bureaucracy to
23 figure out whether federal regulatory standards

1 are exceeded or not, whether the state
2 regulations will exceed them or not? Do you have
3 any computation for how much time in the
4 bureaucracy it will take to do that extra work?

5 SENATOR WRIGHT: No, I don't,
6 because I don't see it as extra work, Senator.
7 Right now, when there is a federal minimum
8 standard, the state is required to achieve
9 compliance; therefore, the agency must be
10 conversant on that standard under current
11 requirements to make that determination whether
12 or not they, in fact, have achieved compliance.

13 So there's no additional burden
14 of work. In fact, I believe that there will
15 actually be less work as there will be less
16 rulemaking and regulatory propagation.

17 SENATOR DOLLINGER: A final
18 question that ties in with Senator Leichter's
19 point.

20 One of the issues you brought up,
21 Senator, was the issue of landfills. My
22 understanding in this state is that on Long
23 Island, where we have an extreme water aquifer

1 problem, there are certain regulations for the
2 construction of landfills. In other parts of
3 the state which have drumlins and natural hills,
4 perhaps in your part of the state and my part of
5 the state, there are different state regulations
6 for the construction of landfills because of
7 differences in topography and geography and a
8 number of other factors.

9 Why should we buy into a single
10 standard that might be set for a place like
11 Wheeling, West Virginia or Albuquerque, New
12 Mexico, for the construction of a landfill when
13 our own state regulators know the differences
14 between parts of our state and can create
15 different regulations for construction of those
16 to reflect the differences in their natural
17 state?

18 SENATOR WRIGHT: Well, this bill,
19 Senator, does not require you to buy in that.
20 In effect, says if you believe that a higher
21 standard should be applicable to New York State,
22 it gives you the obligation or the opportunity
23 to do that; and in fact, that's how the Long

1 Island landfill standards were achieved,
2 specific action by the state Legislature to
3 protect that particular aquifer, the sole
4 aquifer on Long Island, because of those
5 concerns; and, in fact, that exceeded the
6 federal standard as did the general application
7 of landfill standards to the balance of the
8 state but by specific state action.

9 Now, what we find in hindsight is
10 that the Governor requires his agencies to
11 appoint a task force to go back and review those
12 particular regulations at the behest of local
13 government; and in doing that, we find that they
14 have rescinded and they've modified a number of
15 those that exceeded the federal standards
16 they've now determined to be redundant, and they
17 are saving local governments money.

18 In my own county, one small town
19 is saving \$750,000 in a closure because of the
20 rollback of those regulations that exceeded the
21 federal standard. The unfortunate part is in
22 the intervening three years there are numerous
23 municipalities across this state that had to pay

1 a higher price because of that.

2 SENATOR DOLLINGER: Mr.
3 President, on the bill.

4 I understand the intent of
5 Senator Wright's proposal and I appreciate
6 that. What I, unfortunately, think is that -
7 and I'm actually surprised is that the New York
8 State Trial Lawyers are not a part of this bill
9 and are not writing in support of it because, in
10 my judgment, Mr. President, this lit... this
11 bill will open an unbelievable door to
12 litigation in this state, over the meaning of
13 terms like the "same subject matter", the
14 requirements that are "greater than those
15 imposed by a federal law or rule", "unless the
16 agency is specifically authorized". These terms
17 are so broad that they would generate a flood of
18 litigation.

19 I guess I can understand why.
20 They won't be the Trial Lawyers because this is
21 where the corporate lawyers go to work in this
22 type of rule-making by legislatures that write
23 up an attempt to modify the rule-making powers

1 of state agencies, the issues of whether there
2 are federal standards, whether they have been
3 exceeded, whether they have specific legislative
4 authority to exceed those standards. This will
5 generate an unbelievable pile of litigation in
6 this state which will cost business tons of
7 money, which will cost communities tons of
8 money, which will cost the state of New York
9 tons of money.

10 I think that the critical issue
11 of whether we should look at the regulatory
12 process ought to be done on a case-by-case basis
13 as issues come up before the commission that you
14 head or Senator Saland's Committee on State and
15 Local Government. We do have the power, as
16 Senator Leichter said, to go back and to change
17 those. We did it in the case of the California
18 car emissions standards. We were able to do
19 that. We did that as a legislative body.

20 In my judgment, we're better off
21 doing that than we are opening the door to an
22 absolutely totally contentious situation where
23 businesses will be arguing that there are

1 federal standards, that these standards have
2 been exceeded, that there is no express
3 legislative grant. We will end up in this bill,
4 frankly, my colleagues, at least in Monroe
5 County that the trial bar will be salivating
6 knowing that this bill might pass and that the
7 whole issue of federal authority and state
8 authority over regulatory powers will be bottled
9 by future lawsuits.

10 I appreciate the interest. I see
11 that it stems from the right motive, but it
12 seems to me that this bill is going to be the
13 subject of unbelievable litigation and cost and
14 the beneficial purpose that you're seeking will
15 be lost on years if not centuries of
16 litigation.

17 I'm going to vote no.

18 ACTING PRESIDENT PDAVAN:

19 Senator Daly.

20 SENATOR DALY: Thank you, Mr.
21 President.

22 Mr. President, on the bill.
23 There have been so many red herrings thrown on

1 the floor here this afternoon I think we should
2 open up our own canning factory. This is good
3 legislation and I commend the Senator for
4 drafting it and putting it before us.

5 You know, when you get right down
6 to the bottom line, I think this bill clearly
7 shows us what's happening and why we have to do
8 something about it. We literally have
9 department heads taking on the mantle that
10 belongs to the Legislature, that of policy
11 making in this state. We have department
12 bureaucrats writing or putting together reports,
13 putting together questionnaires, similar to the
14 one that Senator Saland mentioned, 54 pages,
15 which is driving both the private and the public
16 sector in this state crazy.

17 I heard one of my colleagues on
18 the other side say that this bill gives
19 preeminence to the officials and what -- to the
20 bureaucrats in Washington. It does just the
21 opposite. It discourages the bureaucrats in
22 Albany from usurping the rights and powers of
23 this Legislature. We are the policy-making body

1 in the state. The Commissioner of Environmental
2 Conservation, the Department of Transportation
3 do not set policy for the state.

4 One of the other comments raised
5 on the other side concerned the fact that, well,
6 let them write the rules and regs and then, if
7 you don't like them, you know, throw them out by
8 law, and I just remind you what happens.
9 Basically, if they -- we have rules and
10 regulations coming down from Washington and the
11 state of New York, the Commissioner decides that
12 they're not strict enough -- you take the
13 California standards versus the federal
14 standards that was mentioned before -- then both
15 houses have to concur before those rules and
16 regulations are thrown out. That's the point,
17 Senator. Both houses have to concur. That's
18 why our policy-making should begin in the
19 Legislature in both houses and stay here.

20 As I said, we see rules and
21 regulations coming down. Our house might say,
22 Hey, wait a minute. We think this goes much too
23 far, but we need action from the other house and

1 so literally our house is taken out of the
2 play.

3 And so I really believe this is
4 very important and very good legislation. The
5 complaints I get back when I finish, Senator,
6 back from my district, from business primarily,
7 concern the bureaucracy that we've formed in New
8 York State and the myriad of rules and
9 regulations that we roll out day after day after
10 day, and I think it's about time the Legislature
11 took back what the Constitution gave us and
12 that's the power and right of making policy in
13 this state and take it away from commissioners
14 who think they've got the God-given right to
15 tell us what's best in New York State.

16 SENATOR DOLLINGER: Mr.
17 President.

18 ACTING PRESIDENT PADAVAN:
19 Senator Dollinger.

20 SENATOR DOLLINGER: Mr.
21 President, will Senator Daly just yield to one
22 question?

23 ACTING PRESIDENT PADAVAN: Will

1 you yield to a question?

2 SENATOR DALY: I'd be happy to.

3 SENATOR DOLLINGER: Senator,
4 borrowing on my colleague, Senator Leichter's
5 phrase, who should make the policy in this
6 state, bureaucrats we can control through the
7 process I describe, or bureaucrats in Washington
8 we can't control at all?

9 SENATOR DALY: Well, when
10 bureaucrats in Washington make policy we can
11 change, we then change it. But remember this
12 bill says if the state bureaucrats feel that
13 they want to change the rules and regs
14 established by Washington they don't have the
15 power unless they come here. That's what the
16 bill says, Senator.

17 ACTING PRESIDENT PADAVAN:
18 Senator Gold, to close for the Minority.

19 SENATOR GOLD: Yeah, thank you,
20 Mr. President.

21 Mr. President, I understand the
22 problem, and I think everybody understands the
23 problem, but I think that one of my colleagues

1 who I asked a question to was not really frank,
2 and I understand that. There's a huge
3 reluctance in this chamber once a bill is on the
4 floor for anybody to ever admit there's anything
5 wrong with it. What usually happens when
6 something is dreadfully wrong is that we have
7 the debate, the Majority votes to pass it and
8 then a week or so later it sneaks back in on a
9 motion to recall and reconsider and it gets
10 amended and whatever, and I think that's really
11 foolishness.

12 This bill is defective. If it's
13 the sense of this house that we want to set the
14 federal standard -- and that's bad -- then let's
15 say it out front, let's do it and let's not even
16 pretend that we have a right to override that
17 because this bill does not give us that right.

18 My colleague, Senator Leichter,
19 however, is absolutely correct when he says that
20 this bill is, in effect, an attempt to cure all
21 the mistakes that you're saying we make because
22 if -- if we think that something is -- is wrong
23 with existing regulation, it's within our power

1 to correct it. Not only that, but we have
2 something called the Administrative Regulations
3 Review Commission. In my opinion, and I might
4 -- may be a minority of one in this world, I
5 think that that commission could be one of the
6 most powerful forces we have in government
7 because when it was created, the concept was
8 that we would look into what the administrative
9 agencies were doing and we would help bring it
10 all into line.

11 Now, we have done a lot of work
12 and I respect the people who have chaired that
13 commission as it's gone along and perhaps the -
14 it's our fault in not communicating funding or
15 what, but that is one way to get at the morass
16 of regulations. That is real legislative
17 oversight.

18 In addition to that, I know we
19 used to have a procedure. I know when Senator
20 Present was the very distinguished chair of that
21 commission, I used to ask him every once in a
22 while whether or not certain bills had been
23 reviewed by his commission to see whether or not

1 the grant of administrative authority was a
2 proper grant and Senator Present assured me
3 that, in fact, the grants were proper and within
4 line.

5 No, Senator Wright, if for years
6 we have been passing bills giving grants to the
7 agencies to do rule-making and nobody has done
8 anything to put in bills to repeal it except
9 maybe once or twice, I don't know who we're
10 complaining about if we're not complaining about
11 the Majority in this house and the Majority in
12 the other house.

13 If there is a problem -- and
14 Senator, there isn't one Democrat in this house
15 who isn't sensitive to the needs of small
16 business and large business in the state of New
17 York when it comes to adherence to regulations.
18 But you don't in one bill, which seems incentive
19 enough in its one and a half pages, wipe out the
20 authority of every member of this Legislature to
21 be involved in this process.

22 Now, theoretically, Senator
23 Wright, we could have a situation where each

1 bill we pass from now on says "notwithstanding
2 the provisions of section (b) 2," and then we go
3 on from there. But unless you had that language
4 in every single bill from now on where we dealt
5 with regulations, we have basically voided the
6 regulatory power of this state to set these
7 minimums.

8 The problem is there, Senator
9 Wright. We have created a commission to help us
10 with it and we have a legislative authority to
11 deal with it on an individual basis. I think
12 the way you're doing it is wrong. It's too much
13 of a blanket and I think the bill itself has an
14 inconsistency which ought to be cured.

15 ACTING PRESIDENT PADAVAN:

16 Senator Wright, to close for the Majority.

17 SENATOR WRIGHT: Thank you, Mr.
18 President.

19 I think what this bill speaks to
20 are the issues that we hear every time we have
21 occasion to meet with anyone in our communities,
22 any time we have occasion to meet with the
23 business community. I, in fact, had that

1 opportunity again today in meeting with
2 representatives of the forest and paper
3 industry, and number one on the list of many of
4 those individuals when they're speaking with us
5 in the district or down here in Albany is very
6 simply their concern over regulation, the
7 continuing growth of regulation in this state,
8 the continuing cost being imposed on businesses
9 in this state by virtue of those regulations.

10 Where do those regulations come
11 from? From agencies with appointed individuals.
12 I do not believe the bureaucrats in Washington
13 nor do I believe the bureaucrats in Albany
14 should be making those determinations, but, in
15 fact, it should be the elected members of the
16 Legislature that have been sent here by our
17 constituents, by those small businesses, by
18 those local governments to make sure we look out
19 for their interests, to make sure we make it a
20 clear and distinct determination of what is in
21 the best interests of this state and if there is
22 a federal standard that, in looking at that
23 standard, we determine whether or not there, in

1 fact, is a greater need that should be addressed
2 and if there is not, we do not add additional
3 burdens to the process. We do not require
4 duplication; we do not require redundancy. We,
5 in effect, provide the streamlining, the
6 efficiency, the right sizing of our regulatory
7 process just as the private sector is currently
8 doing that within their businesses.

9 I believe that's what this bill
10 speaks to. It will not embroil the Legislature
11 in minutiae. It will, in fact, provide a very
12 deliberate process to the rule-making of those
13 agencies and then and by doing that, enhance the
14 legislative oversight of this body, my
15 colleagues and your colleagues in the Assembly,
16 so that we're in a position to address that.

17 I think it's a step forward.
18 There are a number of other initiatives such as
19 negotiated rule-making that we further need to
20 address. This is the beginning of a salvo, I
21 hope, that will begin to dismantle the rule
22 making process so it's a much more streamlined
23 and efficient process to assist the people of

1 this state.

2 ACTING PRESIDENT PADAVAN: Read
3 the last section.

4 THE SECRETARY: Section 2. This
5 act shall take effect October 1st, 1993.

6 ACTING PRESIDENT PADAVAN: Call
7 the roll.

8 (The Secretary called the roll.)

9 SENATOR LEICHTER: Mr. President.

10 ACTING PRESIDENT PADAVAN:
11 Senator Leichter, why do you rise?

12 SENATOR LEICHTER: Just to
13 explain my vote, please.

14 ACTING PRESIDENT PADAVAN:
15 Senator Leichter, to explain his vote.

16 SENATOR LEICHTER: I want to just
17 point out that listening to Senator Wright and
18 point out to you, Senator Wright, you've got the
19 power right now to do something about not only
20 regulations in the future but regulations that
21 are on the books now. I have trouble under
22 standing the Majority here. They'll vote for
23 large spending increases and then Senator Bruno

1 will put in a bill that you can't -- or rather a
2 Constitutional Amendment.

3 I mean there's a certain amount
4 of hypocrisy. You've got that here now. Do
5 something about it if you think the regulations
6 are wrong, but don't add -- don't turn it over
7 to Washington and say that the premise of your
8 bill happens to be that the bureaucrats in
9 Washington know better what should happen in New
10 York State than the people of the state of New
11 York and their elected representatives and those
12 people who they appoint to office. I can't
13 understand it.

14 I vote in the negative.

15 ACTING PRESIDENT PADAVAN: Will
16 the negatives raise their hands?

17 Senator Daly.

18 SENATOR DALY: There goes another
19 red herring.

20 Mr. President, I think Senator
21 Leichter is missing the point. The point is
22 that this house feels that it has to have a
23 voice and should have a voice in policy-making.

1 If the -- if the commissioners of the
2 departments in New York State set their own
3 rules and regulations that are accepted by one
4 house but rejected by the other house, those
5 rules and regulations stay in force. If we
6 force them -- I should say, if the rules and
7 regulations come down from Washington and the
8 commissioner wants to make them more stringent,
9 they have to go through both houses. Then this
10 house has a voice. Then the entire Legislature
11 has a voice, and that's the point, Senator.
12 Your way, you can wipe out one house. You can't
13 make changes. This way the Legislature sets the
14 policy and both houses have a voice.

15 ACTING PRESIDENT PADAVAN: How do
16 you vote?

17 SENATOR DALY: I vote aye.

18 ACTING PRESIDENT PADAVAN:
19 Senator Dollinger. Do you rise to explain your
20 vote?

21 SENATOR DOLLINGER: Yes.

22 I disagree with my colleague from
23 western New York. I think that that was a live

1 flipping, flopping herring, not a red herring,
2 that was tossed on the table. When Senator
3 Leichter says that we have the power, we clearly
4 do have the power to look at every regulation
5 that's passed by every agency. We have the
6 ability to go back and say, that's inconsistent
7 with our original intent. We have the ability
8 to look at it and to say that that doesn't
9 achieve the goal that we want, and we can decide
10 whether we want to move it back to the federal
11 standard or not.

12 You say it requires two houses.
13 It does require two houses for the Legislature
14 to act, but that's the legislative power. We've
15 got the power. All we have to do is convince
16 our colleagues in the Assembly or convince our
17 colleagues on the other side of the aisle that
18 we ought to exercise that power. We've got the
19 power to do it, in my opinion, and I agree with
20 Senator Wright on this. The greatest complaint
21 I hear is that there are regulations in effect
22 in this state that are no longer consistent with
23 what the Legislature wanted. Our obligation in

1 that instance is to go back, look at that
2 rule-making and decide what is in the best
3 interests of the people of this state and tell
4 the bureaucrats that that doesn't meet our
5 wishes, our collective wishes, the wishes of
6 both houses. It's the only way we can act but
7 unless we go back and do it on a case-by-case
8 basis, we're doing it with far too broad a
9 brush. We're placing far too much reliance on
10 people inside the Beltway who have never been a
11 part of this state.

12 I vote no.

13 ACTING PRESIDENT PADAVAN:

14 Results.

15 THE SECRETARY: Those recorded in
16 the negative -- those recorded in the negative
17 on Calendar Number 613 are Senators Dollinger,
18 Gold, Markowitz, Mendez, Ohrenstein,
19 Oppenheimer, Stachowski, Stavisky, also Senator
20 Espada. Ayes 47, nays 9.

21 ACTING PRESIDENT PADAVAN: The
22 bill is passed. Continue the calendar.

23 THE SECRETARY: Calendar Number

1 654, by Senator Volker, Senate Bill Number 3362,
2 an act to amend Chapter 198 of the Laws of
3 1978.

4 SENATOR MONTGOMERY: Explanation.

5 ACTING PRESIDENT PADAVAN:

6 Explanation is requested. Senator Volker.

7 SENATOR VOLKER: Yes. Senator
8 Montgomery and I, I believe, had a discussion
9 last year about this bill. I think this
10 amendment that I'm proposing is restrictive of
11 her amendment. What this bill is, is an
12 extender of the school health services program.

13 This bill which originated in the
14 Laws of 1978 is like a lot of pieces of
15 legislation we have around here and it's part of
16 a program that was passed along with a
17 demonstration project for -- primarily for the
18 city of Buffalo, in the state originally, and
19 several of these demonstration projects are
20 still around, but what happens is they get
21 extended from year to year.

22 There are several reasons for it,
23 one reason being they are extended because the

1 three parties being the Assembly, the Senate and
2 the Governor for one reason or the other does
3 not want to permanentize it. I believe in this
4 case there are two parts of the three that don't
5 want to permanentize it, one of the reasons
6 being that because of the nature of the
7 programs, the parties to the program would
8 prefer that they remain demonstration projects
9 to make sure that the programs accomplish what
10 was intended in the first place.

11 So that is why, frankly, we've
12 extended it from year to year. I understand
13 that Senator Montgomery has an amendment she'd
14 like to present.

15 ACTING PRESIDENT PADAVAN:
16 Senator Montgomery.

17 SENATOR MONTGOMERY: Yes, Mr.
18 President, I would like to offer up my amendment
19 to Senator Volker's bill.

20 ACTING PRESIDENT PADAVAN: You
21 waive its reading?

22 SENATOR MONTGOMERY: Yes, and I'd
23 like to waive it.

1 ACTING PRESIDENT PADAVAN: To
2 explain it.

3 SENATOR MONTGOMERY: All right,
4 to explain my amendment.

5 Mr. President, I am -- I consider
6 this really a friendly hostile amendment, if you
7 will, and I've offered it up at other times
8 specifically I guess more often with Senator
9 Tully and now that Senator Volker has decided to
10 do this legislation, I'm very pleased and
11 supportive of it, and I fully understand why you
12 may have made a decision initially to make it a
13 demonstration program. I think that was
14 probably a wise thing to do, but my amendment
15 simply would make it a permanent program and
16 attempt to expand this program to -- so that it
17 is accessible to many, many more youngsters in
18 the state of New York.

19 The reason that I am ready to
20 make a comment is because it has been
21 demonstrated without question that this is one
22 of the most valuable and most cost-effective
23 primary health programs that we have in this

1 state and it meets the needs of those people in
2 our state who are the most at risk of all the
3 people in the world and that's teens. At least
4 some of our programs are in high schools and
5 junior high schools in the state. We know now
6 that parents do consent to their children to use
7 the services.

8 We know now that those health
9 services provided in school-based health clinics
10 go far beyond a narrow concept of their being
11 specifically there for reproductive health
12 services. They do physical exams for
13 youngsters; they treat asthma and hypertension
14 and colds and coughs. They are there to keep
15 students from dying who have been shot, as in
16 one case in Brooklyn in particular in the last
17 month.

18 These programs very often are the
19 first -- provide the first opportunity for
20 primary shelter for teens in our state. A large
21 number of students who are immigrants, from
22 immigrant families, are treated in those
23 programs, so there is full and complete

1 justification, Senator Tully, for expanding
2 this, not only expanding it but making it
3 permanent, making it a permanent part of our
4 health care system in this state, so that we can
5 say without question that the state of New York
6 is supporting and delivering health care to
7 teen, pre-teen as well as younger children in
8 our state.

9 So my amendment just simply goes
10 a little bit beyond what the bill does. I am
11 again supportive of this legislation, Senator
12 Volker. I think it's been a wonderful
13 opportunity for us that you've given even though
14 initially you were very probably narrow minded
15 about it, you only wanted it for Buffalo, but
16 thank -- thanks to the wisdom of the
17 Legislature, they extended it and now there -
18 there are 124 or so programs in the state.
19 There's not one in my district, unfortunately,
20 but at least we've gotten this far, and I'm only
21 saying to you now that we need to really just go
22 ahead and accept the fact that what you have
23 done, your proposal, your hypothesis has been

1 proven to be correct, and so let's now live by
2 it and I certainly would hope that this body
3 would for once, maybe the only time in the
4 history of the state, vote for a friendly
5 hostile amendment to a bill and then vote for
6 the legislation.

7 Thank you, Mr. President.

8 ACTING PRESIDENT PADAVAN:

9 Senator Markowitz.

10 SENATOR MARKOWITZ: Thank you
11 very much, Mr. President.

12 First, I want to commend you,
13 Senator Montgomery, for your sensitivity, your
14 awareness and concern for school age children.
15 It's not often that a guy from Brooklyn really
16 looks to Buffalo with a great amount of thanks,
17 not only for your great street scene and the
18 great scenes that come out of Buffalo but also
19 for legislation like this that really has
20 provided, initially under Buffalo's leadership,
21 some superb services for kids in school,
22 especially health services that are ever
23 increasingly necessary as part of the mix in

1 terms of educational or non- educational
2 services provided by public schools.

3 I share Senator Montgomery's
4 concern. The high school that she was referring
5 to is within the Senate District that I serve in
6 and I might say my alma mater, Wingate High
7 School, and I know how important their school
8 based health care program is and what it could
9 mean to every high schooler, whether it be John
10 Jay or Prospect Heights, for instance, Clara
11 Barton or Erasmus, all of these wonderful
12 schools, would certainly like to join in if this
13 bill was expanded and made permanent so that it
14 doesn't have to continue to come back each year
15 as it has since 1984.

16 Certainly, Senator, you have
17 asked for us to support your efforts. Won't you
18 yield on this and agree with Senator
19 Montgomery's sensitive amendment to your
20 legislation?

21 ACTING PRESIDENT PADAVAN: On the
22 amendment, all those in favor signify by saying
23 aye.

1 (Response of "Aye.")

2 Those opposed nay.

3 (Response of "Nay.")

4 The nays have it. The amendment
5 is defeated.

6 Senator Volker.

7 SENATOR VOLKER: Mr. President,
8 very quickly, and I didn't want to -

9 Senator, first of all, the reason
10 that this started out as a Buffalo program was
11 that my recollection is that at one time there
12 were some different kinds of programs in several
13 cities in the state, that there were a series of
14 demonstration programs, some of which fell by
15 the wayside, I believe, back in the '70s.

16 We developed -- I think
17 Assemblyman Eve and myself and some other
18 legislators I think initially developed this
19 health program because of some studies that were
20 done in the city of Buffalo. As you say, as the
21 years went on, it's expanded, and so forth.

22 The problem with making it
23 permanent, I know very honestly -- I'd be more

1 than happy to work with Senator Tully and any
2 people in the Assembly, and so forth, in
3 permanentizing it, but the problem with a lot of
4 these areas, and I have another -- at least two
5 other areas where I carry bills that we do
6 extend this on, because the agreements that we
7 made years ago still hold, and I hesitate to
8 mention, one of them happens to be in community
9 block grants where Senator Mendez has asked me
10 on several occasions and other people to change
11 the formula that we did with the community block
12 grants, and people have come to me, lobbyists in
13 the industry, and so forth, and my problem was
14 -- the problem with changing the formula was -
15 I talked to the initial negotiators and very
16 honestly the big problem was in the city of New
17 York. At that time we had a different mayor.
18 There were a lot of different feelings on how
19 the community block grant should be set up.

20 We were told by a number of
21 people that, if we made any small changes in the
22 formulas, we were risking unraveling this whole
23 agreement that happened many, many years ago,

1 and I'm not saying that maybe it's quite as
2 complicated here, but the problem I think is
3 that maybe we should look at this in terms of
4 permanentizing it, but I think what would have
5 to be done by three parts, the Governor, the
6 Assembly and Senate and, of course, as you know,
7 this is your bill here. It seems to me, if
8 passed, there was some other language in it that
9 would actually do the expanding which we did
10 this year to permanentize it which I understand,
11 but I think what we would have to do is, in
12 order to do that, we would have to get the
13 agreement of the Health Department and the
14 Bureau of the Budget, and so forth, to lift this
15 from a demonstration project category, and I
16 really don't have any objection to it.

17 I guess just the problem is that
18 this is the proposal that we have right now and
19 it seems to me that we should pass this and, if
20 we can go on from there and expand it, I'd be
21 more than happy to. I happen to agree with you
22 that it has been very successful and I think we
23 have slowly begun to move, as I understand, to

1 expand the program and I think it could be
2 expanded some more.

3 ACTING PRESIDENT PADAVAN: Read
4 the last section.

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

7 ACTING PRESIDENT PADAVAN: Call
8 the roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 56.

11 ACTING PRESIDENT PADAVAN: The
12 bill is passed.

13 Continue the calendar.

14 THE SECRETARY: Calendar Number
15 687, by Senator Hannon, Senate Bill Number
16 3171-A, Private Housing Finance Law.

17 ACTING PRESIDENT PADAVAN: Read
18 the last section.

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

21 ACTING PRESIDENT PADAVAN: Call
22 the roll.

23 (The Secretary called the roll.)

1 ACTING PRESIDENT PADAVAN:

2 Results.

3 THE SECRETARY: Ayes 56.

4 ACTING PRESIDENT PADAVAN: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 701, by Senator Farley, Senate Bill Number 1023,
8 to allow David F. Jung -

9 SENATOR GOLD: Explanation.

10 THE SECRETARY: -- retroactive
11 membership in the employees' retirement -

12 ACTING PRESIDENT PADAVAN:
13 Senator Farley.

14 SENATOR FARLEY: Thank you, Mr.
15 President.

16 This bill authorizes David Jung
17 of Gloversville, New York to file a request to
18 obtain retroactive membership in Tier I of the
19 New York State/local employees' retirement
20 system.

21 David Jung served as the
22 assistant city attorney for the city of
23 Gloversville from October '68 to December '79.

1 In 1968, David Jung filled out a -- proper
2 paperwork to join the employees' retirement
3 system. However, the city of Gloversville
4 failed to forward this paperwork to the ERS. As
5 a result, this individual, Jung, was not
6 enrolled in the employees' retirement system in
7 1968 and cannot receive service credit for 11
8 years he -- he spent as assistant city
9 attorney.

10 David Jung discovered this error
11 in 1989, when he requested credit for his
12 previous service. The bill will rectify a
13 clerical error made by the city of Gloversville
14 and will award David Jung, who is now a judge,
15 11 years of service credit in the employees'
16 retirement system which he deserves.

17 The city of Gloversville has
18 acknowledged their error and has agreed to pay
19 \$30,000, the cost of this bill.

20 SENATOR GOLD: Will the Senator
21 yield to a question?

22 SENATOR FARLEY: Yes.

23 ACTING PRESIDENT PADAVAN:

1 Senator yields.

2 SENATOR GOLD: Yes. Mr. Jung is
3 an attorney?

4 SENATOR FARLEY: No, he's a
5 judge.

6 SENATOR GOLD: No, no. Will you
7 yield to another question?

8 SENATOR FARLEY: Certainly.

9 SENATOR GOLD: Is he an attorney,
10 a licensed -- I know his job as a judge -- is he
11 an attorney?

12 SENATOR FARLEY: Yes, he is. He
13 was city attorney.

14 SENATOR GOLD: And Senator,
15 during the time that he was an attorney, he
16 didn't know that as a member of the retirement
17 system he would get statements on a periodic
18 basis about what was doing with his retirement
19 and things would be taken -- money would be
20 taken out or not taken out? He didn't get
21 them?

22 SENATOR FARLEY: There was no
23 money taken out in Tier I.

1 SENATOR GOLD: Yeah, but as an
2 attorney, Senator, he wasn't aware for 11 years
3 that there was a document missing from his mail
4 once or twice a year?

5 SENATOR FARLEY: Well, as an
6 attorney, he wasn't getting any mail and he had
7 no reason to suspect. He filed all properly, as
8 all good attorneys would do, and he thought he
9 was a member of the system, and he wasn't.

10 SENATOR GOLD: Mr. President, oon
11 the bill.

12 Mr. President, I -- in an effort
13 to be humane, I will make my comments on this
14 bill and just continue what I've been doing in
15 voting no on these bills, but since I haven't
16 raised the issue before this year, in case there
17 are some new faces around that want to under
18 stand what I've been doing, this is just not our
19 job.

20 Senator Trunzo, I understand, has
21 a bill and I hear that explanation. I heard it
22 last year; I heard it the year before. It's in
23 negotiation. I think we got to negotiate harder.

1 These are ridiculous decisions for us to have to
2 make. I have nothing against this gentleman and
3 if this gentleman, in fact, filed his paperwork
4 and if this gentleman, in fact, is entitled to a
5 pension, then the pension board, the retirement
6 system should have a method by which they can
7 correct clerical errors and by which they can
8 make these corrections, but I don't know these
9 people from a hole in the wall. I am not equip
10 ped to be a juror or a judge in these cases, and
11 it is absurd for the Legislature to, on an
12 individual basis, change people's pensions.

13 Now, there's no doubt in my mind,
14 as I say, I don't know this man so I'm not
15 labeling him in any way, but there is no doubt
16 in my mind that since we passed the first one of
17 these a year, two or three years ago, four years
18 ago, there has to be one of these along the way
19 where somebody had a brilliant idea of how they
20 can get a bigger pension. They spoke to a few
21 people in town because a lot of these towns are
22 one-party political towns, and the next thing
23 you know we've been flooded with them. Now,

1 this year I haven't seen too many. Last year
2 was a disaster, but I think it's the wrong
3 floodgate to open up.

4 ACTING PRESIDENT PADAVAN:
5 Senator Farley.

6 SENATOR FARLEY: Senator Gold, I
7 tend to agree with you in what you're saying,
8 that there should be a uniform bill to handle
9 this. But this is a dreadful inequity that has
10 happened and, unfortunately, this is the only
11 way we can address this situation. This is -
12 this is an inequity that is no fault of the
13 individual and he had no reason to know that and
14 it's a terrific loss to the -- to the person
15 and, consequently, this is what we have to do.

16 SENATOR GOLD: Will the Senator
17 yield to a question?

18 SENATOR FARLEY: Yes.

19 SENATOR GOLD: Senator, in my
20 humble opinion -- I can't speak for anybody
21 else. In my humble opinion, Senator Farley, you
22 wouldn't know how to lie if there was money, all
23 right? You're an honest man, honorable man.

1 You're an honorable man, but you and I weren't
2 there when this person signed on, we don't know
3 what was filed and not filed. We don't know why
4 his papers weren't transmitted in the normal
5 course with everybody else's and the answer is,
6 if he is entitled to it, let him get it.

7 So then let us go to the Speaker,
8 who is a compassionate, decent, kind man and
9 say, "Speaker, we shouldn't be in this
10 business." I don't think he enjoys it any more
11 -- any more than we do. I know the Governor
12 doesn't enjoy this kind of bill. So if we want
13 to help these people and other people, Senator,
14 let's pass Senator Trunzo's bill or some
15 amendment to it and set up a process whereby
16 people who, through no fault of their own, can
17 be taken care of if there's no injustice, but it
18 is -- it is absurd, Senator Farley; you know, in
19 the Congress very often they have investigations
20 of things that come before them. I know that
21 you and your staff didn't investigate this. I
22 don't expect you to.

23 SENATOR FARLEY: We have.

1 SENATOR GOLD: Well, Senator, did
2 you interview the witnesses? Do you know who the
3 people were?

4 SENATOR FARLEY: I know the judge
5 quite well.

6 SENATOR GOLD: I know you know
7 the judge but did you speak with the clerks that
8 took his paperwork? Did you trace it through?

9 SENATOR FARLEY: Yes, we have
10 talked to the city of Gloversville -

11 SENATOR GOLD: Yeah, and you -

12 SENATOR FARLEY: -- and they
13 admit their error. It was an error.

14 SENATOR GOLD: And you conducted
15 a trial and you held a hearing on it?

16 SENATOR FARLEY: No, we have not
17 conducted a trial.

18 SENATOR GOLD: I don't expect you
19 to, but I do expect that if the law was properly
20 drawn, that the retirement system would have a
21 process and then it wouldn't be a question of
22 can David Jung, who is a judge, probably an
23 excellent judge and who knows Senator Farley and

1 you know him, and so he gives a private law.

2 There are other people who don't
3 know Senators. There are other people who don't
4 know Assemblymen and who don't go through the
5 process and if we passed proper law, everybody
6 in the system, even the little person who is not
7 a lawyer, would have an opportunity to have his
8 errors rectified.

9 ACTING PRESIDENT PADAVAN:

10 Senator Farley.

11 SENATOR FARLEY: Senator Gold,
12 this was investigated by the city of
13 Gloversville. They truly had an investigation,
14 I'm told. It is not a private bill for Judge
15 Jung. It was a bill requested by the city of
16 Gloversville.

17 ACTING PRESIDENT PADAVAN: There
18 is a home rule message at the desk. Read the
19 last section.

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

22 ACTING PRESIDENT PADAVAN: Call
23 the roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT PADAVAN:

3 Results.

4 THE SECRETARY: Those recorded in
5 the negative on Calendar Number 701 are Senators
6 Espada, Gold, Leichter and Santiago.

7 Ayes 52, nays 4.

8 ACTING PRESIDENT PADAVAN: The
9 bill is passed.

10 Continue the calendar.

11 THE SECRETARY: Calendar Number
12 715, by Senator Velella, Senate Bill Number
13 4998, Insurance Law, in relation to rate
14 changes.

15 SENATOR BRUNO: Lay aside.

16 ACTING PRESIDENT PADAVAN: Lay
17 aside. Lay it aside temporarily.

18 THE SECRETARY: Calendar Number
19 733, by Senator Johnson, Senate Bill Number
20 3934, an act to amend the General Business Law.

21 ACTING PRESIDENT PADAVAN: Read
22 the last section.

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT PADAVAN: Call
3 the roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT PADAVAN:
6 Results.

7 THE SECRETARY: Ayes 55, nays
8 one, Senator Montgomery recorded in the
9 negative.

10 ACTING PRESIDENT PADAVAN: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 741, by Senator Maltese, Senate Bill Number
14 4519, an act to amend the Executive Law.

15 ACTING PRESIDENT PADAVAN: Read
16 the last section.

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

19 ACTING PRESIDENT PADAVAN: Call
20 the roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT PADAVAN:
23 Results.

1 THE SECRETARY: Ayes 56.

2 ACTING PRESIDENT PADAVAN: The
3 bill is passed.

4 THE SECRETARY: Ayes -- excuse
5 me, ayes 55, nays -

6 SENATOR GOLD: Just -

7 SENATOR LEICHTER: Will Senator
8 Maltese yield to a question?

9 ACTING PRESIDENT PADAVAN:
10 Senator, we're in the middle of a roll call. Do
11 you want the vote reconsidered?

12 SENATOR LEICHTER: Yes.

13 ACTING PRESIDENT PADAVAN: All
14 right. Withdraw the roll call.

15 Senator Maltese, will you yield?

16 SENATOR MALTESE: Yes.

17 SENATOR LEICHTER: Senator, I
18 appreciate that you say the intended purpose of
19 the bill is to reduce government costs. I just
20 question and wonder whether it may not actually
21 make expenditures by state agencies greater,
22 because it seems to me that, as you know, when
23 mail is sent out, it is sometimes sent out under

1 Senate auspices working from computerized lists
2 and it's extremely difficult to review names on
3 computerized lists.

4 So I question whether there's
5 going to be any savings. I think there's just
6 going to be added expenses. I just wondered if
7 you'd comment.

8 SENATOR MALTESE: Yes, Mr.
9 President.

10 I think the legislation
11 contemplates the addition of one paragraph which
12 is spelled out in the legislation, which
13 indicates that the recipient can notify the
14 producer of the document to delete his name or
15 make a correction, and the addition of that
16 paragraph is an inconsequential de minimus at
17 the same time.

18 While there would be a cost in a
19 computer operator seeking out the individual's
20 name and address, in many cases it's simpler to
21 -- any of these computerized systems where you
22 only have to feed in the person's perhaps last
23 name and slight additional information to bring

1 up the name, so I think especially in the case
2 of annual reports and this is the section -
3 this is what we're specifically aiming at, one
4 of the main offenders that we're aiming at,
5 these are usually bulky, lengthy articles and
6 the expense that would be saved by this
7 tightening cost, I think, is out of proportion
8 to the small amount of cost to include this
9 information.

10 SENATOR LEICHTER: Senator, if
11 you would be good enough to continue to yield,
12 am I not correct that your bill would also apply
13 to the Legislature?

14 ACTING PRESIDENT PADAVAN:
15 Senator Maltese.

16 SENATOR MALTESE: Yes.

17 SENATOR LEICHTER: And would it
18 not be correct to say that newsletters that we
19 send out could be considered annual reports or
20 reports of similar publications?

21 SENATOR MALTESE: Mr. -

22 SENATOR LEICHTER: And the rest
23 of my question is, would not your bill apply to

1 newsletters sent out by the Senate?

2 SENATOR MALTESE: Mr. President,
3 I don't believe they would come within the exact
4 letter of this legislation, but very frankly, I
5 don't feel that the addition of this wording
6 would in any way harm or impair the sending out
7 of our Legislative newsletters. I invite
8 Senator Leichter to use the terminology and I
9 would probably use the terminology myself on my
10 newsletters.

11 SENATOR LEICHTER: Well, Senator
12 -- Senator, I appreciate your saying that you
13 probably will. Let me just point out because I
14 know it has happened, I am chagrined that
15 occasionally one of my constituents will write
16 back and say, "Don't ever send me a damned news
17 letter again." So I go to the secretary's
18 office, and say, "Please take this guy off the
19 list." They say, "We can't do it," but I'll
20 tell you this, Senator, and it would apply
21 equally to me as it will apply to you, you put
22 that on your newsletter and you're going to get
23 hundreds of people who say, "I don't want to get

1 your newsletter," because it happened to me too,
2 and it would seem to me that under this bill, if
3 it should become law, that clearly will be
4 required of us. Even if not required, as you
5 say, it would be the intent to put that on,
6 you're going to get thousands of these things
7 and we can't remove them, so I point out to you
8 that the bill might have some unintended
9 problems.

10 SENATOR MALTESE: Mr. President.

11 ACTING PRESIDENT PADAVAN:

12 Senator Maltese.

13 SENATOR MALTESE: The benefit
14 would be intended, and I'll accept that as a
15 challenge and put the wording on my next
16 newsletter and see what happens.

17 ACTING PRESIDENT PADAVAN: Read
18 the last section.

19 THE SECRETARY: Section -

20 SENATOR GOLD: Mr. President.

21 ACTING PRESIDENT PADAVAN:

22 Senator Gold.

23 SENATOR GOLD: Mr. President, I

1 hope Senator Maltese puts it on his newsletter
2 and, Senator, I do not agree with Senator
3 Leichter. He is absolutely wrong. All you have
4 to do is have the printer deliver the letters to
5 you before they're put in the mail and Senator
6 Marino can give you a new staff member who, on
7 an hourly basis, can go through the 85,000
8 pieces and pick out the two people that you now
9 send it to, and I'm sure that will be a great
10 savings for the taxpayer because we're here to
11 protect the taxpayer and if those two people
12 don't want your newsletter, I think it's worth a
13 \$30,000-a-year job to have a staff member to
14 pull those two people out.

15 Senator Leichter, shame on you!

16 SENATOR DOLLINGER: Mr.

17 President.

18 ACTING PRESIDENT PADAVAN:

19 Senator Dollinger.

20 SENATOR DOLLINGER: Mr.

21 President, on the bill, just want to make sure I
22 understand it. Perhaps Senator Maltese can
23 clarify. Does this apply to newsletters coming

1 from the Majority and Minority?

2 SENATOR MALTESE: Mr. President,
3 it was not intended to apply to the state
4 Legislature in the term "annual report or
5 similar publication." I think it brings to mind
6 the Latin phrase expressio unius est exclusio
7 alterius, so since these were expressly
8 enumerated, it would seem to me that it would
9 not include our legislative newsletter.

10 SENATOR DOLLINGER: Mr.
11 President, just so that I understand it, is it
12 safe to say if it's a good idea for all the
13 other agencies in the state, that we should do
14 it here as well? Senator Leichter and I might
15 want to consider a similar bill, and I would
16 welcome your support for it for the
17 Legislature.

18 SENATOR MALTESE: Mr. President,
19 I certainly would consider it, and I would also
20 indicate, as I have said, that had there been an
21 attempt to reduce taxpayers' cost, I would use
22 it in my newsletter, and I would invite Senator
23 Dollinger and Senator Leichter to do the same.

1 SENATOR DOLLINGER: I would
2 certainly think about that. Through you, Mr.
3 President, another question.

4 What would happen if this isn't
5 done? Suppose some agency decides not to do it.
6 What's the enforcement mechanism under this
7 bill?

8 SENATOR MALTESE: Mr. President,
9 it would probably be to have all the reports
10 delivered to Senator Dollinger's office.

11 SENATOR DOLLINGER: I'd point
12 out, Mr. Chairman, I think it's a good bill. I
13 think it's a good idea. I support the bill. I
14 hope you concur, if Senator Leichter and I can
15 draft bills which apply to us and which achieve
16 the same beneficial purpose, you might agree to
17 support them.

18 I do disagree with my colleague,
19 Senator Leichter that I think there will be
20 thousands of people who would write me a little
21 note back saying, "Don't bother to send it to me
22 the next time."

23 ACTING PRESIDENT PADAVAN: Read

1 the last section.

2 SENATOR LEICHTER: Mr. President,
3 just one more point in debate on this important
4 bill. I was initially going to vote against it
5 but I'm going to -- I think I'm going to change
6 my mind, based in part on something that I
7 thought I heard Senator Maltese say, which is
8 that in your next newsletter as an example to
9 all of us here, irrespective of whether this
10 bill covers the Legislature and irrespective of
11 whether the bill passes or not, you're going to
12 put one of these notices on your newsletter and,
13 Senator, may I also ask you, will you share that
14 information with us, because it may be a very
15 helpful guide for the rest of us.

16 SENATOR MALTESE: Yes.

17 ACTING PRESIDENT PADAVAN:
18 Senator Markowitz.

19 SENATOR MARKOWITZ: Just a
20 question of Senator Maltese.

21 How big will the type be on your
22 newsletter alerting the public?

23 SENATOR MALTESE: It will

1 probably be as big as the type that you put on
2 yours, that it's not printed at government
3 expense.

4 ACTING PRESIDENT PADAVAN: Read
5 the last section.

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

8 ACTING PRESIDENT PADAVAN: Call
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT PADAVAN:
12 Results.

13 THE SECRETARY: Ayes 56.

14 ACTING PRESIDENT PADAVAN: The
15 bill is passed.

16 Continue the calendar.

17 THE SECRETARY: Calendar Number
18 788, by Senator Saland, Senate Bill Number 4867,
19 an act to amend the Social Services Law.

20 SENATOR GOLD: Last section.

21 ACTING PRESIDENT PADAVAN: Read
22 the last section.

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT PADAVAN: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 56.

6 ACTING PRESIDENT PADAVAN: The
7 bill is passed.

8 THE SECRETARY: Calendar Numnber
9 790 by Senator Saland, Senate Bill Number 4940,
10 an act to amend the Social Services Law.

11 SENATOR SALAND: Lay aside.

12 ACTING PRESIDENT PADAVAN: Lay
13 aside.

14 THE SECRETARY: Calendar Number
15 791, by Senator Saland.

16 SENATOR SALAND: Lay aside.

17 ACTING PRESIDENT PADAVAN: Laid
18 aside at the request of the sponsor.

19 THE SECRETARY: Calendar Number
20 816, by Senator Skelos, Senate Bill Number 1156,
21 an act to amend the Executive Law and the Penal
22 Law.

23 SENATOR GOLD: Explanation.

1 ACTING PRESIDENT PADAVAN:

2 Explanation. Senator Skelos.

3 SENATOR SKELOS: Lay aside.

4 ACTING PRESIDENT PADAVAN: Laid
5 aside.

6 THE SECRETARY: Calendar Number
7 819, by Senator Cook, Senate Bill Number 2288,
8 an act to amend the Correction Law.

9 ACTING PRESIDENT PADAVAN: Read
10 the last section.

11 SENATOR LEICHTER: Yes, Mr.
12 President.

13 ACTING PRESIDENT PADAVAN:
14 Senator Leichter.

15 SENATOR LEICHTER: Explanation.

16 ACTING PRESIDENT PADAVAN:
17 Senator Cook.

18 SENATOR COOK: Mr. President,
19 since the state facilities are going to pay
20 property taxes, obviously we have an inequity in
21 those fire districts in which prisons are
22 located, in that the local property taxpayers
23 have to provide the cost of fire protection and

1 ambulance service for the prisons, and this bill
2 simply provides some small amount of revenue for
3 those fire districts and ambulance districts
4 providing the state would pay one dollar per
5 inmate toward the budgets of those local fire
6 protection and ambulance protection districts in
7 order to help compensate them for the coverage
8 that they provide.

9 SENATOR LEICHTER: Mr. President.

10 ACTING PRESIDENT PADAVAN:

11 Senator Leichter.

12 SENATOR LEICHTER: Mr. President.

13 Senator Cook, this bill strikes
14 me as being somewhat greedy. Here -- here we
15 find members of the Majority try as hard as they
16 can to get a prison situated in their
17 communities because they provide jobs, and it's
18 unfortunate that that seems to be the economic
19 development for part of the state, but that's
20 where it is, so you -- you people who represent
21 the districts are delighted. You fight for
22 them, you hold up the budgets to get these
23 prisons. Then when you get them, you say, Oh,

1 this is unfair. We're losing real estate taxes
2 and we're providing all these services.

3 Now, you got to pay us for these
4 services.

5 I don't think you can have it
6 both ways, Senator, but let me just say what
7 bothers me even more about the bill. It just
8 seems to me that we need a cogent uniform policy
9 throughout the state on whether or not we're
10 going to charge the state for services received
11 from the locality. I mean there's no sense
12 whatsoever just taking prisons. Why not take
13 state office buildings in the city of New York
14 or the city of Albany or the city of -- or the
15 city of Buffalo.

16 You remember -- I think you were
17 in the Assembly with me when we passed a bill
18 whereby the state was going to pay real estate
19 tax and the cost to the state was so enormous
20 every year we had to put off the effective date
21 and finally that bill was killed, that law was
22 killed. Maybe there ought to be a policy but if
23 there is a policy, it can't just be for

1 prisons. That really doesn't make sense.

2 ACTING PRESIDENT PADAVAN: All
3 right. Read the last section.

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

6 ACTING PRESIDENT PADAVAN: Call
7 the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT PADAVAN:
10 Results. (Long Pause)

11 ACTING PRESIDENT PADAVAN:
12 Results.

13 THE SECRETARY: Those recorded in
14 the negative on Calendar Number 819 are Senators
15 Connor, Espada, Leichter, Montgomery and
16 Solomon. Ayes 51, nays 5.

17 ACTING PRESIDENT PADAVAN: The
18 bill is passed.

19 Senator Present.

20 SENATOR BRUNO: Mr. President,
21 let's do some housekeeping and we'll adjourn.

22 ACTING PRESIDENT PADAVAN:
23 Senator Daly.

1 SENATOR DALY: I laid aside
2 Calendar 831, Print Number 2200. I'd like to
3 withdraw my objection.

4 ACTING PRESIDENT PADAVAN: You
5 had laid aside 831?

6 SENATOR DALY: I laid aside 831.

7 ACTING PRESIDENT PADAVAN:
8 Senator Tully, do you wish to take up that bill?

9 SENATOR TULLY: Yes.

10 SENATOR PRESENT: Call up 831,
11 please.

12 ACTING PRESIDENT PADAVAN: Yes,
13 sir.

14 THE SECRETARY: Calendar Number
15 831, by member of the Assembly Gottfried,
16 Assembly Bill Number 2200, Social Services Law,
17 in relation to payment of interest by providers
18 of medical assistance.

19 ACTING PRESIDENT PADAVAN: Read
20 the last section.

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

23 ACTING PRESIDENT PADAVAN: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 56.

4 ACTING PRESIDENT PDAVAN: The
5 bill is passed.

6 Senator Kuhl.

7 SENATOR KUHL: Yes, Mr.

8 President. I wish to call up my bill, Senate
9 Print 3282-A, recalled from the Assembly which
10 is now at the desk.

11 ACTING PRESIDENT PDAVAN:
12 Secretary will read.

13 THE SECRETARY: By Senator Kuhl,
14 Senate Bill Number 3282-A, an act to amend the
15 General Municipal Law.

16 SENATOR KUHL: Mr. President, I
17 now move to reconsider the vote by which this
18 bill was passed.

19 ACTING PRESIDENT PDAVAN: Bill
20 is before the house. Call the roll on
21 reconsideration.

22 (The Secretary called the roll on
23 reconsideration.)

1 THE SECRETARY: Ayes 56.

2 ACTING PRESIDENT PADAVAN: The
3 bill is before the house.

4 SENATOR KUHL: Mr. President, I
5 now offer up the following amendments.

6 ACTING PRESIDENT PADAVAN:
7 Amendments are received.

8 SENATOR KUHL: Also, Mr.
9 President, I wish to call up my bill, Senate
10 Print 2667, recalled from the Assembly which is
11 now at the desk.

12 ACTING PRESIDENT PADAVAN:
13 Secretary will read.

14 THE SECRETARY: By Senator Kuhl,
15 Senate Bill 2667, an act to amend the Navigation
16 Law.

17 SENATOR KUHL: Mr. President, I
18 now move to reconsider the vote by which this
19 bill was passed.

20 SENATOR PADAVAN: Call the roll
21 on reconsideration.

22 (The Secretary called the roll on
23 reconsideration.)

1 THE SECRETARY: Ayes 56.

2 SENATOR KUHL: Mr. President, I
3 offer up the following amendments.

4 ACTING PRESIDENT PDAVAN:
5 Amendments are received.

6 Senator Daly.

7 SENATOR DALY: On page 29,
8 Calendar 731, Senate Print 3784, would you
9 please star that bill?

10 ACTING PRESIDENT PDAVAN: Bill
11 is starred.

12 SENATOR DALY: And Calendar 810,
13 Senate Print 4413, would you please strike the
14 enacting clause and recommit.

15 ACTING PRESIDENT PDAVAN:
16 Calendar 810?

17 SENATOR DALY: Calendar 810.

18 ACTING PRESIDENT PDAVAN: Print
19 Number 4413, bill is recommitted, enacting
20 clause stricken.

21 SENATOR CONNOR: Mr. President.

22 ACTING PRESIDENT PDAVAN:
23 Senator Connor.

1 SENATOR CONNOR: Thank you, Mr.
2 President. I ask unanimous consent to be
3 recorded in the negative on Calendar Number 813,
4 S. 3106.

5 ACTING PRESIDENT PADAVAN: So
6 ordered.

7 Senator Espada.

8 SENATOR ESPADA: Thank you, Mr.
9 President. I ask unanimous consent to be
10 recorded in the negative on Calendar Number 817.

11 ACTING PRESIDENT PADAVAN: So
12 ordered.

13 SENATOR JOHNSON: Mr. President.

14 ACTING PRESIDENT PADAVAN:
15 Senator Johnson.

16 SENATOR JOHNSON: I would request
17 unanimous consent to be recorded in the
18 affirmative on Calendar Number 847.

19 ACTING PRESIDENT PADAVAN: So
20 ordered. Did you say "affirmative", Senator
21 Johnson?

22 SENATOR JOHNSON: In the
23 affirmative.

1 ACTING PRESIDENT PADAVAN:

2 Affirmative, yes.

3 SENATOR JOHNSON: Yes, I'm
4 already recorded in the negative.

5 ACTING PRESIDENT PADAVAN:
6 Senator Present.

7 SENATOR PRESENT: Mr. President,
8 there being no further business -

9 ACTING PRESIDENT PADAVAN:
10 Senator Present, we have a report from a
11 standing committee.

12 SENATOR PRESENT: Mr. President,
13 we have a report of the Rules Committee at the
14 desk. May we have it read?

15 ACTING PRESIDENT PADAVAN:
16 Secretary will read.

17 THE SECRETARY: Senator Marino,
18 from the Committee on Rules, reports the
19 following bills directly for third reading:

20 Senate Bill 3940-B, by the
21 Committee on Rules, an act to amend the Tax Law;

22 Senate Bill 4521, by Senator
23 Seward, an act to amend the Tax Law;

1 Senate Bill 5690, by Senator
2 Skelos, an act to amend a chapter of the laws of
3 1993, proposing Legislative Bill Number A-4463.

4 All three bills reported directly
5 for third reading.

6 ACTING PRESIDENT PADAVAN:
7 Reported to third reading.

8 Senator Present.

9 SENATOR PRESENT: Mr. President,
10 there being no further business, I move we
11 adjourn until tomorrow at 11:30 a.m.

12 ACTING PRESIDENT PADAVAN: So
13 ordered.

14 (Whereupon at 6:07 p.m., the
15 Senate adjourned.)

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