ALBANY, NEW YORK

June 21, 1993

3:15 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 find their places. If you will please rise with me for the Pledge of Allegiance to the Flag.

(The assemblage repeated the Pledge of Allegiance to the Flag.)

Today we're pleased to have with us the Reverend David M. Powers, Pastor of Briarcliff Congregational Church, the United Church of Christ of Briarcliff Manor, New York.

Reverend Powers.

REVEREND DAVID M. POWERS: Let us pray.

Ever living, everlasting God, as You envelop the world in the beauty and warmth of this season, creating summer days for the earth to produce new life, so grace this session, we pray, with the welcome warmth of Your presence and Your power. Bless and protect all those who meet in this chamber. Keep each one aware of the wider horizon of needs across the state of New York. Attune our listening so

we really hear one another. Sharpen our vision so we are able to see new possibilities. Strengthen every resolve to act on even the most difficult and demanding issues and grant that the deliberations and decisions which this Senate is called to accomplish in these decisive days may reflect an earnest commitment to the things that make for life in all its fullness for every woman, every man, every child today and for all the days to come. Amen.

ACTING PRESIDENT FARLEY: Thank you, Pastor.

The Secretary will begin by reading the Journal.

THE SECRETARY: In Senate, Sunday, June 20th. The Senate met pursuant to adjournment, Senator Farley in the Chair upon designation of the Temporary President. The Journal of Saturday, June 19th, 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 Governor.

Reports of standing committees.

Yes, we have a report from a standing committee. The Secretary will read it.

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

Senate Bill Number 249, by Senator Gold, authorizing the city of New York to reconvey its interest in certain real property;

443, by Senator Stafford, Environmental Conservation Law;

755, by Senator Waldon, authorizing the city of New York to reconvey its interest in certain real property;

2225-A, by Senator Spano and others, Family Court Act;

2341, by Senator DeFrancisco, an act to amend the Highway Law;

2876-A, by Senator Pataki,

Environmental Conservation Law;

3415, by Senator Kuhl, and others, Alcoholic Beverage Control Law;

3825-B, by Senator Volker, Criminal Procedure Law;

3859, by Senator Present, an act to amend the Vehicle and Traffic Law;

3971, by Senator Seward, Public Service Law;

3991, by Senator Johnson, Environmental Conservation Law;

4087, by Senator Kuhl, Alcoholic Beverage Control Law;

4154, by Senator Nozzolio, Social Services Law;

4278, by Senator Wright, to provide for non-partisan primaries and elections in the city of Watertown;

4375-A, by Senator Johnson, to allow Paul D'Aversa, request for retroactive service credit in the retirement system;

4470, by Senator Gonzalez, Environmental Conservation Law;

4491, by Senator Present, Alcoholic Beverage Control Law;

4580, by Senator Mega, Criminal Procedure Law;

4638, by Senator Sheffer, New York State Canal Corporation;

4704, by Senator Padavan, Administrative Code of the city of New York;

4810, by Senator Stafford, Agriculture and Markets Law;

4950, by Senator Farley, General Municipal Law;

4969-A, by Senator Saland, Public Authorities Law;

4972, by Senator Hannon, making appropriations to the Department of Transportation;

4994-A, by Senator Lack, authorizing the sale of certain state-owned lands;

5071, by Senator Johnson, General Municipal Law;

5147, by Senator Holland, Public

Authorities Law;

5186, by Senator Sheffer, Religious Corporation Law;

5371, by Senator Paterson, authorize Tier 1 status for Wilhelmina E. Holliday;

5403, by Senator LaValle, an act to dedicate the David A. Sarnoff Pine Barrens in the Rocky Point Natural Resources Management Area;

5410, by Senator Farley, Surrogate's Court Procedure Act;

5428, by Senator LaValle, Education Law;

5433, by Senator Levy, Transportation Law;

5487-A, by Senator Levy, authorizing a review of current drug-impaired driving education;

5530, by Senator Daly, Environmental Conservation Law;

5571, by Senator Padavan, Public Authorities Law;

5667, by Senator Trunzo, amends Chapter 901 of the Laws of 1990;

5681, by Senator Sears, Tax Law, and Chapter 644 of the Laws of 1984;

5684, by Senators Levy and Sears, amends Chapter 268 of the Laws of 1989;

5766, by Senator Saland, Public Authorities Law;

5808, by Senator Seward, an act to amend the Public Service Law;

5860, by Senator Saland, Social Services Law;

5866, by Senator Stafford, create a Motor Carrier Advisory Council;

And 5884, by Senator Trunzo, amends Chapter 422 of the Laws of 1991.

All bills -- excuse me, also Senate Bill Number 5887, by Senator Present, authorizing the county of Cattaraugus to elect and make optional 20-year retirement plan.

All bills reported directly for third reading.

ACTING PRESIDENT FARLEY: All

bills are reported directly to third reading.

Continuing the order of business, reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Present.

SENATOR PRESENT: Mr. President, on behalf of Senator Marino, I wish to call up his bill, Print 1776, recalled from the Assembly.

ACTING PRESIDENT FARLEY: Secretary will read 1776.

THE SECRETARY: 1776, by Senator Marino, an act to authorize the city of Glen Cove, Nassau County, to sell and convey certain parcels of real property.

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT FARLEY: Call

the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is before the house. Senator Present.

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

ACTING PRESIDENT FARLEY: Amendments received. Bill will retain its place.

Senator Johnson. Oh, you got another one? Senator Present.

SENATOR PRESENT: Mr. President, on behalf of Senator Pataki, would you please place a sponsor's star on Calendar 1162.

ACTING PRESIDENT FARLEY: 1162 is starred at the request of the sponsor.

Senator Johnson.

SENATOR PRESENT: And one more.

ACTING PRESIDENT FARLEY: One more. All right.

SENATOR PRESENT: Mr. President,

will you please place a sponsor's star on Calendar 1158?

ACTING PRESIDENT FARLEY: 1158 is starred at the request of the sponsor. One more coming.

Senator Johnson.

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT FARLEY: Hold on a minute. Senator Present.

SENATOR PRESENT: Place a sponsor's star on 1141, please.

ACTING PRESIDENT FARLEY: 1141 is starred at the request of the sponsor.

Senator Nolan, did you -- if I might, Senator Johnson.

SENATOR NOLAN: Yes.

SENATOR JOHNSON: On page 39 -

SENATOR NOLAN: I'd like to announce some guests we have here today in the chamber. We have a delegation, official delegation, to the United States from the standing committee of Tientsin (T'ien-ching) China. They are here today. I'd like to welcome

them to the chamber here this afternoon.

Peoples delegation from Tientsin, China.

ACTING PRESIDENT FARLEY: On behalf of the New York State Senate, welcome.

Senator Johnson.

SENATOR JOHNSON: Mr. President, page 39, please remove the sponsor's star on Calendar Number 438, Print Number S. 3534-A.

Thank you.

ACTING PRESIDENT FARLEY: Star is removed.

Senator Skelos.

SENATOR SKELOS: Mr. President, I wish to call up the following Senate bills which have been recalled from the Assembly and are now at the desk.

Senator Volker's bill, Print Number 5394; Senator Saland's 4867; Senator Libous, 4881.

ACTING PRESIDENT FARLEY: Secretary will read them.

THE SECRETARY: By Senator Volker, Senate Bill Number 5394, authorizing the

village of Hamburg to discontinue the use and sell certain park lands.

4867, by Senator Saland, Social Services Law, in relation to notice of surrender proceedings.

Also Senate Bill Number 4881, by Senator Libous, Education Law.

SENATOR SKELOS: Mr. President, I now move to reconsider the vote by which said bills passed this house.

ACTING PRESIDENT FARLEY: Would you call the roll on reconsideration of those bills.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT FARLEY: The bill is before the house.

Senator Skelos.

SENATOR SKELOS: I now offer the following amendments to said bills.

ACTING PRESIDENT FARLEY: The amendments are received and the bills will

retain their places on the Third Reading Calendar.

Senator Wright.

SENATOR WRIGHT: Mr. President, amendments are offered to the following Third Reading Calendar bills: By Senator Farley, page 9, Calendar 489, Senate Print Number 2756; by Senator LaValle, page number 14, Calendar 725, Senate Print 4128; by Senator Velella, page 27, Calendar Number 1091, Senate Print 4988; by Senator Cook, page number 31, Calendar Number 1164, Senate Print 3028-A; by Senator Holland, page 38, Calendar Number 381, Senate Print Number 48; and by Senator Sheffer, page 41, Calendar 753, Senate Print Number 3321.

Mr. President, I now move that these bills retain their place on the order of third reading.

ACTING PRESIDENT FARLEY: The amendments are received and the bills will retain their place on the Third Reading Calendar.

SENATOR COOK: Mr. President.

ACTING PRESIDENT FARLEY: Senator Cook.

SENATOR COOK: Could you please remove stars from Calendars 633 and 832 and place a star on Calendar 954.

ACTING PRESIDENT FARLEY: The stars are removed at the request of the sponsor and the bill so named is starred.

SENATOR STAFFORD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Stafford.

SENATOR STAFFORD: I believe there's a privileged resolution at the desk. May the title please be read and have its immediate adoption.

ACTING PRESIDENT FARLEY: Secretary will read the title of Senator Stafford's resolution.

THE SECRETARY: Legislative Resolution, by Senator Stafford, honoring Dr. Charles O. Warren of SUNY-Plattsburgh in recognition of his distinguished service and

accomplishments as president of SUNY-Plattsburgh from 1987 to 1993.

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

(Response of "Aye.")

Those opposed nay.

(There was no response.)

The resolution is adopted.

We have some substitutions, Senator Present. Secretary will read them.

THE SECRETARY: On page 4 of the calendar, Senator Mega moves to discharge the Committee on Rules from Assembly Bill Number 7767-A and substitute it for the identical Third Reading 133.

On page 15, Senator Sears moves to discharge the Committee on Rules from Assembly Bill Number 6102-A and substitute it for the identical Third Reading 732.

On page 26, Senator Sheffer moves to discharge the Committee on Rules from Assembly Bill Number 2871-A and substitute it for the identical Third Reading 1064.

On page 30, Senator Paterson moves to discharge the Committee on Rules from Assembly Bill Number 4212, and substitute it for the identical Third Reading 1155.

On page 31, Senator Marchi moves to discharge the Committee on Environmental Conservation from Assembly Bill Number 2396-A and substitute it for the identical Third Reading 1158.

Also on page 31, Senator Trunzo moves to discharge the Committee on Rules from Assembly Bill Number 7977 and substitute it for the identical Calendar Number 1163.

ACTING PRESIDENT FARLEY: Substitutions are ordered.

Are there any other motions on the floor?

Senator Present.

SENATOR PRESENT: Mr. President, we take up the non-controversial calendar, please.

ACTING PRESIDENT FARLEY: The Secretary will read the non-controversial

calendar.

THE SECRETARY: On page 6, Calendar Number 269, by Senator Saland, Senate Bill Number 3383-A, an act to amend the Social Services Law, in relation to notifying police departments of the emergency removal of children.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 306, by Senator Mega, Senate Bill Number 2175 -

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT FARLEY: Lay that resolution aside.

THE SECRETARY: Calendar Number

311, by Senator Maltese, Senate Bill Number 1053-A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 471, by member of the Assembly Wright, Assembly Bill Number -

SENATOR PRESENT: Lay that bill aside.

ACTING PRESIDENT FARLEY: Lay that bill aside. For the day?

SENATOR PRESENT: Yes.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 620, by Senator Velella.

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number 625, by Senator Libous, Senate Bill Number 3815-C, an act to amend the General Business Law, in relation to motorized wheelchair warranties.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 626, by Senator Sears, Senate Bill Number 4208-A, an act to amend the Agriculture and

Markets Law, unit pricing of consumer -

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 646, by Senator Skelos, Senate Bill Number 1240, an act to amend the General Obligations Law.

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar 800, by Senator Skelos, Senate Bill Number 4720 -

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number 888, by Senator Farley, Senate Bill Number 4953-A, an act to amend the Banking Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 890, by Senator levy, Senate Bill -

SENATOR PRESENT: Lay aside for the day, please.

ACTING PRESIDENT FARLEY: Lay that bill aside for today.

THE SECRETARY: Calendar Number 892, by Senator Levy, Senate Bill Number 1309-A, 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 40.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 961, by Senator Levy, Senate Bill Number 999-A, an act to amend the General Obligations Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT FARLEY: That bill is passed.

THE SECRETARY: Calendar Number 971, by the Senate Committee on Rules.

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number 980, by Senator Larkin, Senate Bill Number 5744, authorizing the city of Newburgh to issue serial

bonds.

ACTING PRESIDENT FARLEY: Senator Larkin has a home rule message here at the desk. You can read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1000, by Senator Wright, Senate Bill Number 4277.

SENATOR PRESENT: Lay aside for the day, please.

ACTING PRESIDENT FARLEY: Lay that aside for today.

THE SECRETARY: Calendar Number 1009, by Senator Saland, Senate Bill Number 5765, authorizing the Town of Wappinger, county of Dutchess, to discontinue the use of certain

park lands.

ACTING PRESIDENT FARLEY: Senator Saland has a home rule message here at the desk. You can read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1012, by Senator Saland, Senate Bill Number 686-A, an act to amend the Real Property Tax 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 43.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1016, by Senator Kuhl, Senate Bill Number 2454-A, an act to amend the Executive Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42, nays one, Senator Leichter recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1022, by Senator Wright, Senate Bill Number 3806-B, State Administrative Procedure Act.

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 43.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: 1026, by Senator Kuhl, Senate Bill Number 3877-B, an act to amend the General Municipal Law.

ACTING PRESIDENT FARLEY: Senator Kuhl has a home rule message here at the desk. You can 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 43.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1051, by Senator Sears.

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1064, substituted earlier today, by member of the Assembly Pillittere.

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1069, by Senator cook, Senate Bill Number -

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1084, by Senator Lack, Senate Bill Number 4471, 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 44.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1088, by Senator Stafford, Senate Bill Number 4853, an act to amend the Environmental Conservation -

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1107, by Senator Levy, Senate Bill Number -

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number 1112, by Senator Cook, Senate Bill Number 2918-B, an act to amend the Town Law, the Village Law and the General City 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 45.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1115, by Senator Maltese, Senate Bill Number 3265, an act to amend the Social Services Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act -

SENATOR MALTESE: Lay aside.

SENATOR PRESENT: Lay it aside for today.

ACTING PRESIDENT FARLEY: Lay it aside for today.

THE SECRETARY: Calendar Number 1126, by Senator Johnson, Senate Bill Number -

SENATOR STACHOWSKI: Lay it

aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1127, by Senator -

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1132, by Senator Seward, Senate Bill -

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1137, by Senator Saland.

SENATOR PRESENT: Lay aside for the day, please.

ACTING PRESIDENT FARLEY: Laid aside for the day.

THE SECRETARY: Calendar Number 1141.

SENATOR PRESENT: Lay aside for the day.

ACTING PRESIDENT FARLEY: Laid aside for the day.

THE SECRETARY: Calendar Number 1156, by Senator levy, Senate Bill Number 1001, an act to amend the Education 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 46.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1157, by Senator Levy, Senate Bill Number 1310, 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 46, nays 23, Senators Kuhl and Wright recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1159, by Senator Skelos.

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1163, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 7977, Education Law, in relation to annexation of territory.

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.

We were out of order on that, so we're going to do 1160, is that correct, now?

THE SECRETARY: Calendar Number 1160, by Senator Spano.

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1165, by Senator Velella.

SENATOR LEICHTER: Lay aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number 1166, by Senator Velella, Senate Bill Number 3188, an act to amend the Executive Law.

SENATOR LEICHTER: Lay aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar number

1167, by Senator Sheffer, Senate Bill Number 3374-A, an act to amend the Tax Law.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR STACHOWSKI: Lay aside.

ACTING PRESIDENT FARLEY: Lay it aside. Don't read the last section.

SENATOR STACHOWSKI: Go ahead.

SENATOR LEICHTER: No, lay it aside.

ACTING PRESIDENT FARLEY: Do you want it laid aside?

SENATOR STACHOWSKI: Yes.

ACTING PRESIDENT FARLEY: All right. Senator Sheffer's bill is laid aside.

THE SECRETARY: Calendar Number 1169, by Senator Pataki, Senate Bill Number 3566, an act to amend the Penal 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 50.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1170, by Senator DeFrancisco, Senate Bill Number 3951, an act to amend the Domestic Relations 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 50.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1171, by Senator Spano, Senate Bill Number 4224-A, New York State Financial Emergency Act of 1984.

ACTING PRESIDENT FARLEY: Senator Spano has 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 50.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1172, by Senator Wright, Senate Bill Number 4230-B, amends Chapter 266 of the Laws of 1854.

ACTING PRESIDENT FARLEY: Read - lay that bill aside.

THE SECRETARY: Calendar Number 1173, by Senator Cook, Senate Bill Number 4327, legalizing, ratifying, validating and confirming certain actions by the town of Roxbury.

ACTING PRESIDENT FARLEY: Senator Cook has a home rule message at the desk. You can 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 1174, by Senator Skelos, Senate Bill Number 4433, an act to amend the Tax Law.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR LEICHTER: Lay aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 1175, by Senator Libous, Senate Bill Number 4449, an act to amend the Penal 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 50.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1176, Senator Wright moves to discharge the Committee on Rules from Assembly Bill Number 6609, and substitute it for the identical Calendar Number 1176.

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: Ayes 50.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number

1177, by Senator Volker, Senate Bill Number 4830, an act to amend the Penal 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 50.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1178, by Senator Levy, Senate Bill Number 4844, an act to amend the Tax 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 50.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1179, by Senator Maltese, Senate Bill Number 4917, an act to amend the civil service 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 50.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1180, by Senator Padavan, Senate Bill Number 4955, an act to amend the Penal Law and the General Business 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 50.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1181, by Senator Hannon, Senate Bill Number 4991, an act to amend the Tax Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number 1182, by Senator Hannon, Senate Bill Number 5017, to allow Douglas Robins, an employee -

SENATOR GOLD: Lay aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 1183, by Senator Hannon, Senate Bill Number 5332, amends Chapter 750 of the Laws of 1871, relating to incorporating -

SENATOR GOLD: Lay aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1184, by Senator Cook, Senate Bill Number 5352, an act to amend the Local Finance 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 50.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1185, by Senator Masiello, Senate Bill Number -

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number 1187, by Senator Skelos, Senate Bill Number

5589, an act to amend the Executive Law.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR LACK: Lay it aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: 1188, by Senator Tully.

SENATOR PRESENT: Lay aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

SENATOR PRESENT: Next one lay aside for the day.

ACTING PRESIDENT FARLEY: Lay the next one aside for the day, 1189.

THE SECRETARY: Calendar Number 1190, by Senator Saland, Senate Bill Number 5859, Local Finance Law, in relation to revenue anticipation notes.

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 51.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1191, by Senator -

SENATOR GOLD: Lay aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number 1192, by Senator Seward, Senate Bill Number 5883, an act to amend the Town Law.

SENATOR GOLD: Lay aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

Senator Present, that's the first time through.

SENATOR SALAND: Mr. President.

ACTING PRESIDENT FARLEY: Senator Saland.

SENATOR SALAND: I was out of the chamber at the time that Calendar 961 was called. I walked in shortly thereafter and did not want to have the bill reconsidered. I'd like unanimous consent to cast my vote in the negative and would like to briefly explain my vote if I might, sir.

ACTING PRESIDENT FARLEY: Without objection, Senator Saland to explain his negative vote.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, Senator Levy's bill certainly is laudable in its intent. It attempts to make parents absolutely liable for the acts of their children up to the tune of $2500 in those instances where a child has done damage to a house of worship.

My concern, however, is where a parent has, with the best of intentions, expended a considerable amount of money perhaps to deal with a troubled youngster, one who might have emotional problems, one who might be cared

for by a psychiatrist perhaps in extensive therapy, and endeavors in every way humanly possible to assist that child with his or her problems, maybe even to use an extreme example, keep the child secured perhaps using a third party to act as that security, and the child evades that security and causes the damage.

There's no provision for any mitigation here. However, while Senator Levy provides that the court can consider the financial ability of the parents where it exceeds $2500 and provides a $2500 floor for the amount to be paid, there's no consideration for mitigation and in the absence of that consideration for mitigation where the parents have made genuine good faith efforts to try and deal with a troubled child, I feel compelled to vote in the negative.

Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Without objection, Senator Saland is in the negative.

SENATOR HOLLAND: Mr. President.

ACTING PRESIDENT FARLEY: Senator

Holland.

SENATOR HOLLAND: Can I be registered in the negative on that bill also, please?

ACTING PRESIDENT FARLEY: Senator Holland will be in the negative.

SENATOR SEARS: I also.

ACTING PRESIDENT FARLEY: Senator Sears is in the negative.

Controversial.

THE SECRETARY: On page 6, Calendar Number 306, by Senator Mega, Senate Bill Number 2175-A, proposing an amendment to the Constitution.

SENATOR GOLD: Explanation.

ACTING PRESIDENT FARLEY: Explanation has been asked for. Senator Mega.

SENATOR MEGA: This is a concurrent resolution.

ACTING PRESIDENT FARLEY: Hold on, Senator Mega. We're a little noisy in this chamber.

SENATOR MEGA: This is a

concurrent resolution, its first passage increasing the jurisdiction of the New York City Civil Courts from 25,000 to 50,000 and the jurisdiction of the District Courts from 15,000 to 50,000.

ACTING PRESIDENT FARLEY: Is that explanation satisfactory? Read -

SENATOR GOLD: No. Mr. President, will the Senator yield to a question?

SENATOR MEGA: Certainly.

SENATOR GOLD: Senator, will you explain the difference between the original print and the "A" print?

SENATOR MEGA: The original print did not include the District Courts.

SENATOR GOLD: All right. Thank you.

Mr. President, on the bill. There is a memorandum in opposition to the original bill by the New York State Trial Lawyers Association. They are concerned what this increase would do. One sentence in the

bill is, quotes: "An increase to 50,000, taken in conjunction with mandatory arbitration programs now in existence in our New York City Civil Court system, could serve to drive too many victims from the judicial system."

Mr. President, we do have a structure right now. Senator Mega, I don't know what we want to do with that structure. There is a proposal by the Governor to merge all courts, as you know. There was a proposal filed by the Speaker last week to merge all courts - two ideas which I think are horrendous, unnecessary expenses. But in this regard, Senator, I must say that there are a lot of procedures that go to our judicial laws to set up the Civil Court and the District Courts differently from the Supreme Court, and I believe, Senator, and not to make this a long debate, but I believe that a lot of that was geared to the fact that the amounts of money involved were different.

We had at one point limitations on our lower court to 3,000, 6,000, 10,000.

25,000, Senator, I'm only a country lawyer but 25,000 to me is a lot of money. $50,000 is already very serious, significant money to a lot of people, and I would think that people with claims that are that size are entitled to a Supreme Court.

I don't want to argue the merger issue, but that issue is an issue. I don't think you get the merger by raising the limits of the lower court to a point where everybody shrugs their shoulders and says, "What's the difference anyway?" The court systems in this state need some repairs.

I don't think this does the repair, and I would just point out that while the trial lawyers' memo is on the original print, based upon your comments, I assume they would also be opposed to the amended version, since none of their arguments in their memo talks about opposition merely because you left out the civil courts.

ACTING PRESIDENT FARLEY: Call the roll on Senator Mega's resolution.

(The Secretary called the roll.)

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

ACTING PRESIDENT FARLEY: The resolution is -- the resolution is adopted.

THE SECRETARY: Calendar Number 620, by Senator Velella, Senate Bill Number 2562-A, an act to amend the Executive Law, in relation to establishing the Office of Risk Assessment and Management.

ACTING PRESIDENT FARLEY: Read the last -

SENATOR GOLD: Senator Velella, an explanation.

ACTING PRESIDENT FARLEY: Explanation. Senator Velella.

SENATOR VELELLA: Yes, Senator. This bill would establish within the Office of General Services a division or office of risk management for the state of New York.

The purpose of this would be to have a separate office assess the liabilities

for New York State, make recommendations to various state agencies on how our exposure to liability might be limited and how we might prevent any possible losses to the state.

It is something that all major corporations have. Many local governments and state governments across the country have it and I think it's time that New York became part of the team of our governmental agencies that have this.

ACTING PRESIDENT FARLEY: You can 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, nays two, Senators Waldon and Wright recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number

626, by Senator Sears, Senate Bill Number 4208-A, Agriculture and Markets Law, in relation to requirements for unit pricing.

SENATOR GOLD: Explanation.

ACTING PRESIDENT FARLEY: Explanation has been asked for. Senator Sears.

SENATOR SEARS: This is a bill that passed earlier this year and the -- the "A" version takes out the 98 percent compliance provision. Instead, the existing enforcement by section 214 (h) of the Ag and Markets law applies. That is, if the Agriculture and Markets inspector finds a violation, then the store can be fined up to $300 per violation.

When this passed earlier, it went over to the Assembly and they had an objection to that 98 percent compliance, so we -- we amended the bill to take that whole section 3 out.

SENATOR GOLD: Last section.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Saland.

SENATOR SALAND: Mr. President, with apologies, may I please have unanimous consent to be recorded in the negative on Calendar Number 620, Senate 2562-A.

ACTING PRESIDENT FARLEY: Without objection, Senator Saland is in the negative on 620.

Senator Larkin.

SENATOR LARKIN: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar 620, Print Number 2562-A.

ACTING PRESIDENT FARLEY: Senator Larkin is in the negative on 620.

Continue the calendar.

THE SECRETARY: Calendar Number 646, by Senator Skelos, Senate Bill Number 1240, an act to amend the General Obligations Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT FARLEY: Explanation. Senator Skelos.

SENATOR SKELOS: Under this legislation, Senator Gold, which passed the Senate in '91 and '92, in an action for damages, if the defendant, who in this case would be a victim of a crime, shows that the injuries sustained by the plaintiff, which would be the criminal, arose during the commission or attempted commission by the plaintiff of certain enumerated crimes, and that the actions of the defendant were justified pursuant to Article 35 of the Penal Law, then the Plaintiff is deemed to assume the risk of injury coming from the encounter with the victim and that the proof shall constitute a complete defense to the action.

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 Connor, Gold and Ohrenstein recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 800, by Senator Skelos, Senate Bill Number 4720-A.

SENATOR GOLD: Explanation.

ACTING PRESIDENT FARLEY: Explanation requested.

THE SECRETARY: Environmental Conservation Law.

ACTING PRESIDENT FARLEY: Senator Skelos.

SENATOR SKELOS: Senator Gold, this legislation was recommended to me when I conducted task force hearings in Buffalo which

were put together by, in this case, McHugh/ Masiello, and it's also co-sponsored on a bipartisan basis in this house, would prohibit the confiscation or taxation of emission reduction credits as defined by Title I of the federal Clean Air Act in any manner unless specifically authorized by law, meaning the Legislature and signed by the Governor.

Emission reduction credits are created when a business reduces emissions of volatile organic compounds. These credits are not, and I want to emphasize, should not be confused with acid rain allowances which have a totally different chemical make-up and are not mentioned in Title I of the Clean Air Act.

These emission reduction credits are of considerable monetary value to each busi ness. In addition, they serve as an economic incentive to pollute less. Thus, any confisca tion or taxation by the DEC as outlined in their new Source Review Regulations, Part 231, is considered counterproductive to the emission trading program, the federal Clean Air Act, and

a severe detriment to New York's environmental and economic welfare.

SENATOR GOLD: Thank you, Senator.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Yeah, I'd like to point out, Mr. President, that both the Department of Environmental Conservation has filed a memo in opposition and the Environmental Planning Lobby -- Lobby has filed in opposition and I feel terrible that there are some Democrats on the bill or maybe after the vote I'll be proud that there are some Democrats on the bill.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Would Senator Skelos yield, please?

SENATOR SKELOS: Yes.

ACTING PRESIDENT FARLEY: Senator Skelos, would you yield, please?

SENATOR LEICHTER: Senator Skelos.

SENATOR SKELOS: I'll yield to Frank any time.

SENATOR LEICHTER: Yes, Senator. Under your bill, if a facility had built up credits that it could transfer, could that facility transfer the credits and then close up its shop in New York State?

SENATOR SKELOS: No, the issue here, Senator Leichter, is very simply that these credits are allowed to certain businesses and whether the DEC, by regulation, should be allowed to just come in and confiscate without any type of payment to the company.

Now, for example, if the state decided that they wanted to put tracks from one part of the state to the other and they had to confiscate your property, it would be as if they had the right to take your property without paying you anything for it.

So it's really an issue of, number one, should this asset be confiscated

without any payment to the company for their efforts in lowering pollution level and should it really be a Legislative prerogative rather than a regulation by the DEC to permit this type of confiscation? And I also want to point out that this legislation is supported by The Business Council, the Buffalo Chamber of Commerce, the Upstate Roundtable and the Long Island Association.

SENATOR LEICHTER: Well -

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Well, you - even if I were to agree with you that this is a legislative prerogative and that we don't want DEC to lay down blanket rules by regulation, there's still a question of how carefully and well your bill is drafted and, by the way, I want to say I don't agree with your basic premise, but I'm still concerned that your bill would facilitate a New York business transferring its pollution credits and then closing its door.

Why wouldn't you put in your bill that that transfer is only available to businesses that are then not closed down shop and lay New Yorkers off?

SENATOR SKELOS: Why would a business who would go through all the efforts and the expense of improving their business environmentally then just want to close down? It makes no sense.

SENATOR LEICHTER: I -- I beg to differ with you, sir, and I can give you some examples where that could happen. I don't think you could preclude the possibility of that occurring because we've seen cement factories and other businesses that create pollution.

SENATOR SKELOS: They could do that right now. Senator, couldn't they close up their business right now if they want to?

SENATOR LEICHTER: Yeah, but they couldn't -- under the DEC regulations, they couldn't close down and get the benefit of transferring their pollution credits. You're - you're giving them possibly an additional

incentive of doing that.

SENATOR SKELOS: No, I disagree with you.

SENATOR LEICHTER: Well, Mr. President.

ACTING PRESIDENT FARLEY: On the bill, Senator Leichter.

SENATOR DALY: Mr. President.

ACTING PRESIDENT FARLEY: Well, Senator Daly.

SENATOR DALY: Mr. President, will Senator Leichner yield?

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

SENATOR LEICHTER: I always yield to Senator Daly.

SENATOR DALY: I've looked over the memo, I've looked over the bill. I don't see anything in the bill, not even in the memo that would imply that it would cover this situation and have the same result. If what you say is true, then you can do it under the existing rules and regs.

This bill does not apply in any way, shape or form to that question. All this bill says is that a company -- that DEC cannot take a ten percent hit or a company won't get a ten percent hit from DEC if it reduces its emission. Show me where it says that.

SENATOR LEICHTER: Senator, it's the failure to cover that situation. It's precisely, you read it the way I do. You looked and you found nothing covering that situation. That's precisely the problem. It ought to be covered. We ought to, Senator, in this bill, whether you agree with Senator Skelos' premise or not, that at the very least we ought to prohibit a company from transferring the credit and then closing its doors.

You know, Senator Daly, that we've had the situation where we've given companies IDA loans or other benefits where they then close the door, they've taken the money of the people of the state of New York, they've thrown New Yorkers out of work and they've gone to some other place or just closed up.

Certainly, this could happen under this -- under this bill.

SENATOR DALY: Mr. President.

ACTING PRESIDENT FARLEY: Senator Daly.

SENATOR DALY: Will the Senator yield for another question?

ACTING PRESIDENT FARLEY: Would you yield for another question?

SENATOR DALY: Now, let me quote you about five minutes ago, Senator Leichter. You said under the existing DEC regulations this could not happen; the company could not close down after it claimed some credits. This bill doesn't impact on that. Doesn't change that in the rules and regs.

All this bill says, pure and simple, is that, if a company gets credits, DEC cannot take ten percent of those credits, period.

SENATOR LEICHTER: Well, Senator, let me correct -- correct it to this extent. The DEC would have one of their proposed

regulations, it may not be the regulation now and to that extent I think you're right, I'm told, proposed regulation, most recent proposal would bank all of the credits generated by facility closure; so the DEC intends to cover that situation that I'm concerned about.

It doesn't mean in no way dealing with the whole universe of this bill, but I think it's an important point and one of concern to all of us because we're concerned about facilities that take advantage of our laws and then close up shop throwing New Yorkers out of work. So that the DEC regulations proposed would cover that particular situation and, if this bill became law, then that regulation, as I read it, would -- could not be enacted by DEC.

SENATOR DALY: Mr. President.

ACTING PRESIDENT FARLEY: Senator Daly.

SENATOR DALY: If the -- if Senator Leichter can just show me where - anywhere in this bill, where this bill denies DEC the right -- the right to establish that

rule and regulation, I'll surrender. All this bill does is take section -

SENATOR LEICHTER: I'll show you where.

SENATOR DALY: Show me.

SENATOR LEICHTER: It does it on page 2, starting line 3. It says the department is prohibited from confiscating tax emission offsets as defined in Title I, so if the department now, as it intends to, so I'm advised, will prohibit the transfer of any emission credits in the event there's a closure by the plant, it could not do this if this bill became law.

SENATOR DALY: Give me that one more time. I don't understand it.

SENATOR LEICHTER: O.K. Let's go through this slowly.

SENATOR DALY: Yes, I need some time.

SENATOR LEICHTER: I'll be accommodating, Senator. Senator Skelos' bill prohibits the department from confiscating or

taking emission offsets, period, finally, conclusively, without any exception. The DEC, I am told, has a number of regulations in mind dealing with these emission credits and offsets, one of which could be that you can't -- that you cannot get the offset and cannot get the credit in the event there is a closure of the plant.

SENATOR DALY: Mr. President, this bill -

ACTING PRESIDENT FARLEY: Senator Daly.

SENATOR DALY: This bill would not deny DEC that right. It does not.

SENATOR LEICHTER: Well, Senator, can I ask you then if you will yield?

ACTING PRESIDENT FARLEY: Senator Daly, will you yield for a question?

SENATOR DALY: Certainly.

SENATOR LEICHTER: What does it mean when it says the department is prohibited from confiscating or taking emission offsets? What does that mean?

SENATOR DALY: Well, just what it

says.

SENATOR LEICHTER: That's exactly what I thought it meant and, therefore, it would certainly cover my situation.

SENATOR DALY: No, Senator, it would not.

SENATOR LEICHTER: Well, let's see if, first, Senator Skelos can -

ACTING PRESIDENT FARLEY: Senator Skelos.

SENATOR LEICHTER: No, I'm just yielding to him because he's on his feet and maybe he can answer my problem.

SENATOR SKELOS: I'm just stretching a little bit, Senator Leichter.

The whole issue here is whether DEC, number one, should have the right to promulgate these type of regulations rather than the Legislature and the Governor, and the point also is that the Department of Economic Development is the agency that is concerned about economic development within this state.

DEC, with these regulations, as

far as I'm concerned, you may disagree, is exceeding its authority and encroaching upon what I believe is a legislative prerogative.

SENATOR LEICHTER: Senator, I have no -- I've no problem in saying that that's a legislative prerogative, and we're often engaged in debates with your colleagues, usually with Senator Wright, that we should not impinge on administrative functions.

I agree. I think that it is appropriate for the Legislature to do this. That doesn't mean -- that doesn't mean that it makes sense, and I -- I -- while Senator Daly and I were really engaged in a sort of a narrow point because I -- and I think an important point, as usual, we've managed to confuse anybody, including ourselves, but I wanted to narrow the broader aspect of this, which is that what you have now is that, under some circumstances usually as a result of a DEC requirement, usually it's a regulation, the very thing that makes Senator Wright shiver and uncomfortable, you have a New York business that

has reduced its emissions and, therefore, could be considered to have a credit which it could transfer under -- under federal law under some -- under some circumstances.

That credit is created solely because DEC has taken some actions and we've required that business -- well, I guess I could -- I could see some situation where the business does it on its own -- may decide on its own to put in scrubbers, although it's not required and, therefore, its emissions are less than the federal requirement, but there's still a -- there's still then an issue or question whether you want that transferred or whether you want to use that for the benefit -- in some other respects for the benefit of the people of the state of New York.

I would -- I would -- I would submit to you that we -- that we again, when there's an overall reduction in pollution, not only in New York State but if we transfer some of those emission rights to Ohio, where plants are emitting pollutions that create acid rain

which is affecting New York State -

SENATOR SKELOS: Mr. President, this does not involve acid rain.

ACTING PRESIDENT FARLEY: Senator Skelos.

SENATOR SKELOS: This does not involve acid rain. So we shouldn't get into Ohio and Indiana. This does not involve acid rain.

SENATOR LEICHTER: O.K.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: It does involve transfer of emission credits which allow some other companies somewhere else in this country to engage in activities that create pollution. That pollution can have an effect here in -- in New York State.

I think the whole idea that you're going to create, that you allow a trans... you allow somebody who is really doing what is a benefit to the people, to gain a benefit which is loud to be transferred to

somebody else to do something which is harmful to people, I have difficulty in understanding why you would want to do it, and even if you want to do it, at the very least, as I pointed out, I think you ought to protect the people of the state of New York against somebody taking advantage of this and then closing down their shop.

For these reasons and, as Senator Gold rightly pointed out, DEC and EPL have urged that we vote against it. I don't think it's beneficial.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT FARLEY: Oh, Senator Dollinger. Don't read the last section.

SENATOR DOLLINGER: Yes. Would Senator Skelos yield to a question.

ACTING PRESIDENT FARLEY: Senator Skelos, would you yield to a question from

Senator Dollinger?

SENATGOR DOLLINGER: Senator, I must admit I'm going through this for the first time and having some difficulty with this. As I understand this, in the case of a closure or discontinuance of operations, these credits which are created by the, my understanding is by the federal Clean Air Act, is that correct, these credits would then go into the state to be banked for purposes that the state Environmental Conservation has set out in the regulations, is that correct?

SENATOR SKELOS: That would be under the proposed regulations.

SENATOR DOLLINGER: Just so I better understand this concept of asset, what would happen if the company went bankrupt? Is this considered an asset of the bankrupt corporation?

SENATOR SKELOS: I would say they would be considered an asset of the corporation.

SENATOR DOLLINGER: And if the

company either went bankrupt or went out of business, Senator, through you, Mr. President, if you will yield for another question.

ACTING PRESIDENT FARLEY: Senator Skelos, you are still yielding?

SENATOR SKELOS: Yes.

SENATOR DOLLINGER: If either of those two things happened, the credits would be available as an asset of the company to be sold either in bankruptcy or at the time of the discontinuance of the business.

SENATOR SKELOS: I believe so, yes.

SENATOR DOLLINGER: O.K. I -- I'm somewhat troubled, Mr. President, if I could just speak on the bill for a minute.

ACTING PRESIDENT FARLEY: On the bill, Senator Dollinger.

SENATOR DOLLINGER: Whether this is really an asset, it seems to me these credits create -- are really a creation of government. They are established under the Clean Air Act. We give the assets. We -- and by "we" I mean

government, the federal government has created the asset in this instance, and I'm not so sure its functions under the same asset portfolio that you would think of in the normal business. This is something that government has created, a right that government has created and, therefore, it has, at least in my judgment, a different treatment as far as the general asset of a company would go, and although I'm, frankly, still not sure I fully understand how all this works, I think that that's important to understand in the overall unraveling of this, that there's a different type of asset.

This is not something the company had prior to the Clean Air Act and, therefore, perhaps the state government could manage it better. I must admit to being still a bit confused, Mr. President, but I've got a minute or so to wrap that up.

Thank you.

ACTING PRESIDENT FARLEY: Senator Oppenheimer.

SENATOR OPPENHEIMER: I think, on

the bill, because I am somewhat confused too, but if the -- if New York State has first rights to the -- these credits, and they do not indeed, I think there's a concept behind not having to pay the corporation that will be leaving the state and, therefore, taking jobs and their assets out of the state.

It's one way for New York State to amass additional credits which are necessary for us to meet the federal Clean Air Act and a way for us to accumulate these credits without spending a great deal of money in order to comply with the laws which you suggested we should be doing.

We should be spending state money to acquire these credits from the corporations leaving New York State. I say that would probably hinder our efforts as a government to try to meet the Clean Air Act because of the costs that would be involved in buying these credits from the corporations leaving New York State.

Another thing that concerns me

that always has, is the selling of the credits which is the other option. If these credits are to be sold, it would make me much more comfortable with a provision that said they should be sold to New York State corporations and not to corporations that are outside of our state, do no benefit to our state and only have the prevailing winds drift the pollution back to us.

So those are two points I'd like to make. I concur that this is not a good bill, and I would suggest that those who are concerned with us meeting the requirements of the federal Clean Air Act vote in opposition to this bill, as I will.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR GOLD: 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 800 are Senators Connor, Dollinger, Espada, Gold, Goodman, LaValle, Leichter, Ohrenstein, Onorato, Oppenheimer and Waldon. Ayes 41, nays 11.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 971, by the Senate Committee on Rules, Senate Bill Number 5709.

SENATOR GOLD: Lay aside for the day, please.

ACTING PRESIDENT FARLEY: Lay it aside. Yes. Do you want that aside for the day, Senator Present?

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 1051, by Senator Sears, Senate Bill Number 5754-A, in relation to the payment of a judgment.

SENATOR GOLD: Explanation.

ACTING PRESIDENT FARLEY: Explanation. Senator Sears.

SENATOR SEARS: Yes. As you know, Mr. President, we debated this bill at length the other day and, at the suggestion of Senator Gold, I have amended the bill so that it leaves no doubt as to what the Comptroller is to compute if Jane Doe dies before the expiration of her five and one half years of life expectancy which is what is expected to happen because, since the trial of last year, recent laboratory tests show a marked decline in Jane Doe's immune system which caused the doctor who testified at her earlier trial to modify his prognosis and tragically predict Mrs. Doe's death in late 1995 or '96.

Now, what this bill does is to substitute our judgment as representatives of the people of the state of New York for that of our Attorney General in this lawsuit and demand that Jane Doe's estate be paid the full amount of the damage award, no matter when she dies.

As the situation stands now, the sooner she dies, the more money the defendant saves. A vote for this bill says that the defendant in this case will not profit by its own wrongful conduct and that Jane Doe's children will get something to ease the pain of watching the early and tragic death of their mother caused by the outrageous and unconscionable conduct of two correction officers.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Yeah. First of all, I'm -- I'm glad that Senator Sears amended the bill because, while I think the idea is really very dangerous and very wrong, I respect Senator Sears. I respect what he's trying to do and I didn't think it would be fair if this chamber voted to do something and it turned out that it couldn't be done. So that issue is taken care of.

This is a very, very, very

dangerous piece of legislation and someone agrees with me. It's dangerous, it's dangerous because the members of the majority in this house and others have decided that there ought to be structured settlements in order to save taxpayer money -- taxpayers -- the people who the other side of the aisle are constantly lecturing this side of the aisle about.

Thank you. We don't need your lectures. This bill is an anti-taxpayer bill is exactly what it is. I wish this woman all the life and particularly painless life that anyone could wish somebody. I don't want this woman to suffer. I don't want her to die but the concept of the structured settlement is that she will be paid during the period of time that she is alive for whatever pain and suffering she has while she's alive.

Senator Sears is not giving her and her family their due. He is giving them a gift, way in excess of what the pain and suffering is. That's what this bill does. Now, throughout our system of law, we have

circumstance after circumstance where we do not allow family members to bring lawsuits for other people's pain and suffering and for other people's circumstances.

If, God forbid, someone has an injured child, I know of such a case, a young child was hit by an automobile at a young age and a beautiful young man is getting along in life but he has some disabilities. Those parents every day of their lives live with that. They take him to and from school. They do these things. The law does not provide for them to get a penny.

When Senator Sears says it would be nice so that this woman would have something to leave to her family, it would be nice to be able to leave something to their family. My arguments here are not heartless arguments. We have -- I am not trying to take away anything from this woman or her family. I'm trying to remind this chamber what you have voted for and what you have created.

You created a system where people

who are injured by the state -- and this woman was injured by the state; that has been a finding -- that these people will be paid and compensated but that we will not give away balloons of the taxpayers' money.

If, God forbid, this woman were to die early, we would, in effect, be giving a few million dollars to this family. That goes beyond the woman's medical, beyond her out of pocket, beyond her pain and suffering. Well, I don't know. I mean I don't know. There are bills on the calendar that some people tell me are one-house bills. There are some of you wanted an extra $500,000 for your community, but it's not really bargained out and people say, where do you get the money?

There are bills on the calendar where you need roads taken over by the state or bridges. You can't get those negotiated with the Assembly and you're talking about giving away millions of dollars here as a gift and that's what it is.

The circumstances of this case

are a tragedy. They are a disaster. There are 61 members in this house. I will sign an affidavit that no one has a larger and a bigger and a finer heart than Senator Sears. He absolutely means well, and I admire him for it. But what we are being asked to do is just wrong.

The majority in this house suggested during court reform that we should get rid of pain and suffering or at least cap it. You want to put a cap on it. Now, please, you can't be telling me that you would cap pain and suffering in the private sector, but since governments have so much money, we are not going to put a cap on it in these situations.

The bill makes no sense. I was hoping, to tell you the truth, that when I suggested the amendment to Senator Sears, maybe the bill would have faded away and we wouldn't have to bring this to a vote because I look around this room. I see good people in this room and good people have hearts that go out to other people, but we're being asked to do

something which is governmentally, I believe, terrible. Terrible.

We are not making up a deficiency for someone who got underpaid. We are not correcting a pension system for someone whose papers were lost. We are being asked to make a lump sum payment to someone which unquestionably will turn out to be a gift of taxpayer money.

I've made my case. I don't know what else to say. I think it is a bad law. It's the old story of bad cases make bad law. This is one of the classics.

I would have hoped that it didn't come back. It shouldn't come back. It's here. I reluctantly will vote against it. I don't think there's anything else you can really do if you respect the taxpayer wallet. Those of you who vote against it, I look you in the eye and I appreciate where your heart is, but I think it's the wrong place to put your heart.

ACTING PRESIDENT FARLEY: Senator Solomon was next.

Senator Solomon.

SENATOR SOLOMON: Thank you, Mr. President.

Will Senator Sears yield, please? Mr. President.

ACTING PRESIDENT FARLEY: Senator Sears, would you yield to Senator Solomon.

SENATOR SEARS: Yes.

SENATOR SOLOMON: Senator, in the past, haven't you voted for a cap on pain and suffering?

SENATOR SEARS: Excuse me?

SENATOR SOLOMON: Senator, have you voted for caps on pain and suffering in the past, 250-?

SENATOR SEARS: I believe I have, yes.

SENATOR SOLOMON: Mr. President, will the Senator yield for one other question?

ACTING PRESIDENT FARLEY: Would you yield for another question?

SENATOR SEARS: Yes.

SENATOR SOLOMON: Senator, at a certain time of year in the Jewish faith we

celebrate the holiday of Passover, and one of the questions -- the four questions that the youngest people ask is why is this night different than other nights, and I'd like to ask a question along those lines, Senator: Why does this individual deserve special treatment from all the other individuals that have received suits under egregious circumstances against the state where the state was woefully at fault that may have had their lives may have been shortened and, in fact, prognosis may have changed? Why should this person be treated differently?

ACTING PRESIDENT FARLEY: Senator Sears.

SENATOR SEARS: Senator, have you ever seen anybody die of AIDS?

SENATOR SOLOMON: Yes.

SENATOR SEARS: Day by day?

SENATOR SOLOMON: Yes.

SENATOR SEARS: The final week or two?

SENATOR SOLOMON: Yes.

SENATOR SEARS: Or months, when

they deteriorate to practically not, don't know where they're at, wish they were somewhere else, because they're going to die from a disease that they had not to do with contracting in this case.

Yes, this is different, Senator, very, very different and those children, I think, are deserving of something for the pain and the suffering that they will go through during that period of time when they watch their mother die.

SENATOR SOLOMON: Thank you.

On the bill, Mr. President.

ACTING PRESIDENT FARLEY: Senator Solomon on the bill.

SENATOR SOLOMON: I'm glad that Senator Sears just declared a new area for us to look at, so if in the future any resident of this state gets AIDS and the state is found at fault in that case, special legislation should be passed to help that individual. So we set a new standard legislatively in the case of AIDS for any individuals that receive it as a result

of the negligence of the state of New York, and I think that's the very point, because I've also seen people that have become quadriplegics at the fault of this state, and the miserable life they must live.

I've also seen many other cases where torts have resulted in horrible circumstances. What we've done is set a new standard. If you from now on, Senator, and I hope you -- if there's ever any additional situation would, in fact, introduce legislation or support that legislation and convince your colleagues that, if it happened to someone in New York City, in my district or Senator Waldon's district or Senator Onorato's district, if it was a poor nurse aide in New York City who developed AIDS as a result of the negligence of state government, that they would be able to get the same relief in this house as this individual is getting.

But the fact of the matter is we're setting a standard for only one individual. We should be doing it across the

board, and that's the problem with this piece of legislation. I have no problem with this individual getting this relief, but that's not the current law for every other individual that's been injured as a result of the negligence in this state, and that's what's unfair, an individual bill introduced which, in fact, eliminates every other person that's been injured as a result of the negligence in this state, and I think that's the problem with this legislation.

Thank you.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT FARLEY: Oh, Senator Dollinger.

Senator Dollinger, you want to speak?

SENATOR DOLLINGER: Mr. President, I thought you had one speaker before me as well.

ACTING PRESIDENT FARLEY: I didn't see him, whoever he was.

SENATOR GOLD: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I spoke against this bill the first time we took a look at it, and I think I have to respond to Senator Sears' comment because I want everybody in this chamber to recognize that - two of the premises to this bill, and I understand the good intentions from which it springs.

I don't doubt those for a second and I -- I clearly have sympathy for this particular person, but I think it's important to recognize, Mr. President, that there was no mistake in this verdict. The verdict rendered by the court said, I anticipate that you're going to live 5.5 years and during that 5.5-year period of time, you are going to sustain $3.5 million worth of damage because that life span is worth that amount of money.

If the court had said, You're

going to live 10 years, I dare say it would have rendered a different verdict. The verdict wouldn't be 3.5 million; it would be something substantially more because the period of pain and suffering would be greater as well.

But under our law, the court also didn't have to say, by the way, if you only live two and a half years, we're going to cut the money down because, because of the periodic payment rule, it was paid over 5.5 years in a structured settlement. If you only live two and a half years, you're going to get all that you would be entitled to for the pain and suffering in that two and a half-year period.

So by operation of law, this court created and, by operation of law that we approved the structured settlement and by operation of the facts in this case, the court took care of the instance of where the life expectancy, the full life that this person would live, would be less than 5.5 years.

That's critical, Mr. President, because, if this woman does live less than 5.5

years, and I understand that Senator Sears has information that that may not be the case regrettably, she will not live her life expectancy but, if she doesn't, she will be fully compensated for the -- by the state of New York for our negligence, for what we caused. She will be fully compensated for however long she lived. If you have calculated it at $750,000 a year which is roughly what this court did, she's going to be paid a million and a half dollars for the two years that she lives. If she lives another year, she'll get $750,000 more. It's spread out over time. If the time limit shrinks she will get every penny that she is entitled to, and that's another critical mistake that we ought to recognize in this bill, that Senator Sears is correct what he's seeking to do here is to compensate the family for the pain and suffering of their mother and recognize that that is probably the most liberal interpretation of the common law in this state.

Throughout our history, the Court of Appeals has recognized that the bystander who

witnesses the damage-causing event is not entitled to compensation because we draw a line. If you're injured by the negligent party, you are compensated but your loved ones are not, and the reason why we draw that line is because we want to be able to confine the exposure and the risk.

When the example that's used when everyone who is an attorney goes to law school, is someone who gets struck in downtown Manhattan by a car, everyone looks at this horrible accident, everyone in the building or everyone on the street could walk in and say, I watched someone die in front of my face; I'm entitled to compensation.

We in this state have drawn a line in our common law which says we do not recognize those claims for pain and suffering by bystanders, by onlookers, even if they may well be members of a family.

So recognize that we are not correcting a mistake in this verdict, and we are radically changing in this one instance, we are

radically changing the common law in this state.

The other comment that I made beforehand which just bears quickly repeating, we are not an appellate court. Our job is not to intervene in verdicts which I think were properly rendered and will fully compensate this woman for the pain and suffering that she has to endure. We are opening the door, in my judgment, to a slew of these types of applications, to all the members of this body as well as the Assembly to walk in and say, we feel that the justice system has not done us right. We want you to correct it; we want you to give money from the taxpayers to correct a perceived inequity.

I submit to you, my colleagues, this is no inequity in this statute. In this case, this woman will be fully compensated for her pain and suffering. The comment that Senator Gold made, we are giving a gift of millions of taxpayer dollars to a family that is enduring an unspeakable tragedy, but one that,

under our system of law, they are not entitled to compensation for and one which we will open our door, frankly, to all kinds of claims in the future.

I would urge that, for this respect for our common law, for our system of law, for the system that produced this, what appears to be a fair and equitable verdict that we not tamper with this case and that we vote no.

SENATOR GOLD: Slow roll call.

SENATOR STACHOWSKI: Mr. President.

ACTING PRESIDENT FARLEY: Is it -- Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

Mr. President, I won't reiterate what I said a week or two ago about this bill, but I want to remind my colleagues that it's the majority in this house, by and large, that year after year has brought up piecemeal attempts at, quote, "reform", unquote, of the tort laws and

most of the majority members in this house have supported in the past bills that would put an absolute cap on pain and suffering.

There have been different ones proposed, 150,000, 150 now. I remind you, if your bill had become law, we wouldn't be talking about $750,000 a year times five years; we wouldn't be talking about $3 million in pain and suffering even in this tragic, terrible situation that Senator Sears has called to our attention. We'd be talking about, take your hundred thousand or 150,000 and take a walk, no matter how long you live. If you suffer for 30 years, that's what you get. That's what you've proposed, you in the majority, and I've opposed it.

The rationale for your caps and limits has always been it costs too much. It costs the taxpayers too much; it costs the insurance carriers and businesses. It costs the tortfeasors too much. It inhibits business. It causes us to have to raise taxes to pay judgments. It discourages business because of

the cost of insurance and the liability.

Well, I submit to you, that when you proposed those laws, you were covering thousands of tragic cases and maybe it's easier to do when you do that, because it's all being done theoretically in big numbers. It's faceless, the cap for pain and suffering you impose on suffering, faceless, suffering citizens of New York.

But when you have a face or a name, albeit Jane Doe or when you have a particular person in mind, Aah, what a grave injustice. Well, think about what you would have done in the past in this case. You would have said, "Senator Sears, take a hike, she gets the hundred thousand dollars, she gets $150,000, that's it," no matter what the suffering.

And you passed the law for structured settlements, and you know what? There was logic to that though, because it became very controversial that a court, at the present time, has to compute an estimate of future pain and suffering, and I remember the

proponents of this structured settlement saying well, you know, the court uses its best estimate and it says, well, you know, persons facing 20 years of pain, facing the actual 20 years, you reduce the actual amount you structured it so you will get the amount for the time you actually suffer and experience pain, but you won't get it for the fictional life expectancy time thereafter.

And now you're up against your first real case where a face with a name on it, with a Senator to get up and represent it and you're going to pass this special legislation. I don't understand it. We should have a tort law for all the citizens of New York State. People, when you -- when you change these tort laws, of course, people are going to experience losses, but I mean do we really want to set up a system where all 61 Senators feel that, in order to do our job, we have to reach out in our district and come up, reach out.

Once a bill like this passes and gets some publicity, they'll reach out for us

and the personal injury lawyers will reach out for us and I'll get a call from someone who will say, "Senator Connor, I got a case will break your heart," and it will break your heart just like this case will break your heart.

People really get injured in fight torts. You talking about court reform? People really get hurt, real people get hurt, real families experience loss, and we deal with it by law, and we're all going to get calls from constituents, personal injury lawyers who represent our constituents, saying, "I got one for you this year, Senator." This will break your heart. This will have your colleagues weeping in the aisles. Just pass this bill because if you don't, somebody will be out a million or two.

Is that how you want to deal; is that tort reform? Is that how you want to deal with personal injury in New York State because, if you start doing bills like this, one you have no credibility, none whatsoever, when you propose the bills for your court reform that are

an annual event from the Majority in this house and the rationale you use for them applies directly towards the defeat of this bill.

It's a very, very bad thing. It's a tragic case, but they're all tragic cases, some more than others depending on the proximity to it. I have told the story of the man who showed up over in the park a few weeks ago, threw his arms around me. Because of a question of law, his lawyer missed a deadline, he lost a $6 million judgment. He's really injured; you take one look at him; he hasn't worked in years.

Can I pass a bill saying, let's forget about that 30-day time to appeal, whatever it was, the appeal remittitur and give him back his 6 million or let him go in front of another jury and get another shot at it? Why not? He suffers. He was wrongfully injured. He and his family have needs for that money to pay medical bills, and they have a better place to live and facilities that will accommodate his injuries and his present disabilities.

And you know, you all have constituents like that and, if you're doing your job as well as Senator Sears, if you pass this bill for Senator Sears, you'd better start sponsoring bills for your constituents, and we better start passing them year after year after year. We probably should set aside a whole month each year to pass those kinds of bills.

I have to vote no, not because this woman, she got compensation, not because her case isn't heart rending. But remember her economic loss is compensated; her pain and suffering are compensated, compensated much better than you all who have proposed caps would have compensated her; so I intend to vote no.

SENATOR GOLD: Slow roll call.

ACTING PRESIDENT FARLEY: Slow roll call asked for. Do I see five standing? Yeah. Slow roll. Ring the bell.

Read the last section first, I guess.

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

ACTING PRESIDENT FARLEY: Slow roll call.

THE SECRETARY: Senator Babbush excused.

Senator Bruno. Senator Bruno.

SENATOR PRESENT: Yes.

THE SECRETARY: Senator Connor.

SENATOR CONNOR: No.

THE SECRETARY: Senator Cook.

(There was no response.)

Senator Daly.

SENATOR DALY: No.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Explain my vote.

ACTING PRESIDENT FARLEY: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: I think this case points up the problem of -- that we're going to be experiencing on a much broader basis when we're talking about so-called tort reform. I think when you -- it was mentioned before and

I think it's an excellent point, and it's very difficult when there is a face associated with a verdict to say no to somebody when they're unjustly treated, because of a law that we pass. I think that it's very clear having dealt with many of these cases that when you put a cap on something or even Article 50-b, which is almost impossible to administer in the courts, you're placing these artificial restrictions on verdicts when all of the facts are being considered by not only the court and the jury but also on appeal as happened in this particular case.

So I think, in this case, although it's a very compelling argument to be consistent with what the law is applying to everybody else in this state, I have to vote no, but I would hope that, in viewing this important case, that we could be very careful as to the so-called tort reform that we're all going to be talking about in the future to make sure that there's not more of these Jane Does that we're causing by way of something that sounds good in

the abstract, but doesn't work well in practice.

ACTING PRESIDENT FARLEY: He votes in the negative.

SENATOR SEARS: Lay the bill aside, please.

ACTING PRESIDENT FARLEY: Lay the bill aside. You've got to excuse me. Let's withdraw the roll call on that bill, and we'll lay it aside.

SENATOR SOLOMON: Mr. President.

ACTING PRESIDENT FARLEY: Senator Solomon.

SENATOR SOLOMON: Yes.

ACTING PRESIDENT FARLEY: Why do you rise?

SENATOR SOLOMON: I'd like to have unanimous consent to be recorded in the negative on Calendar Number 800.

ACTING PRESIDENT FARLEY: 800, Senator Solomon is in the negative without objection.

Senator Levy.

SENATOR LEVY: Yes, I was out, I'd like unanimous consent to be recorded in the negative on Calendar Number 800.

ACTING PRESIDENT FARLEY: 800, Senator Levy is in the negative.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Yeah, with the consent of the Senate Majority Leader, go to motions and resolutions. On behalf of Senator Montgomery, call up 4129-A.

ACTING PRESIDENT FARLEY: Secretary will read Senator Montgomery's bill.

THE SECRETARY: By Senator Montgomery, Senate bill 4129-A, an act to amend the Labor Law.

SENATOR GOLD: I move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT FARLEY: Call the roll on reconsideration.

(The Secretary called the roll on

reconsideration.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Yeah, move the following amendments, offer them, waive their reading, ask the bill retain its place on third reading.

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

Senator Sheffer.

SENATOR SHEFFER: Mr. President, I'd like to remove a sponsor's star on Calendar 753, Senate Print 3321.

ACTING PRESIDENT FARLEY: 753, the star is removed.

Senator Saland.

SENATOR SALAND: Mr. President, I move to call up my bill, Print Number 3383-A, recalled from the Assembly.

ACTING PRESIDENT FARLEY: Secretary will read Senator Saland's bill. It

wasn't recalled. Was it? Hold it up for just a second.

SENATOR SALAND: Yes, it was.

THE SECRETARY: By Senator Saland, Senate Bill Number 3383-A, an act to amend the Social Services Law.

ACTING PRESIDENT FARLEY: Senator Saland.

SENATOR SALAND: Mr. President, I move to reconsider the vote by which this bill was passed and ask it be restored to third reading.

ACTING PRESIDENT FARLEY: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT FARLEY: The bill is before the house. You want it restored to third reading?

SENATOR SALAND: Mr. President, I move to discharge from the Committee on Rules Assembly Print 8231 and substitute it for my

identical bill.

ACTING PRESIDENT FARLEY: Substitution is ordered. Read the last section of the bill.

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 Nolan.

SENATOR NOLAN: Now, let me see.

ACTING PRESIDENT FARLEY: Senator Nolan? Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. May I have unanimous consent to be recorded in the negative on Calendar Number 625, please?

ACTING PRESIDENT FARLEY: 625, Senator Kuhl is in the negative.

SENATOR KUHL: Thank you.

Are there any other housekeeping?

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I'd like unanimous consent to be recorded in the negative on Calendar Number 646.

ACTING PRESIDENT FARLEY: 646.

SENATOR MONTGOMERY: Yes.

ACTING PRESIDENT FARLEY: 646.

SENATOR MONTGOMERY: Yes.

ACTING PRESIDENT FARLEY: Senator Montgomery is in the negative. I thought it was 646, she said.

SENATOR MONTGOMERY: Yes. Got it?

ACTING PRESIDENT FARLEY: Senator Galiber.

SENATOR GALIBER: Mr. President, would you be kind enough to give me unanimous consent or ask for unanimous consent to be re corded in the negative on two bills, 800 and 646.

ACTING PRESIDENT FARLEY: 800 and 646, Senator Galiber will be in the negative.

SENATOR GALIBER: Thank you.

ACTING PRESIDENT FARLEY: Seeing no one else on the floor except Senator Present, shall we continue the calendar.

SENATOR PRESENT: Continue the calendar, please.

THE SECRETARY: Calendar Number 1064, substituted earlier today, by member of the Assembly Pillittere, Assembly Bill Number 2871-A, Environmental Conservation Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT FARLEY: Explanation. Senator Sheffer.

SENATOR SHEFFER: Sure. Procedurally, the bill authorizes a one-day fishing license as an alternative to three, five or season. The background to it, though, is that it's of enormous importance to a very active and valuable sector of our state tourism industry, the sport fishing industry or particularly charter boat captains.

SENATOR GOLD: Will the Senator yield to a question?

SENATOR SHEFFER: Sure.

SENATOR GOLD: Senator, the Department of Environmental Conservation says that they have some concerns, which doesn't bother me, but the -- there's a memo from the New York State Town Clerks' Association. Have you seen the memo?

SENATOR SHEFFER: I haven't seen it, but I've heard about it.

SENATOR GOLD: All right. Well, Senator, I just wanted to give you the opportunity to comment about it. They say they're opposed because the bill would allow persons other than the clerks to issue the licenses, resulting in a significant decrease in town issuing fees. Under current law, they issue them all, and they are concerned that the town must absorb all of the costs, the recordkeeping, et cetera, but apparently they are losing money.

Is there -- has that been addressed at all in any of the amended versions?

SENATOR SHEFFER: Yes. Two

points: One is that people, sports stores, other than clerks currently issue licenses. There's no change in that structure at all and, secondly, it's just regarding the timing of it that largely what we're talking here is out-of-state visitors on the week ends, and this allows the charter boat captains to sell to their customers a one-day fishing license for that brief period of time that they're in town.

I think that that memo is incorrect as to what might be lost to town clerks regarding this program as a result of these two factors. The bill did pass unanimously last year and passed the Assembly just about an hour ago.

SENATOR GOLD: Last section.

ACTING PRESIDENT FARLEY: Read the last section of that 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 54.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1069, by Senator Cook, Senate Bill Number 2275, Real Property -

SENATOR PRESENT: Lay aside.

ACTING PRESIDENT FARLEY: Lay aside for the day, Senator Present?

SENATOR PRESENT: Yes.

THE SECRETARY: Calendar Number 1088, by Senator Stafford, Senate Bill Number 4853, an act to amend the Environmental Conservation Law.

SENATOR PRESENT: Lay aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 1107, by Senator Levy, Senate Bill Number 1313, an act to amend the Penal Law.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR DOLLINGER: Could we get

an explanation?

ACTING PRESIDENT FARLEY: Explanation has been asked for. Senator Levy.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1126, by Senator Johnson, Senate Bill Number 4830.

SENATOR GOLD: One day, please.

THE SECRETARY: To provide retirement credit -

ACTING PRESIDENT FARLEY: Senator Johnson?

SENATOR JOHNSON: Lay it aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1127, by Senator Levy, Senate Bill Number 4684.

SENATOR GOLD: One day on that, please.

ACTING PRESIDENT FARLEY: Lay it aside, Senator Present?

THE SECRETARY: Calendar Number 1132, by Senator Seward, Senate Bill Number 5229, an act to amend the Public Service 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 50, nays 4, Senators Galiber, Leichter, Ohrenstein and Waldon recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1144, by member of the Assembly Rosado, Assembly Bill Number 7087, an act to amend the Mental Hygiene 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 54.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1159, by Senator Skelos, Senate Bill Number 2205, an act to amend the Penal Law, in relation to firearm licensees.

ACTING PRESIDENT FARLEY: Explanation. Senator Skelos. Just a moment.

SENATOR SKELOS: This bill amends Section 400 of the Penal Law.

SENATOR GOLD: Will the Senator yield to one question?

SENATOR SKELOS: Sure.

SENATOR GOLD: Is this the same bill as last year, when Senators Connor, Galiber, myself, Leichter, Markowitz, Mendez, Montgomery, Ohrenstein, Paterson, Smith, Solomon and Waldon voted against it?

SENATOR SKELOS: Yes, Senator.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1159 are Senators Connor, Espada, Gold, Leichter, Mendez, Montgomery, Ohrenstein and Solomon. Ayes 46, nays 8.

ACTING PRESIDENT FARLEY: The bill is passed.

SENATOR WALDON: My hand is up.

THE SECRETARY: Calendar Number 1160, by Senator Spano, Senate Bill Number 2209, an act to amend the Retirement and Social Security Law.

SENATOR LEICHTER: Can we have an explanation?

ACTING PRESIDENT FARLEY: Explanation has been asked for by someone.

SENATOR SPANO: Mr. President, this bill -- this bill would grant the police officers and firefighters a minimum of five working days to respond to accidental disability retirement notification.

Currently, under the current process, police officers and firefighters are granted little or no notice between the day of notification and the date of retirement should they be injured in the performance of their duties.

SENATOR GOLD: Yeah, Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Will you yield to one question?

SENATOR SPANO: Sure.

ACTING PRESIDENT FARLEY: Senator Spano will yield.

SENATOR GOLD: I have a memo from the New York State Conference of Mayors and Municipal Officials in opposition, and there's a

stamp with two words on it, it says "unfunded mandate". Is this an unfunded mandate?

SENATOR SPANO: I think the memorandum from the Conference of Mayors over states the problem. There is no fiscal impact on the state of New York and in the bill itself. There would be a small cost to the local governments, but I think they're over stating their opposition.

SENATOR GOLD: Well, Senator Spano, if you would yield to one question.

SENATOR SPANO: Sure.

SENATOR GOLD: There is some -- I don't know, you know, they have people keep charts all the time; I don't know why they do it but on the chart where it says "Republican bills unfunded mandates," is this one of those that goes on the chart? Maybe a little bit of money, but is it a Republican unfunded mandate?

SENATOR SPANO: I think this would go under the chart of all of us in this house, Republicans and Democrats, are making sure that our police officers and firefighters

are given the ability to respond to an accidental disability retirement and -

SENATOR GOLD: Well, will the Senator yield to a question?

SENATOR SPANO: Sure.

SENATOR GOLD: I know we have that column.

SENATOR SPANO: That would be in that column; we're going to make that column.

SENATOR GOLD: We have a column unfunded mandates with an asterisk.

SENATOR SPANO: Yes, exception.

SENATOR GOLD: So this is an unfunded mandate with an asterisk?

ACTING PRESIDENT FARLEY: Read the last section.

Senator Leichter yield -- wishes you to yield, Senator Spano.

SENATOR SPANO: Sure.

SENATOR LEICHTER: Senator Spano, I must have difficulty in understanding the basis for the bill and if you'd be so good as to explain it. You're giving additional time to

policemen and firefighters who retire on disability and specify the options that they have under their retirement system; is that it?

SENATOR SPANO: Five days, yes.

SENATOR LEICHTER: O.K. What I don't understand the reason you give is that these people may receive a notification, your disability request has been granted, and they will need, as you say, more than five days to put their affairs in order and decide which disability option to take; is that what this does?

SENATOR SPANO: Many times a reasonable period of time is required prior to the actual retirement date because there are certain of their job-related affairs to get in order.

SENATOR LEICHTER: But what I don't understand, Senator, and maybe you can answer, these people are applying for disability. They feel that they're set to retire; they must feel that their application is going to be received. Why wouldn't they, once

having applied for disability, not make the arrangements that they need to be made so that when they receive the notification, they can act on it?

SENATOR SPANO: Very often they do, Senator, take that into account and very often the -- their affairs are already placed in order, but there have been occasions where, in fact, that has not been the case, and that's why we would like to give them this five working days lead time to give them that ability.

SENATOR LEICHTER: I must say I have difficulty understanding that, but let me ask you some other questions.

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

SENATOR LEICHTER: If you would, please.

SENATOR SPANO: Yes.

SENATOR LEICHTER: Can the same situation arise with employees covered by some public pension funds other than firefighters and police officers? May they also find themselvesin

a situation, somebody works for OGS, drives their heavy equipment, and it flips over and he's injured and he applies for disability, does that person presently only have five days after the notification?

SENATOR SPANO: The -- we have not heard from other employees whether or not that would be a specific problem to them, but if they do raise that, then we'll take a look at it. Senator, I haven't heard from anyone else requesting the change.

SENATOR LEICHTER: Senator, it - if you would just answer this question, if it is not a problem for that operator of heavy equipment who works for OGS or the transportation department, why should it be a problem for police officers or firemen; what is it that you need through the function that they perform or their retirement, that they would need more than five days when other employees don't need more than five days?

SENATOR SPANO: I'm not saying that it's not a problem for the other employees

-- the other employees. There may, in fact, be a problem. The work -- what this legislation addresses is just the police and fire retirees, but we -- if it's a problem with the other employees, we may address that further.

SENATOR LEICHTER: Well, Mr. President, just briefly on the bill.

I first thank Senator Spano for his explanation. First of all, I have difficulty in understanding why somebody who applies for disability is then -- and that disability is granted, he's not ready to act on it. He's applying for it, and if it makes sense to firemen and police officers, it ought to make sense for other employees also.

Now, Senator Spano says, well, nobody has come to me. Well, maybe when we put in bills of this sort, we have a positive obligation to find out if it is a problem.

SENATOR LACK: Senator Leichter. Mr. President.

ACTING PRESIDENT FARLEY: Senator Lack.

SENATOR LACK: Yes, Senator Leichter, perhaps I could clear up this question for you.

There are special accidental disability procedures that are limited to firefighters and police officers. In many cases, it takes months for this type of disability to be submitted. In some cases, while the individual is submitting information, the individual isn't always the applicant that is involved. The department could be because of some job-related injury or particularly if an officer has been shot in the line of duty or a firefighter burnt in the line of duty, might be in the hospital, might be recovering, disability information is submitted and conceivably, particularly if the officer has to make decisions as -- financial decisions, the officer or firefighter, after notification, this would give a five-day window.

In some cases, events that have taken police eight or nine months previous, but to go back to the original unfunded mandate

question that came from the Conference of Mayors, that's a stamp printed on a piece of paper. I can tell you it would cost more to stamp "unfunded mandate" on this piece of paper and distribute it in the Legislature than this so-called mandate is going to cost these municipalities.

What they're really ticked off about is extant law that allows municipal employees, such as firefighters to have disability retirement provisions in the whole - in the first place. That, of course, is not at all involved here. We're not trying to change those except to change a day of notification. I understand their being miffed at those disability provisions being in the law, Senator Leichter, but the fact is that they are in the law and this isn't any more of an unfunded mandate than anything else.

These people, because of the ways in which this type of disability arises, deserve to be able to have that window of decision making when the time comes, particularly if

they've been shot or burnt in the line of duty.

SENATOR LEICHTER: Mr. President, just one question to Senator Lack, and I -

ACTING PRESIDENT FARLEY: Senator Lack, would you yield for one question from Senator Leichter?

SENATOR LEICHTER: Have we allowed such disability provisions in the "heart" bill?

SENATOR LACK: No, I don't think the "heart" bill acts directly in this context.

SENATOR LEICHTER: All right. Thank you.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1165, by Senator Velella, Senate Bill Number 3126.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1166, by Senator Velella.

SENATOR PRESENT: Lay that aside for the day.

ACTING PRESIDENT FARLEY: Laid aside for today.

THE SECRETARY: Calendar Number 1167, by Senator Sheffer, Senate Bill Number 3374-A, an act to amend the Tax Law.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT FARLEY: Explanation. Senator Sheffer.

SENATOR SHEFFER: Senator, under current law, a manufacturer using petroleum products in the manufacture of tangible personal property, pays the supplemental petroleum

business tax and then applies for a refund and they get it back, and this bill acknowledges that that's crazy, and that it gives them a lot of paperwork and aggravation that is unnecessary and it simply exempts them.

SENATOR LEICHTER: Explanation satisfactory.

ACTING PRESIDENT FARLEY: Explanation satisfactory. Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1172, by Senator Wright, Senate Bill Number 4230-B, amends Chapter 266 of the Laws of 1854.

ACTING PRESIDENT FARLEY: Read the last -

SENATOR STACHOWSKI: Could we have a day on it?

ACTING PRESIDENT FARLEY: Could he have one day on it, Senator Wright?

SENATOR WRIGHT: Lay it aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1174, by Senator Skelos, Senate Bill Number 4433, an act to amend the Tax Law.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT FARLEY: Explanation. Senator Skelos.

SENATOR SKELOS: Who asked for the explanation?

ACTING PRESIDENT FARLEY: Senator Stachowski -- no, Senator Leichter was your - the person wanting it.

SENATOR SKELOS: Mr. President. This bill simply corrects a technical omission recognized by the Tax Department of Chapter 166 of the Laws of 1991 in relation to a reduced rate of tax on residual fuel oil.

Currently, greenhouse operators are exempted from the supplemental petroleum business tax if the fuel they are using to heat the greenhouses is Number 2 -- Number 2 oil which is diesel fuel. However, if they burn Number 5 or Number 6 oil, they are not exempt because these residual fuel oils are not considered diesel fuel. The bill is supported by the Farm Bureau.

Now, obviously it is unfair to allow a reduction for diesel fuel and not residual fuel when they are not being used for the same purpose.

SENATOR LEICHTER: Explanation is fine.

ACTING PRESIDENT FARLEY: Explanation is fine. 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 56.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1181, by Senator Hannon, Senate Bill Number 4991, an act to amend the Tax Law.

SENATOR STACHOWSKI: Could we have a day on that, please?

ACTING PRESIDENT FARLEY: One day on it, Senator Hannon? Lay it aside.

THE SECRETARY: Calendar Number 1182, by Senator Hannon, Senate Bill Number 5017.

SENATOR STACHOWSKI: Could we have one day on it?

ACTING PRESIDENT FARLEY: Senator Hannon, one day? Lay it aside.

THE SECRETARY: Calendar Number 1183, by Senator Hannon, Senate Bill Number 5332.

SENATOR STACHOWSKI: Could we have one day on that?

THE SECRETARY: Amends Chapter 750 of the Laws of 1871.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 1185, by Senator Masiello, Senate Bill Number 5364, amends Chapter 824 of the Laws of 1933.

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

ACTING PRESIDENT FARLEY: Laid aside for the day.

THE SECRETARY: Calendar Number 1187, by Senator Skelos, Senate Bill Number 5589, an act to amend the Executive Law.

SENATOR LACK: Explanation.

ACTING PRESIDENT FARLEY: Explanation. Senator Lack wishes an explanation.

SENATOR SKELOS: Senator Lack, this legislation amends the Executive Law. It increases the Green Thumb income eligibility levels according to the federal Social Security cost of living adjustment to 1993. This increase will allow seniors to remain eligible

for this worthwhile program.

ACTING PRESIDENT FARLEY: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I realize Senator Skelos has had a long afternoon. While I have a lengthy list of questions on this bill, I won't go into them at this point, but I would like to, for all this support of the Green Thumb program, give Senator Skelos a thumbs up for good work done.

Last section, Mr. President.

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 56.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number

1191, by Senator Bruno, Senate Bill Number 5870, authorize the town of Clifton Park, Saratoga County -

SENATOR GOLD: Could we have one day on the bill?

SENATOR PRESENT: Yes, Senator Gold.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 1192, by Senator Seward, Senate Bill Number 58...

SENATOR GOLD: One day.

ACTING PRESIDENT FARLEY: Could they have one day, Senator Seward?

SENATOR SEWARD: One day.

ACTING PRESIDENT FARLEY: Lay it aside.

There are a lot of motions on the floor I'm told, Senator Present.

SENATOR PRESENT: Let's do them.

ACTING PRESIDENT FARLEY: I'm ready for motions.

SENATOR STAFFORD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Stafford for a motion.

SENATOR STAFFORD: On page 40, I offer the following amendments to Calendar Number 682, Senate Print Number 2399, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: Without objection.

SENATOR STAFFORD: Also, Mr. President, I would please submit that I happened to be out of the chamber last Wednesday, I believe it was July 16th, when Senate 736 passed on a slow roll call. That was Calendar Number 1038. If I had been here in the chamber, I would have voted in the affirmative.

ACTING PRESIDENT FARLEY: The record will so state.

SENATOR STAFFORD: Yes.

ACTING PRESIDENT FARLEY: Senator Tully.

SENATOR TULLY: Yes, Mr.

President. May I be recorded in the negative on Calendar Number 620?

ACTING PRESIDENT FARLEY: 620, Senator Tully is in the negative without objection.

Senator Libous.

SENATOR LIBOUS: Mr. President, on behalf of Senator Cook, on page 42, I offer the following amendments to Calendar Number 832, Assembly Print 2913, and ask that said bill retain its place.

ACTING PRESIDENT FARLEY: Without objection.

Senator Sheffer.

SENATOR SHEFFER: Mr. President, on behalf of Senator Kuhl, I wish to call up Senate bill, Print Number 4426, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT FARLEY: Secretary will read it.

THE SECRETARY: By Senator Kuhl, Senate Bill 4426, Agriculture and Markets Law.

ACTING PRESIDENT FARLEY: Senator

Sheffer.

SENATOR SHEFFER: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT FARLEY: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 56.

SENATOR SHEFFER: I offer the following amendments.

ACTING PRESIDENT FARLEY: Amendments are received.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I ask to be recorded in the negative on Calendar Number 620.

ACTING PRESIDENT FARLEY: 620, Senator Nozzolio is in the negative.

Senator Smith.

SENATOR SMITH: Mr. President, I would ask unanimous consent to be recorded in the negative on Calendar Number 1159.

ACTING PRESIDENT FARLEY: 1159?

SENATOR SMITH: Yes.

ACTING PRESIDENT FARLEY: Senator Smith is in the negative, without objection.

Any other motions? Senator Op... Senator Lack.

SENATOR LACK: Please record me in the negative, without objection, on Calendar 680.

ACTING PRESIDENT FARLEY: 680, Senator Lack will be in the negative.

Any other motions on the floor? Seeing -- Senator Lack, you got the right number on that? There's no 680.

SENATOR LACK: 800.

ACTING PRESIDENT FARLEY: What number?

SENATOR LACK: 800; thank you.

ACTING PRESIDENT FARLEY: Senator Lack in the negative on Calendar 800.

Senator Solomon.

SENATOR SOLOMON: I'd like to be recorded, have unanimous consent to be recorded

in the negative on Calendar 1159.

ACTING PRESIDENT FARLEY: 1159, Senator Solomon is in the negative.

We have a couple substitutions.

THE SECRETARY: On page 16, Senator Holland moves to discharge the Committee on Rules from Assembly Bill Number 4264 and substitute it for his identical Third Reading 774.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: On page 18, Senator Volker moves to discharge the Committee on Rules from Assembly Bill Number 8201 and substitute it for the identical Third Reading 856.

ACTING PRESIDENT FARLEY: Substitution ordered.

Senator Present. Oh, Senator Hoffmann.

SENATOR HOFFMANN: Have unanimous consent to be recorded in the negative on 800, please, Mr. President.

ACTING PRESIDENT FARLEY: Senator Hoffmann is in the negative on 800, without objection.

Senator Present, looks like it.

SENATOR PRESENT: Looks like it, huh?

Mr. President, there being no further business, I move we adjourn until tomorrow at 3:00 p.m.

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

(Whereupon at 5:21 p.m., the Senate adjourned.)