ALBANY, NEW YORK

May 19, 1993

12:24 p.m.

REGULAR SESSION

SENATOR HUGH T. FARLEY, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

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

Will you please rise with me for the Pledge of Allegiance to the Flag.

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

ACTING PRESIDENT FARLEY: Today, in the absence of visiting clergy, we will bow our heads for a moment of silent prayer.

(Whereupon, there was a moment of silence.)

Secretary will begin by reading the Journal.

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

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

read.

The order of business.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

SENATOR PADAVAN: Please recognize Senator Tully.

ACTING PRESIDENT FARLEY: Senator Tully.

SENATOR TULLY: Yes, Mr. President. I believe I have a resolution at the desk. May I please have the resolution read in its entirety.

ACTING PRESIDENT FARLEY: The Secretary will read Senator Tully's resolution in its entirety.

THE SECRETARY: Legislative Resolution, by Senator Tully, honoring the life

and career of Samuel Rabin.

Whereas, it is the sense of this legislative body to honor the life of prominent citizens of the state of New York whose life's work and civic endeavors have served to enhance the quality of life within this great Empire State.

The state of New York, the county of Nassau, and Floral Park mourn the loss of Samuel Rabin, a respected public servant and civic leader, who passed away on May 7, 1993.

In honoring Samuel Rabin, we honor his spirit and commitment to the community in which he lived, labored, and lovingly raised his family.

As a man of immense talents and engineers, Samuel Rabin epitomized the finest qualities of concerned citizen, trusted civic leader, caring friend and gentleman; he was an eminent member of the Nassau County community.

As a conscientious, progressive leader, his abilities, ambitions and achievements in public life served to heighten

the public's awareness of the political process and the importance of taking an active part in it at the grass roots level.

In his lifetime, Samuel Rabin succeeded in accomplishing things of great magnitude because he knew the value of time and perseverance, as well as the power of kindness; that particular philosophy of life rewarded him with countless numbers of rich and enduring friendships throughout the state of New York and the nation.

In combining his diverse personal life with an active role in the community, he has illustrated to family, friends, and acquaintances alike that life is, indeed, rich with possibilities.

Samuel Rabin was elected to the state Assembly from Queens in 1944 on his second try and was reelected four times; he worked on housing issues and rent control, as well as on education and reapportionment; he was active in the fight against a "black market" in babies for adoption.

In 1954, Mr. Rabin was elected to the first of two fourteen-year terms on the state Supreme Court in Queens; in 1962, Governor Nelson A. Rockefeller elevated him to the Appellate Division Second Judicial Department and advanced him to Presiding Justice in 1971.

As head of the Second Department, Justice Rabin was in charge of the court that hears appeals from Brooklyn, Queens, Staten Island, Long Island, Westchester County, and four counties to the north, making it one of the busiest tribunals in the nation; he also oversaw the work and conduct of all judges in the district.

In 1974, Samuel Rabin was appointed as Associate Judge of the Court of Appeals, the state's highest court by Governor Malcolm Wilson for an interim appointment.

Governor Hugh L. Carey then restored him to the Appellate Division for successive two-year terms until he retired in 1981 at the age of 76; at the time of his death Judge Rabin was of counsel to the Wall Street

law firm of Herzfeld & Rubin.

Samuel Rabin was born in Manhattan, and moved to Queens when he was a boy; at Cornell University, he ran with the track and cross-country team; after graduation, he earned his law degree at New York University in 1928 and went into practice in Jamaica; now, therefore, be it

Resolved, that this legislative body pause in its deliberations to honor with respect and admiration the life and career of Samuel Rabin, who was a motivating influence in Nassau County; and be it further

Resolved, that copies of this resolution, suitably engrossed, be transmitted to his wife, Florence; his son, Robert J. of Syracuse; his daughter, Jane Rabin Stern of Sands Point, Long Island; his sister Ruth Rubenstein of Eugene, Oregon; and his brother, Bernard of Liberty, New York.

ACTING PRESIDENT FARLEY: Senator Tully.

SENATOR TULLY: Mr. President.

Almost two weeks ago, on May the 7th, a distinguished public servant, citizen and constituent of mine, Judge Samuel Rabin, passed away at his home in Floral Park, New York.

Samuel Rabin had a long and illustrious career as a public servant in New York State beginning in 1944, when he was elected to the New York State Assembly. In 1954, Mr. Rabin was elected to the first of two 14-year terms on the New York State Supreme Court; and from there, he went on to serve at all three levels of the New York State court system.

Although he served long before I came to this Legislature, Samuel Rabin leaves behind a legacy of commitment to New York State government, a legacy that will remain with us for many years to come.

Mr. President, I hope that all of my colleagues will join me in extending our deepest and most sincere condolences to the family of Samuel Rabin, his widow, Florence; his two children, Robert and Jane; his brother and

sister, Bernard and Ruth; and his two grand children.

Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Senator Padavan.

SENATOR PADAVAN: Mr. President, first let me thank Senator Tully for having taken the initiative to prepare and submit to this body the resolution that was read and beautifully written.

I first met Judge Rabin when I was a teen-ager, 12 or 13 years of age; was introduced to him by my father, my father having helped him in his campaigns for the Assembly at that point in time; and over the course of many years, our paths crossed. Both he and Florence were friends of the family, and we visited on numerous occasions.

My last visit with him was in late October or early November of the past year, when we spent a few minutes talking at their apartment in North Shore Towers to which they had moved after leaving their beautiful home of

many years in Jamaica Estates.

As the resolution tells us, this was indeed a very unique man, both in demeanor and in conduct and in accomplishment, as well as professionally, unparalleled in my life span in terms of individuals who have served the state both in the community level and the Legislature and subsequently on the judiciary.

He will be sorely missed by everyone who knew him and certainly missed by his family and loved ones and friends of which I include myself; and so, Mr. President, I would like to be added as a co-sponsor of this resolution, as I'm sure would many others in this chamber.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Yes, I definitely would like to be added as a co-sponsor, and perhaps at the appropriate time, Senator Tully will solicit others. On many counts, I am very saddened by the passing of Judge Rabin. I don't

think you could grow up in this state, certainly when I grew up in politics and as a young lawyer, without having been awed somewhat by this man. He was just the ultimate gentleman, a classy person, always had the warmest smile, the cheeriest disposition and it was no secret that he was bright.

You might notice in the resolution it refers to the fact that at the time of his death he was a counsel to the law firm of Herzfeld & Rubin. That happens to be my firm, and that was one of the delights of joining that firm was knowing that they had this very distinguished gentleman there.

I'm sorry that his years at Cornell University preceded mine. It would have been fun going to school with him, but I think the true measure of the man is not necessarily what Senator Tully and Senator Padavan and I and others say today, but the remarks that have been said over the years about Sam Rabin behind his back; and behind his back he could have been a fly on the wall, his parents, his family, his

friends could be flies on the wall, because there never was anything but laudatory remarks ever said about this man. He was just an extraordinary person and truly missed by everybody who knew him.

ACTING PRESIDENT FARLEY: Senator Tully.

SENATOR TULLY: Mr. President, at the conclusion of my remarks, I did say I hoped all my colleagues would join me; by that, of course, I meant the resolution would be open for sponsorship by every member of the chamber if they so desired.

ACTING PRESIDENT FARLEY: The Acting Majority Leader and Acting Minority Leader have agreed to put the entire Legislature on the resolution, if the sponsor also agrees.

SENATOR TULLY: Yes, definitely.

ACTING PRESIDENT FARLEY: On the resolution. All in favor, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The resolution is unanimously adopted.

SENATOR PADAVAN: Mr. President, would you recognize Senator Levy.

ACTING PRESIDENT FARLEY: Senator Norman Levy.

SENATOR LEVY: Mr. President, we have at the desk two resolutions, and I would ask that the titles be read, and move their immediate adoption.

ACTING PRESIDENT FARLEY: Secretary will read the titles of Senator Levy's resolutions.

THE SECRETARY: Legislative Resolution, by Senator Levy, honoring John Cook for his selflessly dedicated service and outstanding contribution to and on behalf of Hope for Youth of Amityville, New York.

Also, Legislative Resolution commemorating the 25th Anniversary of Hope for Youth of Amityville, New York.

ACTING PRESIDENT FARLEY: On the resolutions. All in favor, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The resolutions are adopted.

Senator Levy.

SENATOR LEVY: Yes, Mr. President. I would like to place sponsor stars on Calendars 890, 892, 762, 765 and 763.

ACTING PRESIDENT FARLEY: The bills are starred at the request of the sponsor, I believe.

Senator Velella.

SENATOR VELELLA: Mr. President, on behalf of Senator Stafford, I would like to have a sponsor star placed on Calendar Number 365.

ACTING PRESIDENT FARLEY: The bill is starred.

SENATOR VELELLA: And on behalf of Senator Farley, a sponsor star on Calendar 885, Senate Print 2792.

ACTING PRESIDENT FARLEY: The bill is starred.

SENATOR VELELLA: And on my own behalf, Mr. President, my bill, Senate 2562, Calendar 620, I'd like to place a sponsor star.

ACTING PRESIDENT FARLEY: The bill is starred. Thank you, Senator Velella.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Would you place a sponsor star on Calendar Number 648, please.

ACTING PRESIDENT FARLEY: 648 is starred at the request of the sponsor.

SENATOR KUHL: Yes. And Mr. President, on behalf of Senator Hannon -

ACTING PRESIDENT FARLEY: Getting a little noisy.

SENATOR KUHL: -- I wish to call up his bill, Senate Print 3171A, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT FARLEY: Secretary will read the bill.

THE SECRETARY: By Senator Hannon, Senate Bill Number 3171A, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT FARLEY: Senator Kuhl.

SENATOR KUHL: I now move to reconsider the vote by which this bill was passed and ask the bill be restored to the order of third reading.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT FARLEY: The bill is before the house.

Senator Kuhl.

SENATOR KUHL: I now move to discharge from the Committee on Housing and Community Development Assembly Print 4618A and substitute it for Senator Hannon's identical bill. The Senate bill on first passage was voted unanimously. I now move the substituted Assembly bill will have its third reading at this time.

ACTING PRESIDENT FARLEY:

Substitution is ordered.

Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Unanimous.

ACTING PRESIDENT FARLEY: The bill is passed.

SENATOR LEICHTER: Mr. President, was it the same vote as before?

ACTING PRESIDENT FARLEY: It was passed yesterday unanimously. It's a cross.

The bill is passed if I didn't say that.

We have a substitution, Senator Padavan. Is that all right to go ahead with that?

The Secretary will read a substitution.

THE SECRETARY: On page 39 of today's calendar, Senator Seward moves to

discharge the Committee on Investigations, Taxation, and Government Operation from Assembly Bill Number 7608 and substitute it for the identical Third Reading 913.

ACTING PRESIDENT FARLEY: Substitution is ordered.

Senator Padavan, that seems to be most of the housekeeping.

SENATOR PADAVAN: Non-controversial, Mr. President.

ACTING PRESIDENT FARLEY: Non-controversial. The Secretary will read.

THE SECRETARY: On page 5, Calendar Number 173, by member of the Assembly Farrell, Assembly Bill Number 2853, an act to amend the Banking Law, in relation to permitting expanded investments by savings banks.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 465.

SENATOR PADAVAN: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 652, by Senator Tully, Senate Bill Number 1015A, an act to amend the Public Health Law, in relation to utilization review agents.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT FARLEY: The

bill is passed.

SENATOR BRUNO: Calendar Number 706, by Senator Spano, Senate Bill Number 4276.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 715.

SENATOR PADAVAN: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside. For the day?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT FARLEY: For the day.

THE SECRETARY: Calendar Number 739, by Senator Levy, Senate Bill Number 4845, amends Chapter 209 of the Laws of 1962.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 755, by member of the Assembly Ortloff, Assembly Bill Number 6169, an act to amend the Highway Law, in relation to the description of the Seaway Trail.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 761, by Senator Levy, Senate Bill Number 4802, an act to amend the Public Authorities Law, in relation to requiring the Rochester-Genesee

Transportation Authority.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 767, by Senator Levy, Senate Bill Number 5489, to repeal Paragraph c of subdivision 1 of section 401 of the Vehicle and Traffic Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 777, by Senator Lack, Senate Bill Number 4282, an act to amend the Labor Law, in relation to required notice.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 778, by Senator Lack, Senate Bill Number 4549, amends Chapter 206 of the Laws of 1974, amending the Labor Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside. Withdraw the roll call.

THE SECRETARY: Calendar Number 779, by Senator Lack, Senate Bill Number 4748, an act to amend the Labor Law, in relation to extended benefits.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 780, by Senator Lack, Senate Bill Number 4949,

an act to amend the Labor Law, in relation to extending the time for employers to make voluntary unemployment insurance contributions.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 782, by Senator Lack, Senate Bill Number 4818.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 790, by Senator -

SENATOR PADAVAN: Lay it aside and lay aside 791.

ACTING PRESIDENT FARLEY: Lay it

aside, and also 791.

THE SECRETARY: Calendar Number 801, by Senator Johnson, Senate Bill Number 4775, Environmental Conservation Law, in relation to -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 816, by Senator Skelos, Senate Bill Number 1156, Executive Law and the Penal Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 818, by Senator Johnson, Senate Bill Number 1898, Executive Law, in relation to parole release.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 823, by Senator Cook, Senate Bill Number 2410,

proposing amendment to the Constitution.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 833, by Senator Holland, Senate Bill Number 3656, Social Services Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

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

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 844, by Senator Larkin, Senate Bill Number 43 -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 847, by Senator DeFrancisco, Senate Bill Number 4556, an act to amend the Civil Service Law, the Education Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

SENATOR GOLD: Hold on. No, I have no problem with that.

ACTING PRESIDENT FARLEY: Read the last section of the prior bill.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT FARLEY: The bill is passed.

The Calendar Number on that bill in a just passed? 847.

THE SECRETARY: Calendar Number 858, by Senator Volker, Senate Bill Number 2630, an act to amend the Criminal Procedure Law, in relation to pre-sentence reports.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 860, by Senator Skelos, Senate Bill Number 3612, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49, nays 3, Senators Galiber, Gold and Leichter recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 860.

SENATOR PADAVAN: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 874, by Senator Holland, Senate Bill Number 5006, an act to amend the Public Authorities Law.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

SENATOR LEICHTER: I'm sorry.

ACTING PRESIDENT FARLEY: Would you call up that bill again.

THE SECRETARY: Calendar Number 874, by Senator Holland, Senate Bill Number 5006, an act to amend the Public Authorities law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52, nays 1, Senator Kuhl recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 875, by Senator Padavan, Senate Bill Number 1853A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT FARLEY: Read

the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 876, by Senator Kuhl, Senate Bill Number 3413, Agriculture and Markets Law and the Economic Development Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT FARLEY: Withdraw the roll call. Lay the bill aside.

THE SECRETARY: Calendar Number 877, by Senator Johnson, Senate Bill Number 4653, Agriculture and Markets Law, in relation to creating an advisory council.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52, nays 1, Senator Libous recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 878, by Senator Kuhl, Senate Bill Number 4654, Agriculture and Markets Law, in relation to agricultural assessments.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 879, by Senator Cook, Senate Bill Number 4753, Agriculture and Markets Law, in relation to examination of horses.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: That bill is passed.

THE SECRETARY: Calendar Number 882, by Senator Kuhl, Senate Bill Number 5223, Agriculture and Markets Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 891, by Senator Levy, Senate Bill Number 1114, an act to amend the Vehicle and Traffic Law, in relation to suspension pending prosecution.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

SENATOR DeFRANCISCO: Can I explain my vote?

ACTING PRESIDENT FARLEY: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: The way I read this bill, and I hope I'm correct in reading it, it talks about a suspension pending prosecution for a first offense on a DWI. I really believe that if someone is being charged with a crime, that's a charge; and I would hope that we would recognize that. This isn't that I'm against DWI legislation; but on the other hand, if someone is merely charged with an offense, suspending the license at the time of the arraignment is a little bit stiff before you even know whether or not there's any validity to any charges.

I can see this type of thing when we are into a second and a third and a fourth offense; but on the first offense, I think it's a bit of an overkill. So I'm going to vote no for that reason.

ACTING PRESIDENT FARLEY: Negatives raise their hands, please.

THE SECRETARY: Those recorded in

the negative on Calendar Number 891 are Senators Daly, DeFrancisco, Farley, Holland, Kuhl, Sears, and Sheffer, also Senator Wright. Ayes 45, nays 8. Also Senator Saland recorded in the negative.

ACTING PRESIDENT FARLEY: Senator Hoffmann.

SENATOR HOFFMANN: Mr. President, I believe I was a little late getting my hand up a while ago. Could I please be recorded in the negative on Calendar 860.

ACTING PRESIDENT FARLEY: 860, Senator Hoffmann is in the negative.

SENATOR HOFFMANN: Thank you, Mr. President.

THE SECRETARY: Calendar 895, by Senator Skelos, Senate Bill Number 4183A, an act to amend the Public Health Law, in relation to the sale of rolling papers or pipes to minors.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 896, by Senator Libous, Senate Bill Number 4548, an act to amend the Mental Hygiene Law, in relation to the provision of services.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 897, by Senator Libous, Senate Bill Number 4636, an act to amend the Vehicle and Traffic Law and

the Correction Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 898, by Senator Levy, Senate Bill Number 5551, an act to amend the Vehicle and Traffic Law, in relation to making it a felony to operate a school bus while under the influence of alcohol or drugs.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 899, by Senator Nozzolio, Senate Bill Number 1976, an act to amend the Navigation Law.

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

Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 900, by Senator Marchi.

SENATOR PADAVAN: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside. For the day, Senator Padavan?

SENATOR GOLD: For today.

SENATOR MARCHI: For today.

ACTING PRESIDENT FARLEY: Yes.

THE SECRETARY: Calendar Number 901, by Senator Sheffer, Senate Bill Number 4527, an act to amend the Navigation Law, in relation to vessel speed.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 902, by Senator Tully, Senate Bill Number 49, Education Law, in relation to the profession of athletic training.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 903, by Senator Tully, Senate Bill Number 1735, an act to amend the Education Law, in relation to authorizing physical therapists and occupational therapists to accept referrals.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 904, by Senator Sheffer, Senate Bill Number 1818, an act to amend the Education Law, in relation to mandatory continuing education for pharmacy.

ACTING PRESIDENT FARLEY: Senator Sheffer. To explain his vote?

SENATOR SHEFFER: Mr. President. Could we lay that aside for the day, please.

ACTING PRESIDENT FARLEY: Yes. Lay the bill aside.

THE SECRETARY: Calendar Number 905, by Senator Holland, Senate Bill Number 3538, Education Law, in relation to submission of audits.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 906, by Senator Farley, Senate Bill Number 4690, Education Law, in relation to residence with parent for determining tuition assistance award.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 908, by Senator Velella.

SENATOR PADAVAN: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number

909, by Senator LaValle, Senate Bill Number 5373, Education Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay the bill aside. Senator Padavan, they want a day on it. What's your pleasure?

SENATOR PADAVAN: With consent, yes. Lay it aside for the day.

THE SECRETARY: Calendar Number 911, by Senator Libous, Senate Bill Number 5269, Education Law, in relation to providing for the certification of podiatrists.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number

912, by the Senate Committee on Rules, Senate Bill Number 3940B, an act to amend the Tax Law.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 913, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 7608, an act to amend the Tax Law, in relation to extending the hotel and motel in Otsego County.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 914, by Senator Skelos, Senate Bill Number 5690, amends a chapter of the laws of 1993.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Padavan, that's the first time through.

SENATOR PADAVAN: All right. Controversial, Mr. President.

ACTING PRESIDENT FARLEY: Controversial.

THE SECRETARY: On page 20, Calendar Number 706, by Senator Spano, Senate Bill Number 4276, an act to amend Chapter 677 of the Laws of 1977, amending the Civil Service Law.

ACTING PRESIDENT FARLEY: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President. I call up my amendment at the desk, waive its reading, and ask to explain it.

ACTING PRESIDENT FARLEY: Senator Connor, to explain his amendment.

SENATOR CONNOR: The principal bill here would extend the agency shop provision for public employees for two more years. It's now been a sixteen-year experiment that's worked very well. We've over the years debated whether or not to make it permanent.

The bill was originally enacted as an experiment. I think it's now in its ninth -- the ninth attempt to renew it. I think it's time to call off the charade of having an expiration date every two years.

Again, I think it's unseemly. It forces the public employees and their organizations in New York State to come back to the Legislature hat in hand every two years and ask for something that is nothing more than simple justice; that people who get services from an employee organization pay their fair

share of the costs.

This does not include forcing employees to pay for political or social activities of the employee organization but merely for the expenses of administration and representation in their employment situation from which they benefit.

Senator Spano, I think just brought out the wrong bill today. He has another bill that would do precisely what this amendment does. He filed both bills, and I would urge him to hold this bill, the principal bill, and bring out his bill. Apparently that's not going to happen. I know his heart is in the right place. The bill he first filed to make it permanent was certainly the appropriate thing to do.

My amendment would make it permanent, and I urge its adoption because I think no one is fooled by this charade that it's an experiment any more. It's nothing more than forcing these organizations and employees to be held hostage on a two-year basis to the

Legislature, and I think it's time to end this system of hostage and ransom, and the fiction is that it's an experiment.

So I urge adoption of the amendment.

ACTING PRESIDENT FARLEY: On the amendment. All in favor, say aye.

(Response of "Aye.")

Those opposed, nay.

(Response of "Nay.")

The nays have it. The amendment is not accepted.

Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1706 are Senators Cook, Hannon, Kuhl, Levy, Maltese, Marino, Padavan and Tully. Ayes 45, nays 8.

ACTING PRESIDENT FARLEY: The

bill is passed.

THE SECRETARY: Calendar Number 778.

ACTING PRESIDENT FARLEY: Hold it up just a minute. Senate will stand at ease.

SENATOR GOLD: Will the sponsor yield to a question?

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT FARLEY: Senator Padavan.

SENATOR PADAVAN: Senator Gold asked if the sponsor would yield.

SENATOR GOLD: Will Senator Lack yield to a question?

SENATOR LACK: Absolutely.

ACTING PRESIDENT FARLEY: Wait a second. We haven't even read the bill yet. They said to stand at ease.

Go ahead. The Secretary will read the bill.

THE SECRETARY: Calendar Number 778, by Senator Lack, Senate Bill Number 4549, amends Chapter 206 of the Laws of 1974, amending

the Labor Law.

ACTING PRESIDENT FARLEY: Senator Gold.

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

SENATOR LACK: Absolutely, Senator.

SENATOR GOLD: Senator, this bill extends provisions dealing with energized high voltage lines and work on those lines, and it extends those safety provisions through July 1, 1998. I understand from a private conversation with you that this was passed originally in 1974; and when I asked you why we're only doing it for five years, you said that's what we've been doing.

I mean aside from the fact that, quotes, "that's what we've been doing," if we're dealing with a safety factor in the work place and it's been in there for 25 years, why would we not permanentize it? Is there something that you know that I don't know that says in about a year or two or three, these safety rules are not

going to be necessary?

SENATOR LACK: Senator, this was as I told you originally done in Chapter 206 of the Laws of 1974, and it has been renewed every five years thereafter. I have think the only reason why it's done on a five-year period is to allow or require a review in light of where technologically in terms of OSHA laws are every five years.

By doing it every five years, in effect, it forces the Legislature, which means the industry and the unions and everybody else that are involved, to look at this statute and make sure that the standard -- I mean this is a little unusual. It's a work standard, in effect, that is incorporated in law as opposed to regulatory activity. And it forces us every five years to look at this and make an appropriate decision to go ahead or to revise the statute in light of whatever technology has shown us has happened in the past years. In this particular case nothing, and we are proceeding ahead. If within the next five years

there are changes, again, we look at it and make a decision.

SENATOR GOLD: Will the Senator yield to a question?

SENATOR LACK: Surely.

SENATOR GOLD: Senator Lack, are you telling me that if in a year and a half from today as a result of, God forbid, some accidents or whatever, it is determined that these standards should be changed, we will now have to wait three and a half years for an industry review or a legislative review?

SENATOR LACK: No, not at all, Senator. If something obviously dramatically happened, we would immediately revise the statute.

But I wouldn't want anybody to forget that Section 207A of the Labor Law exists and is sitting there and it was forgotten and changed any legal requirements because technology changed and we never moved to change the statute. By being forced to review it every five years, we know it's there and if changes

are necessary, it happens then; and we don't perchance of just having forgotten that it was there involve somebody in a legal situation they didn't have to be because, granted, technology changed, the industry changed but we never changed the statute.

SENATOR GOLD: Thank you.

Mr. President, on the bill.

(Whereupon, Senator Libous was in the chair.)

ACTING PRESIDENT LIBOUS: Senator Gold, on the bill.

SENATOR GOLD: Mr. President, I appreciate that Senator Lack is carrying the bill to extend the safety standards because it should be extended, and it certainly would be terrible if it lapsed.

But once you get past that point, there is absolutely no logic at all to anything Senator Lack said. We have people in many, many industries who are constantly looking at their industries and constantly reviewing standards and changing standards; and they don't run to

the Legislature every year or two or five.

I draw the analogy to this and the agency shop. I think we really ought to stop it. Some of these things ought to be in the statute permanently; and if they need some changes, we'll change them; but I don't think that the industry needs to hear from us every five years to remind them that there is a safety standard.

They are living with this business every single day of the week on the work job and they know the standards. So to me it's just another what I think is a silly exercise of having these bills come up before us.

Whether or not there are lobbying groups involved is not even the issue, Senator Lack. On some of the bills we do this to, there are; on some, there may not be.

But if these standards are proper in the industry, we ought to just make them the standard by law without a termination date.

SENATOR LACK: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Lack.

SENATOR LACK: Very briefly on the bill.

Senator Gold, I certainly understand you; but specifically in this type of standard in which you are talking "hot sticks" as it's referred to, it is one of the few such type labor standards that's actually in law as opposed to either an act of a regulatory body or an industry standard that is set.

That's the reason for the periodic review since it is a legal standard rather than a regulatory standard.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT LIBOUS: The

bill is passed.

THE SECRETARY: Calendar Number 782, by Senator Lack, Senate Bill Number 4818.

SENATOR LACK: Lay it aside.

ACTING PRESIDENT LIBOUS: Lay that bill aside.

THE SECRETARY: Calendar Number 790, by Senator Saland, Senate Bill Number 4940.

SENATOR SALAND: Mr. President, would you please star that bill.

ACTING PRESIDENT LIBOUS: We will star that bill at the request of the sponsor.

SENATOR SALAND: Thank you.

THE SECRETARY: Calendar Number 791, by Senator Saland.

SENATOR SALAND: Could I have one day on that, please.

ACTING PRESIDENT LIBOUS: Lay that bill aside for one day at the request of the sponsor.

THE SECRETARY: Calendar Number 801, by Senator Johnson, Senate Bill Number 4775, Environmental Conservation Law.

ACTING PRESIDENT LIBOUS: Read the last section.

SENATOR LEICHTER: Can we have an explanation on that?

SENATOR PADAVAN: Lay it aside.

ACTING PRESIDENT LIBOUS: Lay that bill aside for one day.

THE SECRETARY: Calendar Number 816, by Senator Skelos, Senate Bill Number 1156, Executive Law and the Penal Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT LIBOUS: Senator Skelos.

SENATOR SKELOS: Lay it aside.

ACTING PRESIDENT LIBOUS: Lay that bill aside.

THE SECRETARY: Calendar Number 818, by Senator Johnson, Senate Bill Number 1898, an act to amend the Executive Law, in relation to parole release.

SENATOR GOLD: Explanation.

SENATOR PADAVAN: Lay it aside.

ACTING PRESIDENT LIBOUS: Lay

that bill aside for the day.

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

SENATOR GOLD: Explanation.

SENATOR COOK: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Cook.

SENATOR COOK: This amendment would put into the Constitution a safeguard for localities and for local property taxpayers that I think is long overdue, and that would simply say that no mandate that was passed by the Legislature would have any impact until the funding was provided for it, simply by saying that no law can be passed and can be effective unless the money is appropriated by the Legislature to follow it.

SENATOR SOLOMON: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Solomon.

SENATOR SOLOMON: Yes. Will Senator Cook yield, please?

SENATOR COOK: Yes.

SENATOR SOLOMON: Senator, this is the bill that requires us to place the fiscal impact on the front of the bill?

SENATOR COOK: Yes, it does.

SENATOR SOLOMON: Senator yield, please?

SENATOR COOK: Yes.

ACTING PRESIDENT LIBOUS: Senator Cook, will you yield?

SENATOR COOK: Yes.

SENATOR SOLOMON: Senator, under this bill, if we pass or attempt to pass a statewide law that has a fiscal impact that's different on every village and every municipality in the state, are we going to have to print the amount of that impact on every village and every municipality on the face of the bill?

SENATOR COOK: Senator, I believe it would be sufficient to place on the bill the total fiscal impact on localities and to have in it an appropriation sufficient to cover that,

but the bill would also have to contain language to designate the manner in which that money was to be distributed, because obviously if you didn't have the provision for the funding, then the law would have no effect.

So the fiscal note itself wouldn't necessarily have to list all that, but the body of the bill would have to contain the reimbursement mechanism by which each locality would be paid.

SENATOR SOLOMON: So that would have to be contained within the bill, not on the face of the bill?

SENATOR COOK: Right.

SENATOR SOLOMON: Wouldn't that be -- Senator yield, please?

ACTING PRESIDENT LIBOUS: Senator Solomon.

SENATOR SOLOMON: Senator, wouldn't that be burdensome in terms of doing a breakdown on statewide programs?

SENATOR COOK: Mr. President, I suspect it would be sufficient to appropriate an

amount of money and to indicate that this money would be distributed to reimburse localities for whatever costs were incurred in the administration of the program so that we wouldn't necessarily have to list every single municipality; but if you had an honest fiscal note (a), and (b) since the mandate would be of no impact unless the money were provided for them, that would be the protection that the municipality would have, providing that language was in the bill that that was the intent of the appropriation.

SENATOR SOLOMON: Thank you.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Leichter.

SENATOR LEICHTER: Mr. President and my colleagues. This really is a totally unworkable requirement, and one that I think would make government very difficult to manage if not almost stymie government from operating in a reasonable manner.

I think we all agree with Senator

Cook that, to the extent possible, we certainly should avoid mandates of local government; and when we impose mandates, we ought to provide the money, and we probably haven't done enough of that.

But to say that the bill that imposes a mandate or, as this particular resolution is worded, that has a direct or indirect fiscal burden -- whatever an indirect fiscal burden is -- and that very well has to provide the appropriation is really unworkable, because we provide monies to localities in the budget in lump sum appropriations, in grants and so on, that cover a lot of different burdens that may be imposed on localities.

But to try to do it in each bill, and frankly, there's very few bills we pass - I'd say maybe 50 percent of the bills we pass have some fiscal burden on localities directly or indirectly. Again, I don't know how you define indirectly.

So all of these bills are now going to have to provide an appropriation which

you can't even figure out. How are you going to be able to quantify that burden, particularly the indirect burden?

I think what you do try to achieve and what hopefully you're doing is, in the budget, providing sufficient monies for localities. I don't think we are, but that's what we aim to do, and you do it in terms of the budget. You can't do it in each one of these bills. It's totally unworkable.

It would be, I think, a Constitutional Amendment that, frankly, would make us look foolish if it ever got to the voters.

SENATOR COOK: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Cook.

SENATOR COOK: I think that perhaps inadvertently Senator Leichter has described precisely the dilemma because, indeed, probably half of the bills that we pass do indeed impose some kind of a cost, direct or indirect, upon local governments.

And the problem is that we are insensitive to that. We pass the bill for some good, intended purpose; and it goes out there, and we let somebody else worry about how they're going to pick up the cost for it.

And all this Constitutional Amendment would do would put the focus back here in Albany where it belongs, and say, "Folks, if you are going to decide that there's some good purpose that ought to be accomplished in this state, then you folks decide where the money is going to come to pay for it. Don't send us down some law that says we've got to do something and make us figure out where the money is going to come from."

ACTING PRESIDENT LIBOUS: The Secretary will call the roll on the resolution.

(The Secretary called the roll on the resolution.)

THE SECRETARY: Ayes 54, nays 2, Senators Espada and Leichter recorded in the negative.

ACTING PRESIDENT LIBOUS: The

resolution is adopted.

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

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

SENATOR GALIBER: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Galiber.

SENATOR GALIBER: Whatever the procedure, I would like an explanation. Withdraw partial roll call, or how can I get an explanation? Legitimately, of course.

SENATOR PADAVAN: Withdraw the roll call.

ACTING PRESIDENT LIBOUS: Withdraw the roll call.

SENATOR HOLLAND: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Holland.

SENATOR HOLLAND: This bill will define and regulate the transportation of medical assistance recipients by ambulet. It will require all ambulet companies to obtain a permit from the Department of Social Services. It gives Social Services the authority to suspend only the claims that are deemed fraudulent. Right now, they can stop all monies that are due to a company, and it provides an orderly structure for enforcement.

It is supported by the ambulet industry, and there is no known opposition.

SENATOR GALIBER: Just one question.

ACTING PRESIDENT LIBOUS: Senator Galiber.

SENATOR GALIBER: Yes, thank you, Mr. President. At the present time if there is a dispute over a $10 item -- I'll make it sound horrible.

SENATOR HOLLAND: With an ambulet

company?

SENATOR GALIBER: Ten dollar - yes, a $10 item, they can hold up any payment, and the holding up of the payment, does that automatically stop the service?

SENATOR HOLLAND: It doesn't stop the service unless the company goes out of business. I mean depending upon how long it takes to get them their money. The business can continue, but it holds up all the money.

SENATOR GALIBER: Will they continue? Do they continue? If they have a contract, I know but if they -

SENATOR HOLLAND: I believe they continue until they can't do it financially any more, Senator, yes.

SENATOR GALIBER: Okay, fine. Thank you, Senator.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LIBOUS: Senator Espada?

SENATOR ESPADA: Yes, I would like permission to abstain on this vote, Mr. President.

ACTING PRESIDENT LIBOUS: Without objection.

SENATOR PADAVAN: No objection.

THE SECRETARY: Ayes 55.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 844, by Senator Larkin, Senate Bill Number 4354, Education Law, in relation to expanding student aid programs for Vietnam veterans.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT LIBOUS: Explanation requested. Senator Larkin.

SENATOR LARKIN: Mr. President. The purpose of this bill is to make home study courses certified by the Veterans Administration

available under the V.A. Tuition Awards Program. Each year, we allocate approximately $3 million for veterans tuition awards. Approximately one-third of that amount has been used over the last three to four years. The problem is that a lot of veterans cannot take the full time off, and as these courses are certified by the Veterans Administration. It enables them to progress; and in this time of tough business in the economy, it allows them to get an education in order to assist them in obtaining a job.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number

876, by Senator Kuhl, Senate Bill Number 3413, Agriculture and Markets Law and Economic Development Law.

ACTING PRESIDENT LIBOUS: Senator Kuhl, an explanation is requested.

SENATOR KUHL: Yes, Mr. President. This is a bill that essentially would establish an agriculture center for development in the Department of Agriculture and Markets and also establish what's called an agricultural development program within the Department of Economic Development.

ACTING PRESIDENT LIBOUS: Senator Leichter.

SENATOR LEICHTER: Yes, if Senator Kuhl would just yield, please.

ACTING PRESIDENT LIBOUS: Senator Leichter, did you have a question?

SENATOR LEICHTER: I did if I can just find the bill. Senator, let me ask you this question. What bothered me about the bill, as I took a look at the memo and the fiscal impact, and you stated, "Well, there was no

fiscal impact because no appropriation was being requested for 1993-1994; it will be negotiated in the ensuing fiscal year." But clearly, there is going to be some fiscal impact, and we ought to know at this time, because it seems to me it's sort of like the camel putting its nose in the tent. You pass this, and then there will be an obligation to fund it.

Maybe we should fund it. Sounds like a good idea, but we ought to know how much it's going to cost eventually.

SENATOR KUHL: Well, Senator, I can't tell you how much the program is going to cost until we really define the program, and we do that generally by appropriation. Every year, as you know, the Governor presents a budget to us, and he tells us what he would like us to spend in various areas. We often agree with him and many times we disagree with him.

And there are many programs, particularly in the agricultural arena that the Governor doesn't choose to fund that the Legislature chooses to supplement the budget by

restoring funding to programs that existed or by creating new programs, and so this is one of those programs.

What we have seen in the course of the past century has been that we have had food processors, major processors in this state, who have left the state of New York. They have not seen any financial incentives for the encouragement of the development of their businesses, as opposed to, say, manufacturing businesses, the economic development zones and creations of that nature. That has not been in existence in the agricultural arena. As a result of that, our farmers find themselves in a place where they have a product but that they have no place to process it.

What we're trying to do here is establish essentially a center that will look to coordinating all those efforts and then establish a financial stream that will provide some funding much like exists through the Department of Economic Development today for other industry.

So I can't tell you how much it's going to cost. It could cost a million dollars if we chose to appropriate that money to substantiate programs for construction of facilities, location of facilities, job training programs for processors, that sort of thing; but it's just not possible to define it to the penny to tell you what it's going to cost, because we have to delineate the parameters of that whole program in a budgetary cycle, and we haven't done that yet.

SENATOR LEICHTER: Mr. President. Senator Kuhl, with all due respect, that is precisely the intent of having a fiscal note, is to have the sponsor say this is what I think it's going to cost. I don't think anybody is asking for the penny. I don't think we have ever applied a rigid or strict standard when we look at the fiscal note. They usually round it off. We usually have a few zeroes at the end.

And the whole idea, of course, is for us to take a look now and see what is this going to cost because we're going to have to

fund it in the next fiscal year. And I ask you as the sponsor what is your idea? What is the amount of funding that you think this is going to take?

SENATOR KUHL: It's going to take whatever we decide will be necessary, Senator. I would love to see the Governor put in $10 million as an incubator kind of program next year. I don't think that that's feasible given the circumstances in this state. I think it's probably more likely to be something like $100,000 to start off, to get things going. But at this point until -- what I'm trying to do is to set up the vehicle by which we can administer a program to be funded at a later date.

SENATOR LEICHTER: Mr. President. If Senator Kuhl (pronounced Cue-al) will yield again for a question?

ACTING PRESIDENT LIBOUS: Senator Kuhl, will you continue to yield?

SENATOR KUHL: I will continue to yield to Senator Leichter (pronounced Lick-ter), yes.

SENATOR LEICHTER: My good friend, Senator Kuhl (Cool). I apologize for mispronouncing your name.

SENATOR KUHL: I will continue to yield to Senator Leichter (pronounced correctly).

(Laughter)

SENATOR LEICHTER: I mispronounced your name.

ACTING PRESIDENT LIBOUS: Excuse me, Senator Leichter.

Could we just have a bit of order in the chamber. I know that some of us are having a difficult time hearing you, and I'm sure that Senator Kuhl would like to hear your questions. So thank you very much.

Senator Leichter.

SENATOR LEICHTER: Senator, I assume that you are going to make a proposal to the Governor, maybe through your Conference, of how much this program should be funded in the next fiscal cycle.

SENATOR KUHL: Yes, Senator.

SENATOR LEICHTER: Could you let us know how much that is. I've never known you or the members of the Majority, when your programs are involved, to defer to the Governor and "Well, I'll -- whatever the Governor says is fine with me; I hope he'll be kind and generous to me." I'm sure you are going to have a suggestion. Could we know what that idea and suggestion is to fund this program?

SENATOR KUHL: We don't have any definitive number at this point, Senator. Senator, in fairness to your question and try to answer it for you as fully as I can, I would expect that what we will have to do once we establish the parameters of what we would like to do would be that we would have to go to the Commissioner of Agriculture and Markets - obviously, he is going to be developing and running this center -- and ask him to look at the overall scope of what exists out there and tell us how many people he needs to administer this program that we perceive is necessary. And then, given what the climate is out there and

the contacts that they've had with potential people for locating food processing plants here, what would be necessary financially is to give the kind of financial incentives to these people for their location here.

That will allow us, then, to arrive at a number. We know this is something that is necessary. I could tell you right now that it will take 10 million. It might take $100 million. I could tell you it might take 100,000. It might not take 100,000.

I'm trying not to pinpoint a number because I don't know the number. What I know is that there is a necessity for this program. I cannot tell you the expansiveness of that necessity at this point.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Leichter.

SENATOR LEICHTER: On the bill.

ACTING PRESIDENT LIBOUS: On the bill.

SENATOR LEICHTER: Just very

briefly. I mean I think what is involved here is the integrity of our procedures and what we mean when we say you have to have a fiscal impact statement.

Now, we just passed a Constitutional Amendment proposed by Senator Cook, and he wants us to specify and quantify in every instance what is going to be the cost of the programs that we have.

Now, my good friend, Senator Kuhl says, "Well, you know, we're going to see once we set it up. I will go to the Commissioner. Let's see what the Commissioner says. Let's see what the Governor says."

But the whole idea is when we establish a new program of this sort is that we ought to have some idea. This may be an excellent program. But maybe at 100 million, it's not a good program. At $100,000, which you indicated at one point might be the cost in the first fiscal year that this program is going to be implemented, that may be a bargain.

But, really, we ought to know;

and I think you have an obligation to tell us, because especially when we set up a program of this sort which then we're going to have to fund in the next fiscal year. Because now this program is in effect, you go and you say, "Hey, we've established this program; you got to fund it."

We don't know what it's going to cost. I think we're entitled to, really, at least an estimate, an honest idea of what you think is needed for that, and if our rules mean anything -- and I don't know whether they do, because we've seen other instances where, apparently, the rules are who they benefit and who they hurt.

But I think what's involved here is whether we're serious when we say we want to know what the fiscal impact is of the various measures that we vote on. You could have given us a figure. I think you are obligated to give us a figure; and until you do that, I'm going to vote against this.

ACTING PRESIDENT LIBOUS: Read

the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LIBOUS: Senator Hoffmann, to explain her vote.

SENATOR HOFFMANN: Yes. I am not a sponsor of this bill. It's been developed under Senator Kuhl's direction, but I certainly share with Senator Kuhl the need, the desire to see us do much more than we have in this state to assist economic development that is agriculturally related. I would just remind all of my colleagues that it is our number one industry.

And surely, in a state where we can find large budgetary appropriations on short notice for many, many other worthy areas, we have an obligation to start planning now and looking for the right resources to help economic development in the agricultural arena, as well.

So I'm very happy to vote in favor of this bill, Mr. President.

ACTING PRESIDENT LIBOUS: Results.

THE SECRETARY: Ayes 55, nays 2, Senators Galiber and Leichter recorded in the negative.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 912, by the Senate Committee on Rules, Senate Bill Number 3940B, an act to amend the Tax Law, in relation to the imposition of sales and use taxes by the city of White Plains.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT LIBOUS: The

bill is passed.

SENATOR MEGA: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Mega.

SENATOR MEGA: On behalf of Senator Levy, Mr. President, on page 18, I offer the following amendments to Calendar Number 677, Senate Print 69A, ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT LIBOUS: Without objection.

SENATOR MEGA: On behalf of Senator Levy, on page 42, Calendar Number 277, Print Number 195C, I offer the following amendments and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT LIBOUS: Without objection.

SENATOR MEGA: Thank you.

SENATOR PADAVAN: Any more housekeeping?

ACTING PRESIDENT LIBOUS: Senator Padavan, that I believe concludes the

controversial calendar for this afternoon.

SENATOR PADAVAN: There being no further business, Mr. President, I move that we adjourn until Monday, May 24, 2:30 p.m., intervening days being legislative days.

ACTING PRESIDENT LIBOUS: The Senate stands adjourned.

(Whereupon, at 1:37 p.m., Senate adjourned.)