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ALBANY, NEW YORK

July 3, 1993

3:00 p.m.

REGULAR SESSION

LT. GOVERNOR STAN LUNDINE, President

STEPHEN F. SLOAN, Secretary

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P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order. I'd like to ask everyone present to rise and repeat the Pledge of Allegiance with me.

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

Please be seated.

In the absence of clergy, may we bow our heads in a moment of silence.

(A moment of silence was observed.)

Secretary will read the Journal.

THE SECRETARY: In Senate, Friday, July 2nd. The Senate met pursuant to adjournment. The Journal of Thursday, July 1st, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Without - hearing no objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

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Messages from the Governor.

Reports of standing committees.

The Secretary will read.

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

Senate Bill Number 1809-A, by
Senator Goodman, an act to amend the Vehicle and
Traffic Law;

1885, by Senator Spano, an act to
amend the Alcoholic Beverage Control Law;

2230, by Senator Velella, an act
to amend the Insurance Law;

3436-B, by Senator Montgomery,
authorizing the Commissioner of General Services
to lease to not-for-profit organizations;

3654, by Senator Johnson, an act
to amend the Tax Law;

4022, by Senator Sheffer, New
York State Archives Partnership Trust Act;

407 -- 4047-B, by Senator Sears,
Criminal Procedure Law;

4132-B, by Senator Sheffer, to

1 create a council known as the New York State
2 Quality Council;
3 4221-A, by Senator Goodman,
4 amends Chapter 746 of the Laws of 1988;
5 4906-C, by Senator Goodman,
6 Public Authorities Law;
7 4986-A, by Senator Velella, an
8 act to amend the Insurance Law;
9 5133-A, by Senator Farley, an act
10 to amend the Tax Law;
11 5264-A, by Senator Cook, an act
12 to amend the Public Health Law;
13 5671, by Senator Trunzo,
14 Administrative Code of the city of New York;
15 5885-B, by Senator Trunzo,
16 Retirement and Social Security Law;
17 5976, by Senator Johnson,
18 Environmental Conservation Law;
19 6005, by Senator Goodman, an act
20 to amend the General Business Law;
21 6036, by Senator Daly, Public
22 Authorities Law;
23 6068, by Senator Marchi,

1 Environmental Conservation Law;

2 And Senate Bill Number 6114, by
3 Senator Trunzo, an act to amend the Executive
4 Law;

5 Also Senate Bill Number 6142, by
6 the Committee on Rules, an act to amend the
7 Executive Law.

8 All bills reported directly for
9 third reading.

10 THE PRESIDENT: Third reading.
11 Senator Present.

12 SENATOR PRESENT: Mr. President,
13 I believe Senator Marino has a privileged
14 resolution at the desk and Senator Marino has
15 said that anyone who wants to be an additional
16 sponsor of this may. May we have the title read
17 and have it acted upon?

18 THE PRESIDENT: Secretary will
19 read the title.

20 THE SECRETARY: Legislative
21 Resolution, by Senators Marino, Hannon, LaValle,
22 Johnson and Skelos: Congratulating the New York
23 Islanders Hockey team upon the occasion of

1 winning the 1993 Lester Padgett Division
2 Championship and in recognition of their
3 outstanding play and courageous effort during
4 the National Hockey League season and Wales
5 Conference Play-offs.

6 THE PRESIDENT: On the
7 resolution, all those in favor say aye.

8 (Response of "Aye.")

9 Opposed nay.

10 (There was no response.)

11 The ayes have it. If there are
12 any Senators who want to be sponsors, look for
13 the sponsors.

14 Communications and reports from
15 state officers.

16 Motions and resolutions.

17 Senator Libous.

18 SENATOR LIBOUS: Thank you, Mr.
19 President.

20 On page 12, I offer the following
21 amendments to Calendar Number 625, Senate Print
22 Number 3815-D and ask that said bill retain its
23 place on Third Reading Calendar.

1 THE PRESIDENT: So ordered.

2 SENATOR LIBOUS: And, Mr.

3 President, on behalf of Senator Daly, on page
4 30, I offer the following amendments to Calendar
5 Number 1358, Print Number 1092-A, and ask that
6 said bill retain its place on the Third Reading
7 Calendar.

8 THE PRESIDENT: Without
9 objection, so ordered.

10 Are there other motions or
11 resolutions?

12 Senator Present.

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

16 THE PRESIDENT: First the
17 Secretary will read some -

18 THE SECRETARY: On page 36,
19 Senator Hannon moves to discharge the Committee
20 on Rules from Assembly Bill Number 7012-A and
21 substitute it for the identical Third Reading
22 1473.

23 On page 37, Senator Marino moves

1 to discharge the Committee on Rules from
2 Assembly Bill Number 8654 and substitute it for
3 the identical Third Reading 1478.

4 On page 38, Senator Jones moves
5 to discharge the Committee on Rules from
6 Assembly Bill Number 4080, and substitute it for
7 the identical Third Reading 1485.

8 Also on page 38, Senator LaValle
9 moves to discharge the Committee on Local
10 Government from Assembly Bill Number 4101 and
11 substitute it for the identical Third Reading
12 1486.

13 On page 38, Senator Padavan moves
14 to discharge the Committee on Rules from
15 Assembly Bill Number 6103-B and substitute it
16 for the identical Third Reading 1487.

17 Page 38, Senator Maltese moves to
18 discharge the Committee on Rules from Assembly
19 Bill Number 5793-A and substitute it for the
20 identical Third Reading 1488.

21 On page 39, Senator Nolan moves
22 to discharge the Committee on Rules from
23 Assembly Bill Number 6693-A and substitute it

1 for the identical Third Reading 1490.

2 On page 39, Senator Velella moves
3 to discharge the Committee on Rules from
4 Assembly Bill Number 8591, and substitute it for
5 the identical Third Reading 1493.

6 On page 39, Senator Skelos moves
7 to discharge the Committee on Rules from
8 Assembly Bill Number 7875-B and substitute it
9 for the identical Third Reading 1495.

10 Also on page 39, Senator Skelos
11 moves to discharge the Committee on Rules from
12 Assembly Bill Number 6359-B and substitute it
13 for the identical Third Reading 1496.

14 On page 39, Senator Trunzo moves
15 to discharge the Committee on Rules from
16 Assembly Bill Number 8040 and substitute it for
17 the identical Third Reading 1497.

18 On page 40, Senator Mega moves to
19 discharge the Committee on Rules from Assembly
20 Bill Number 8414-A and substitute it for the
21 identical Third Reading 1500.

22 THE PRESIDENT: Substitutions
23 ordered.

1 And now we will take up the
2 non-controversial calendar.

3 THE SECRETARY: On page 4 of
4 today's calendar, Calendar Number 62, by Senator
5 Levy, Senate Bill Number 80-A, an act to amend
6 the Transportation Law, the Education Law and
7 the Vehicle and Traffic Law.

8 SENATOR GOLD: Lay it aside.

9 THE PRESIDENT: The bill is laid
10 aside.

11 THE SECRETARY: Calendar Number
12 211, by member of the Assembly Jacobs, Assembly
13 Bill Number 4858-A, an act to amend the Social
14 Services Law.

15 THE PRESIDENT: Last section.

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

18 THE PRESIDENT: Call the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 42.

21 THE PRESIDENT: The bill is
22 passed.

23 THE SECRETARY: Calendar Number

1 261, by Senator Velella, Senate Bill Number
2 3156-A, an act to amend the Insurance Law.

3 THE PRESIDENT: Last section.

4 THE SECRETARY: Section 2.

5 SENATOR GOLD: Lay aside.

6 THE PRESIDENT: The bill is laid
7 aside.

8 THE SECRETARY: Calendar Number
9 271, by Senator Volker, Senate Bill Number
10 1539-A, an act to amend the Executive Law.

11 THE PRESIDENT: Last section.

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

14 THE PRESIDENT: Call the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes 42.

17 THE PRESIDENT: The bill is
18 passed.

19 THE SECRETARY: Calendar Number
20 287, by Senator Tully.

21 SENATOR LEICHTER: Lay aside.

22 THE PRESIDENT: The bill is laid
23 aside.

1 THE SECRETARY: Calendar Number
2 324, by Senator Holland, Senate Bill Number
3 880-A, an act to amend the Tax Law and the
4 Insurance Law.

5 SENATOR LEICHTER: Lay aside.

6 THE PRESIDENT: The bill is laid
7 aside.

8 THE SECRETARY: Calendar Number
9 395, by member of the Assembly -

10 SENATOR PRESENT: Lay aside for
11 the day, please.

12 THE PRESIDENT: The bill is laid
13 aside for the day.

14 THE SECRETARY: Calendar Number
15 434, by Senator LaValle, Senate Bill Number
16 3722-B, an act to amend the Education Law and
17 the State Finance Law.

18 THE PRESIDENT: Last section.

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

21 THE PRESIDENT: Call the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 42.

1 THE PRESIDENT: The bill is
2 passed.

3 THE SECRETARY: Calendar Number
4 441, by member of the Assembly Jacobs, Assembly
5 Bill Number 5432-A, an act to amend the Tax
6 Law.

7 THE PRESIDENT: Last section.

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

10 THE PRESIDENT: Call the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes 42.

13 THE PRESIDENT: The bill is
14 passed.

15 THE SECRETARY: Calendar Number
16 814, by the Assembly Committee on Rules,
17 Assembly Bill Number 8059, an act to amend the
18 Education Law.

19 THE PRESIDENT: Last -

20 SENATOR LEICHTER: Lay aside.

21 THE PRESIDENT: The bill is laid
22 aside.

23 THE SECRETARY: Calendar Number

1 859, by Senator Volker, Senate Bill Number
2 3401-B, Civil Practice Law and Rules.

3 THE PRESIDENT: Last section.

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

6 THE PRESIDENT: Call the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 40, nays
9 two, Senators DeFrancisco and Pataki recorded in
10 the negative.

11 THE PRESIDENT: The bill is
12 passed.

13 THE SECRETARY: Calendar Number
14 919, by Senator Sears, Senate Bill Number
15 4215-B, an act to amend the Tax Law.

16 THE PRESIDENT: Last section.

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

19 THE PRESIDENT: Call the roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes 42.

22 SENATOR LEICHTER: Mr. President.

23 THE PRESIDENT: Senator Leichter.

1 Oh, that bill is passed. Senator
2 Leichter.

3 SENATOR LEICHTER: Yes, Mr.
4 President. May I just request the clerk, when
5 we skip a page or so, if he would mention the
6 page before reading the bill number, it would be
7 easier to follow. Thank you.

8 THE SECRETARY: Calendar Number
9 1073, by Senator Hannon, Senate Bill Number
10 3172, an act to amend the Tax Law.

11 SENATOR LEICHTER: Lay aside.

12 THE PRESIDENT: Bill is laid
13 aside.

14 THE SECRETARY: Calendar Number
15 1079, by Senator Holland, Senate Bill Number
16 3931-A, an act to amend the Public Authorities
17 Law.

18 THE PRESIDENT: Last section.

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

21 THE PRESIDENT: Call the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 42.

1 THE PRESIDENT: The bill is
2 passed.

3 THE SECRETARY: Calendar Number
4 1200.

5 THE PRESIDENT: This is on page
6 26.

7 THE SECRETARY: By member of the
8 Assembly Parment, Assembly Bill Number 4803-A,
9 Alcoholic Beverage Control Law.

10 THE PRESIDENT: Last section.

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

13 THE PRESIDENT: Call the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes 42.

16 THE PRESIDENT: The bill is
17 passed.

18 THE SECRETARY: Calendar Number
19 1220, by Senator -

20 SENATOR GOLD: Lay aside.

21 THE PRESIDENT: The bill is laid
22 aside.

23 THE SECRETARY: Calendar Number

1 1251, by Senator Lack, Senate Bill -

2 SENATOR PRESENT: Lay aside for
3 the day, please.

4 THE PRESIDENT: The bill is laid
5 aside for the day.

6 THE SECRETARY: Calendar Number
7 1260, by the Senate Committee on Rules, Senate
8 Bill Number 5853-A, an act to amend the General
9 Municipal Law.

10 SENATOR PRESENT: Lay aside.

11 THE PRESIDENT: Bill is laid
12 aside.

13 THE SECRETARY: Calendar Number
14 1262, by Senator Johnson.

15 SENATOR JOHNSON: Lay aside for
16 the day.

17 THE PRESIDENT: The bill is laid
18 aside for the day.

19 THE SECRETARY: Calendar Number
20 1306, by Senator Spano, Senate Bill Number
21 2020-B, Mental Hygiene Law.

22 THE PRESIDENT: Last section.

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 THE PRESIDENT: Call the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes 43.

5 THE PRESIDENT: The bill is
6 passed.

7 SENATOR LEICHTER: Again, would
8 you lay that bill aside, please, reconsider.

9 THE PRESIDENT: Motion to
10 reconsider the vote. On the motion, all those
11 in favor say aye.

12 (Response of "Aye.")

13 Opposed nay.

14 (There was no response.)

15 The ayes have it. The bill is
16 laid aside. That's 1306?

17 THE SECRETARY: Right.

18 SENATOR HOLLAND: What page was
19 that on?

20 THE PRESIDENT: It was on page
21 28.

22 THE SECRETARY: Calendar Number
23 1322, by Senator Tully, Senate Print 723-B,

1 amends Chapter 629 of the Laws of 1986.

2 THE PRESIDENT: Last section.

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

5 THE PRESIDENT: Call the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes 45.

8 THE PRESIDENT: The bill is
9 passed.

10 THE SECRETARY: Calendar Number
11 1331, by Senator Goodman, Senate Bill Number
12 4446-A, an act to determine the date of birth of
13 Elaine Budoff.

14 SENATOR LEICHTER: Lay it aside.

15 THE PRESIDENT: Bill is laid
16 aside.

17 THE SECRETARY: Calendar Number
18 1338, by Senator Hannon.

19 SENATOR PRESENT: Lay it aside.

20 THE PRESIDENT: Bill is laid
21 aside. I'd like to ask for order in the chamber
22 please. Hard to hear when you're up here and
23 everybody is talking.

1 THE SECRETARY: Calendar Number
2 1344, by Senator Volker, Senate Bill Number
3 5922-A, Public Authorities Law, in relation to
4 the Buffalo Sewer Authority.

5 THE PRESIDENT: Last section.

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

8 THE PRESIDENT: Call the roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 45.

11 THE PRESIDENT: The bill is
12 passed.

13 THE SECRETARY: Calendar Number
14 1371.

15 SENATOR PRESENT: Lay aside,
16 please.

17 THE PRESIDENT: The bill is laid
18 aside.

19 THE SECRETARY: Calendar Number
20 1386, by Senator Velella, Senate Bill Number
21 5303, an act to amend the Insurance Law, the Tax
22 Law and the Administrative Code of the city of
23 New York.

1 SENATOR SOLOMON: Lay aside.

2 THE PRESIDENT: The bill is laid
3 aside.

4 THE SECRETARY: Calendar Number
5 1389, by Senator Pataki.

6 SENATOR LEICHTER: Lay it aside.

7 THE PRESIDENT: The bill is laid
8 aside.

9 THE SECRETARY: Calendar Number
10 1416, by Senator Daly, Senate Bill Number 4757
11 B, an act to amend the Public Authorities Law.

12 SENATOR LEICHTER: Lay it aside.

13 THE PRESIDENT: The bill is laid
14 aside.

15 THE SECRETARY: Calendar Number
16 1423, by the Senate Committee on Rules, Senate
17 Bill Number 5702-A, amends Chapter 879 of the
18 Laws of 1936.

19 SENATOR GOLD: Lay it aside.

20 THE PRESIDENT: The bill is laid
21 aside.

22 THE SECRETARY: Calendar Number
23 1431, by the Senate Committee on Rules.

1 SENATOR GOLD: Lay aside.

2 THE PRESIDENT: The bill is laid
3 aside.

4 THE SECRETARY: Calendar Number
5 1444, by Senator Mega, Senate Bill Number 5985,
6 Uniform City Court Act.

7 SENATOR PRESENT: Lay aside. Lay
8 it aside.

9 THE PRESIDENT: The bill is laid
10 aside.

11 THE SECRETARY: Calendar Number
12 1449, by Senator Daly, Senate Bill Number 6018,
13 New York State Urban Development Corporation
14 Act.

15 SENATOR LEICHTER: Lay aside,
16 please.

17 THE PRESIDENT: The bill is laid
18 aside.

19 THE SECRETARY: Calendar Number
20 1455, by Senator Lack, Senate Bill Number
21 6055-A, amends Chapter 994 of the Laws of 1984.

22 THE PRESIDENT: Last section.

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 THE PRESIDENT: Call the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes 45.

5 THE PRESIDENT: The bill is
6 passed.

7 THE SECRETARY: Calendar Number
8 1458, by Senator Connor, Senate Bill Number 597,
9 to allow Maryellen V. Adinolfi to file a request
10 for Tier I.

11 THE PRESIDENT: Last section.

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

14 THE PRESIDENT: Call the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes 43, nays
17 two, Senators Gold and Leichter recorded in the
18 negative.

19 THE PRESIDENT: The bill is
20 passed.

21 THE SECRETARY: Calendar Number
22 1463, by member of the Assembly Pheffer,
23 Assembly Bill Number 1019, an act to amend the

1 Tax Law.

2 THE PRESIDENT: Last section.

3 SENATOR LEICHTER: Lay it aside.

4 THE PRESIDENT: The bill is laid
5 aside.

6 THE SECRETARY: Calendar Number
7 1464, by Senator Holland, Senate Bill Number
8 5333-A, Social Services Law.

9 THE PRESIDENT: There is a local
10 fiscal impact note at the desk. Last section.

11 SENATOR LEICHTER: Lay aside.

12 THE PRESIDENT: The bill is laid
13 aside.

14 THE SECRETARY: Calendar Number
15 1465, by member of the Assembly Brodsky,
16 Assembly Bill Number 5673-A, Local Finance Law.

17 SENATOR LEICHTER: Lay it aside.

18 THE PRESIDENT: The bill is laid
19 aside.

20 THE SECRETARY: Calendar Number
21 1469, by the Senate Committee on Rules, Senate
22 Bill Number -- Assembly Bill Number 8418,
23 Estates, Powers and Trusts -

1 SENATOR GOLD: Lay aside.

2 THE PRESIDENT: Lay the bill

3 aside.

4 THE SECRETARY: Calendar Number

5 1472, by Senator Saland, Senate Bill Number

6 5979, an act to amend the Tax Law and the Labor

7 Law.

8 THE PRESIDENT: There is a local

9 fiscal impact note at the desk.

10 SENATOR LEICHTER: Lay aside.

11 THE PRESIDENT: The bill is laid

12 aside.

13 THE SECRETARY: Calendar Number

14 1474, by the Assembly Committee on Rules,

15 Assembly Bill Number 8663, an act to amend the

16 Executive Law.

17 SENATOR LEICHTER: Lay it aside.

18 THE PRESIDENT: The bill is laid

19 aside.

20 THE SECRETARY: Calendar Number

21 1476, by Senator Johnson, Senate Bill Number

22 6037, an act to amend the Social Services Law.

23 THE PRESIDENT: Last -

1 SENATOR GOLD: Lay aside.

2 THE PRESIDENT: The bill is laid
3 aside.

4 THE SECRETARY: Calendar Number
5 1477, by Senator Nozzolio, Senate Bill Number
6 6044-A, an act to amend the Election Law.

7 SENATOR GOLD: Lay aside, please.

8 THE PRESIDENT: The bill is laid
9 aside.

10 THE SECRETARY: Calendar Number
11 1478, substituted earlier today, by member -- by
12 the Assembly Committee on Rules, Assembly Bill
13 Number 8654, Retirement and Social Security
14 Law.

15 SENATOR LEICHTER: Lay aside.

16 THE PRESIDENT: The bill is laid
17 aside.

18 THE SECRETARY: Calendar Number
19 1479, by the Senate Committee on Rules, Senate
20 Bill Number 6060, to provide service credit in
21 New York State Teachers' Retirement.

22 SENATOR LEICHTER: Lay aside.

23 THE PRESIDENT: The bill is laid

1 aside.

2 THE SECRETARY: Calendar Number
3 1480, by Senator Libous, Senate Bill Number
4 6062-A, require the Office of Alcoholism and
5 Substance Abuse Services.

6 THE PRESIDENT: Once again, the
7 Chair would request that those persons in the
8 chamber who must converse please retire from the
9 chamber. It is impossible for me to hear
10 whether there is an objection to a bill or
11 whether it's just general conversation when the
12 noise level rises to that crescendo.

13 Last section.

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

16 THE PRESIDENT: Call the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 45.

19 THE PRESIDENT: The bill is
20 passed.

21 THE SECRETARY: Calendar Number
22 1483, by Senator Montgomery, Senate Bill Number
23 1588, authorizing the city of New York to

1 reconvey its interest in certain real property.

2 THE PRESIDENT: There is a home
3 rule message at the desk. Last section.

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

6 THE PRESIDENT: Call the roll.
7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 45.

9 THE PRESIDENT: The bill is
10 passed.

11 THE SECRETARY: Calendar Number
12 1484, by Senator Farley, Senate Bill Number
13 2268, to allow James R. Cummings, Town Justice
14 of town of Providence, Saratoga County, to
15 obtain retroactive membership in Tier II.

16 THE PRESIDENT: Last section.

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

19 THE PRESIDENT: Call the roll.
20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes 43, nays 2,
22 Senators Gold and Leichter recorded in the
23 negative.

1 THE PRESIDENT: The bill is
2 passed.

3 THE SECRETARY: Calendar Number
4 1485, substituted earlier today, by member of
5 the Assembly Johnson, Assembly Bill Number 4080,
6 amends Chapter 928 of the Laws of 1966.

7 THE PRESIDENT: There is a home
8 rule message at the desk. Last section.

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

11 THE PRESIDENT: Call the roll.
12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 45.

14 THE PRESIDENT: The bill is
15 passed.

16 THE SECRETARY: Calendar Number
17 1486, substituted earlier today, by member of
18 the Assembly Tonko, Assembly Bill Number 4101,
19 an act to amend the General Municipal Law.

20 THE PRESIDENT: Last section.

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

23 THE PRESIDENT: Call the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes 45.

3 THE PRESIDENT: The bill is
4 passed.

5 THE SECRETARY: Calendar Number
6 1487, substituted earlier today, by member of
7 the Assembly Diaz, Assembly Bill Number 6103-B,
8 General City Law.

9 SENATOR DOLLINGER: Lay that
10 aside.

11 THE PRESIDENT: The bill is laid
12 aside.

13 THE SECRETARY: Calendar Number
14 1488, substituted earlier today, by member of
15 the Assembly Pheffer, Assembly Bill Number
16 5793-A, Civil Rights Law.

17 THE PRESIDENT: Last section.

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

20 THE PRESIDENT: Call the roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes 45.

23 THE PRESIDENT: The bill is

1 passed.

2 THE SECRETARY: Calendar Number
3 1489, by Senator Holland.

4 SENATOR LEICHTER: Lay it aside.

5 THE PRESIDENT: The bill is laid
6 aside.

7 THE SECRETARY: Calendar Number
8 1490, substituted earlier today, by member of
9 the Assembly Faso, to establish a library
10 district in the town of Coeymans.

11 THE PRESIDENT: Last section.

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

14 THE PRESIDENT: Call the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes 45.

17 THE PRESIDENT: The bill is
18 passed.

19 THE SECRETARY: Calendar Number
20 1491, by Senator Tully, Senate -

21 THE PRESIDENT: Did somebody want
22 to lay it aside?

23 SENATOR PRESENT: For the day.

1 THE PRESIDENT: The bill is laid
2 aside for the day.

3 THE SECRETARY: Calendar Number
4 1492, by Senator Lack, Senate Bill Number 4624,
5 to allow James J. Spero retroactive membership
6 in Tier I.

7 THE PRESIDENT: There is a home
8 rule message at the desk. Last section.

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

11 THE PRESIDENT: Call the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 43, nays
14 two, Senators Gold and Galiber recorded in the
15 negative -- Gold and Leichter, excuse me,
16 recorded in the negative.

17 THE PRESIDENT: The bill is
18 passed.

19 THE SECRETARY: Calendar Number
20 1493, substituted earlier today, by the Assembly
21 Committee on Rules, Assembly Bill Number 8591,
22 an act to amend the Insurance Law.

23 THE PRESIDENT: Last section.

1 SENATOR LEICHTER: Lay it aside.

2 THE PRESIDENT: The bill is laid
3 aside.

4 THE SECRETARY: Calendar Number
5 1495, substituted earlier today, by the Assembly
6 Committee on Rules, Assembly Bill Number 7875-B,
7 an act to amend the Penal Law.

8 SENATOR LEICHTER: Lay it aside.

9 THE PRESIDENT: The bill is laid
10 aside.

11 THE SECRETARY: Calendar Number
12 1496, substituted earlier today, by member of
13 the Assembly Feldman, Assembly Bill Number
14 6359-B, an act to amend the Family Court Act.

15 THE PRESIDENT: Last section.

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

18 THE PRESIDENT: Call the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 45.

21 THE PRESIDENT: The bill is
22 passed.

23 THE SECRETARY: Calendar Number

1 1497, substituted earlier today, by the Assembly
2 Committee on Rules, Assembly Bill Number 8040,
3 Education Law.

4 THE PRESIDENT: Last section.

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

7 SENATOR LEICHTER: Mr. President.

8 THE PRESIDENT: Senator
9 Leichter.

10 SENATOR LEICHTER: Yes. May I be
11 excused from voting on this bill, please.

12 THE PRESIDENT: Without
13 objection, so ordered.

14 Call the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes 44.

17 THE PRESIDENT: The bill is
18 passed.

19 THE SECRETARY: Calendar Number
20 1498, by Senator Tully, Senate Bill Number
21 5608-A, an act to amend the Public Health Law.

22 THE PRESIDENT: Last section.

23 THE SECRETARY: Section 2 -

1 SENATOR LEICHTER: Lay aside.

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

4 SENATOR LEICHTER: Lay aside.

5 THE PRESIDENT: The bill is laid
6 aside.

7 THE SECRETARY: Calendar Number
8 1499, by Senator Farley, Senate Bill Number
9 5652, Real Property Tax Law.

10 THE PRESIDENT: Last section.

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

13 THE PRESIDENT: Call the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes 45.

16 THE PRESIDENT: The bill is
17 passed.

18 SENATOR JOHNSON: Mr. President,
19 like to explain my vote on this bill.

20 THE PRESIDENT: Senator Johnson
21 is recognized to explain his vote.

22 SENATOR JOHNSON: This -- this
23 bill really gives us a rare privilege and that

1 is to begin a quiet revolution in the way
2 property taxes are applied in the state of New
3 York. Without -- without, as I say, raising
4 ideological issues, this is a concept that was
5 first raised by Henry George over a hundred
6 years ago, was eventually held that land values
7 are created by the community and in addition to
8 the land improvements thereon are created by
9 individuals who put their money and their time
10 into the improvement.

11 We are recognizing now that that
12 is a valid proposition, and that there should be
13 essentially a differentiation in the tax rate on
14 land and on buildings and on the improvements
15 and this so-called George's movement, in recent
16 years, has brought about greater benefits to
17 many communities in our neighboring state of
18 Pennsylvania which has diminished the tax rate
19 on land -- on property improvements and raised
20 the tax rate on land and it's helped to bring
21 about a renaissance in the city of Pittsburgh
22 and many other cities. A comparable city to
23 Pittsburgh might be Buffalo and the rate of

1 business permit increases is 80 percent greater
2 in Pittsburgh than in Buffalo and one of the
3 principal reasons for this is because of the
4 two-rate tax system which has not penalized
5 people who seek to improve and upgrade their
6 property.

7 Now, this is a small bill for a
8 small community in the state of New York, the
9 city of Amsterdam. The city of Amsterdam is one
10 of the old deteriorating mill towns along the
11 Mohawk, and this city is going to have an
12 opportunity to experiment with a two-rate tax
13 system and hopefully bring about an economic
14 resurgence in that community.

15 So I congratulate Senator Farley
16 for advancing this bill. I've had a great
17 interest in doing this. The city of Rome has
18 had -- made a movement toward that but for many
19 reasons they couldn't implement it, but I think
20 this city is an ideal place to do it.

21 Senator Farley, you're a leader
22 in helping to rationalize the real property tax
23 situation in the state of New York. I commend

1 you for it, and this bill deserves the support
2 of all the members in this house.

3 THE PRESIDENT: Senator Farley is
4 recognized to explain his vote.

5 SENATOR FARLEY: Just quickly to
6 explain my vote.

7 THE PRESIDENT: Thank you,
8 Senator Gold.

9 SENATOR FARLEY: For all of my
10 colleagues that have a small city or any city,
11 it doesn't have to be a small city, Senator
12 Dollinger, this is an exciting piece of
13 legislation that stimulates building, and it's
14 truly a renaissance situation that has been
15 startling in its results in Pennsylvania.

16 This is the first in the state.
17 Amsterdam, a small deteriorating city in my
18 district, has asked for this, and it's a local
19 piece of legislation, but it's something that
20 you should watch. You should mention it to your
21 small cities if you have them or to your cities
22 within your district, Jamestown included,
23 because it could be a very exciting opportunity

1 to stimulate building and growth within a -
2 within a city.

3 I vote aye.

4 THE PRESIDENT: The bill has been
5 passed, and -

6 SENATOR GOLD: What were the
7 results?

8 THE PRESIDENT: The bill has been
9 passed.

10 SENATOR GOLD: Yes, I just want
11 to know the results. I just want to know if the
12 requests for explanation changed the vote.

13 THE PRESIDENT: Some time,
14 Senator Gold, I'll tell you the story about when
15 I had an uncontested amendment rejected by the
16 House of Representatives, but not right now. I
17 insisted on explaining my amendment. But that
18 did not happen in this case. The bill is still
19 passed unanimously.

20 THE SECRETARY: Calendar Number
21 1500, substituted earlier today, by the Assembly
22 Committee on Rules, Assembly Bill Number 8414-A,
23 Surrogate's Court Procedure Act.

1 THE PRESIDENT: Last section.

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

4 THE PRESIDENT: Call the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes 46, nays 1,
7 Senator Pataki recorded in the negative.

8 THE PRESIDENT: The bill is
9 passed.

10 THE SECRETARY: Calendar Number
11 1503, by Senator Spano, Senate Bill Number 5986,
12 to allow Judge Gilbert Rabin retroactive
13 membership in the New York State and Local
14 Employees' Retirement System.

15 THE PRESIDENT: Last section.

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

18 THE PRESIDENT: Call the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 45, nays 2,
21 Senators Gold and Leichter recorded in the
22 negative.

23 THE PRESIDENT: The bill is

1 passed.

2 THE SECRETARY: Calendar Number
3 -- Calendar Number 1505, by the Senate
4 Committee on Rules, Senate Bill Number 6077, to
5 authorize Lawrence Leff, an employee of Nassau
6 County to file for retroactive membership.

7 THE PRESIDENT: Last section.

8 SENATOR GOLD: Lay it aside,
9 please.

10 THE PRESIDENT: The bill is laid
11 aside.

12 THE SECRETARY: Calendar Number
13 1506.

14 THE PRESIDENT: This bill will be
15 laid aside. It's high, and there is no message
16 at the desk.

17 THE SECRETARY: Calendar Number
18 1507, by Senator Johnson, Senate Bill Number
19 6079, Environmental Conservation Law.

20 SENATOR LEICHTER: Lay it aside.

21 THE PRESIDENT: The bill is laid
22 aside.

23 SENATOR WALDON: Mr. President.

1 THE PRESIDENT: Senator Waldon.

2 SENATOR WALDON: Thank you very
3 much, Mr. President. I request unanimous
4 consent, I'm not sure on the procedure, because
5 it passed so long ago, but in regard to Calendar
6 Number 441, that I be recorded in the negative.

7 THE PRESIDENT: Without
8 objection, it's so ordered.

9 SENATOR WALDON: Thank you very
10 much.

11 THE SECRETARY: Calendar Number
12 1520.

13 THE PRESIDENT: The bill is
14 high. It will be laid aside, and it, by way of
15 explanation, the bill is not on today's
16 calendar.

17 That concludes the
18 non-controversial calendar.

19 SENATOR PRESENT: Mr. President,
20 I believe we're prepared to take up the
21 controversial calendar.

22 THE PRESIDENT: All right. The
23 Secretary will read.

1 THE SECRETARY: On page 4,
2 Calendar Number 62, by Senator Levy, Senate Bill
3 Number 80-A, an act to amend the Transportation
4 Law.

5 SENATOR GOLD: Explanation.

6 THE PRESIDENT: Explanation is
7 requested, Senator Levy, on the bill.

8 SENATOR LEVY: I'm sorry?

9 THE PRESIDENT: No problem, but
10 the Calendar Number 62 was laid aside earlier,
11 is now before the house.

12 SENATOR LEVY: Sure, if there are
13 any questions, I'd be happy to answer them.

14 SENATOR GOLD: Explanation.

15 SENATOR LEVY: Senator Gold, what
16 -- well, let me begin, Senator Gold, by saying
17 that we have an enormous grave and concerning
18 problem in this state, and it relates to the
19 transportation of children in wheel chairs in
20 vehicles -- in vehicles in this state.

21 Now, about two weeks ago, I
22 hosted a meeting, and let me just acknowledge
23 the extraordinary job that Senator Libous and

1 his special committee have done in this area. I
2 hosted a meeting a couple weeks ago among the
3 state Department of Transportation, the state
4 Department of Motor Vehicles, the Commissioner
5 of Education, and the Advocate for the Disabled,
6 and I have to tell you, it was incredible to sit
7 at that meeting with DOT, state Education
8 Department and DMV, and they don't talk to one
9 another about this area of concern.

10 DOT was moving forward within
11 their jurisdiction to regulate this area, and
12 the Department of Motor Vehicles was totally -
13 totally ignorant of what the Department of
14 Transportation was doing, and the Department of
15 Motor Vehicles has a significant area of
16 jurisdiction in this area, Senator Gold, and
17 they weren't doing anything, and they didn't
18 know that the Department of Transportation was
19 acting.

20 So what -- what this bill does,
21 Senator Gold, is to make sure DOT proceeds and
22 enacts the regulations that it was going to do
23 and requires the Department of Motor Vehicles as

1 it relates to their area of concern to look into
2 it and enact the rules and regulations to
3 guarantee the safety of these children and
4 others being transported in wheel chairs.

5 SENATOR GOLD: Mr. President.

6 THE PRESIDENT: Senator Gold.

7 SENATOR GOLD: Senator Levy yield
8 to a question?

9 SENATOR LEVY: Certainly.

10 SENATOR GOLD: This bill is the
11 same bill as we had last year, Senator?

12 SENATOR LEVY: No, it isn't,
13 Senator.

14 SENATOR GOLD: What is the
15 difference between the bill?

16 SENATOR LEVY: This is -- there
17 are many differences because, since last year,
18 Senator, the DOT has moved forward to regulate
19 -- regulate the transportation of children and
20 others in wheel chairs and to focus in on this
21 very, very real problem of securement devices,
22 occupant securement devices on school buses and
23 omnibuses, and the bill requires that those

1 regulations be promulgated and it requires
2 additionally that the state Department of Motor
3 Vehicles focus in on the same problem within
4 their jurisdiction and responsibility of buses
5 other than school buses, because they are also
6 regulating on non-school bus type of
7 transportation, the transportation of children
8 and others in wheel chairs.

9 SENATOR GOLD: Senator yield to a
10 question?

11 SENATOR LEVY: Yes, I will.

12 SENATOR GOLD: Senator, your last
13 answer confused me a little bit. You say the
14 bill is different from last year because now the
15 department is doing something and they have
16 regulations.

17 SENATOR LEVY: No, they don't
18 have regulations. They are looking into it, and
19 this requires the Department of Transportation
20 to act and, as I told you initially, when we sat
21 around the table at this meeting, the -- through
22 the meeting that we convened, the Department of
23 Motor Vehicles found out that the Department of

1 Transportation was regulating their
2 jurisdictional area. They didn't even know it
3 until I conducted this meeting, and they said
4 they are doing nothing to regulate the
5 transportation of non-school bus type of
6 vehicles in this state that are transporting
7 people in wheel chairs, and this requires them
8 to act to regulate that area.

9 SENATOR GOLD: Will the Senator
10 yield to a question?

11 SENATOR LEVY: Yes, certainly.

12 SENATOR GOLD: Senator, are there
13 any reporting requirements in the legislation?

14 SENATOR LEVY: Yes. Again, in
15 another area, there is a reporting requirement
16 to the Legislature because for years now there
17 is an interdepartmental school bus committee and
18 that interdepartmental school bus committee for
19 years now has been trying to agree among
20 themselves. These are state department -- state
21 agencies, on a legislative recommendation to us
22 as to the definition of "school bus" and they
23 haven't been able to reach an agreement among

1 themselves. So we say to them, Hey, guys, get
2 your act together and give us a report on your
3 recommendation of how we should define "school
4 bus."

5 SENATOR GOLD: Senator Levy, you
6 say that the -- the reporting requirement is to
7 the Legislature. I don't see that. Can you
8 show me where that is?

9 SENATOR LEVY: It's in the last
10 section of the bill, and it's the report, the
11 definition to the Governor, the Senate, the
12 Speaker, the chair of the respective committees.

13 SENATOR GOLD: Yeah.

14 Mr. President, on the bill.

15 THE PRESIDENT: Senator Gold is
16 recognized.

17 SENATOR GOLD: Senator Levy, we
18 are lawmakers here. Some of us are even lawyers
19 and words have meanings.

20 There's no requirement to report
21 to the Legislature, Senator Levy. There's a
22 requirement to report to the President of the
23 Senate and the Speaker of the Assembly, and the

1 chair of the committee in the Senate and the
2 Assembly.

3 I'm a member of the Legislature.
4 There's no report -- requirement to report to
5 me. There's no requirement that the Minority
6 Leader of the Assembly receive a copy of your
7 report or any of the ranking members, at least
8 that's the way the language seems to read.

9 SENATOR LEVY: Senator, I am
10 sorry, that is an oversight, Senator. As you've
11 asked me the other day, with the Commission on
12 Alternatives to the Property Tax, I go out of my
13 way to carry out my responsibility to make sure
14 that there are reports to Majority and Minority
15 leadership in both houses and committee chairs.

16 That is an inadvertent
17 oversight. If this bill were to become law,
18 when the report is made to those that are
19 directed to receive the report, you can
20 personally be assured of the fact that I myself
21 will bring a copy to your office, Senator Gold.

22 THE PRESIDENT: Last section.
23 Senator Dollinger.

1 SENATOR DOLLINGER: Mr.
2 President, I'd just ask one question to the
3 sponsor if I may. I -- Senator, I voted on this
4 bill when it was in the Transportation
5 Committee. I guess it was in a prior print, but
6 my question is, the -- is it true that the
7 National Highway Traffic Safety Administration
8 has already conducted an investigation of the
9 issue of wheel chair safety on school buses and
10 issued a series of regulations; and how does
11 that play in this?

12 SENATOR LEVY: What they have
13 done, Senator, is to leave certain areas to the
14 action of the state, and this is -- this is the
15 area that this bill deals with to make sure that
16 DOT and DMV carry out the responsibilities that
17 have been left to them by the federal government
18 and the recommendations of the safety board.

19 SENATOR DOLLINGER: O.K. So I
20 understand it, through you, Mr. President, this
21 is not duplicating anything that the fed's have
22 done; this is to fit in the envelope in this
23 series of regulations created by the fed's?

1 SENATOR LEVY: Yes, to give us
2 the opportunity to act in this area.

3 THE PRESIDENT: Last section.

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

6 THE PRESIDENT: Call the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 49.

9 THE PRESIDENT: The bill is
10 passed.

11 THE SECRETARY: On page 6,
12 Calendar Number 261, by Senator Velella, Senate
13 Bill Number 3156-A, an act to amend the
14 Insurance Law.

15 SENATOR GOLD: One second. Will
16 Senator Velella yield to a question?

17 SENATOR VELELLA: Yes.

18 SENATOR GOLD: Senator, we had a
19 vote on this bill earlier this year, and then it
20 was amended; is that correct?

21 SENATOR VELELLA: We had a vote
22 and then what?

23 SENATOR GOLD: Earlier this year

1 and then it was amended?

2 SENATOR VELELLA: Yes. The
3 amendments were at the suggestion of the
4 Insurance Department. After it had passed both
5 houses, they found some technical questions in
6 the language and they had asked that we make
7 some changes that we agreed some of the language
8 in the original bill was a little bit vague, and
9 they were a little concerned about interpret
10 ing that and leaving some big wide gaping
11 holes. So we met with them and, upon the
12 agreement of all the parties, the Assembly, the
13 department, the Senate, we made these
14 modifications.

15 SENATOR GOLD: All right. Will
16 you yield to one more question?

17 SENATOR VELELLA: Yes.

18 SENATOR GOLD: I have a note that
19 indicates on the original print the Life
20 Insurance Council was opposed and Blue Cross/
21 Blue Shield was opposed on the original print.
22 Were any of their objections dealt with in the
23 amendment?

1 SENATOR VELELLA: Well, there
2 were -- I can't specifically remember off the
3 top of my head what their specific objections
4 were, but I tend to think that since what we've
5 done is clear up language that would have
6 allowed the possibility of double payments on
7 claims, paying both a physician and an audio
8 logist, that that was one of their objections.

9 Now, does that remove all of
10 their objections? I don't know. I don't
11 remember what the original objection was. I do
12 know that these amendments clear up the question
13 of whether or not there could be double billing
14 and whether or not services that were provided
15 could be provided outside of a hospital
16 setting.

17 So those were the main -- the two
18 main changes that were made in these
19 amendments. I would assume that was part of
20 their objection. If they have any others, I've
21 not been made aware of it.

22 SENATOR SOLOMON: Mr. President.

23 THE PRESIDENT: Senator Solomon.

1 SENATOR VELELLA: I've just been
2 advised, Senator Gold, that Blue Cross/Blue
3 Shield has approved this. That was one of their
4 objections, and they're approving it now.

5 SENATOR SOLOMON: Yeah, on the
6 bill, Mr. President.

7 THE PRESIDENT: Like to ask for
8 order in the chamber.

9 SENATOR SOLOMON: Mr. President,
10 this is again another mandate that has an impact
11 only on those that have to abide by New York
12 State's insurance laws. As we drive more and
13 more people out to try and self-insure and be
14 covered by ERISA, if they can, that will raise
15 the cost of insurance as it is; and, again, we
16 talk about basic coverages and basic or coverage
17 of basic services for insurance to supposedly
18 keep down the cost of insurance, and again we're
19 on this trend.

20 We have no cost/benefit analysis
21 showing us how much items like this are going to
22 cost, how their impacts are going to be on
23 individual policyholders, and we keep moving in

1 this direction where we consider health
2 insurance costs a major problem, but we keep
3 increasing the number of items which they must
4 cover, and the result being that policies
5 eventually tend to go over, be one of the
6 contributing factors to rising costs of health
7 insurance.

8 Thank you.

9 THE PRESIDENT: Last section.

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

12 THE PRESIDENT: Call the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes 48, nays 1,
15 Senator Libous recorded in the negative, also
16 Senator Solomon in the negative. Also Senator
17 Holland. Also Senator Bruno in the negative,
18 also Senator Seward in the negative. Ayes 45,
19 nays 5.

20 THE PRESIDENT: The bill is
21 passed.

22 THE SECRETARY: Calendar Number
23 287, by Senator Tully.

1 SENATOR PRESENT: Lay it aside
2 temporarily.

3 THE PRESIDENT: The bill is laid
4 aside.

5 THE SECRETARY: Calendar Number
6 324, by Senator Holland, Senate Bill Number
7 880-A, an act to amend the Tax Law and the
8 Insurance Law.

9 SENATOR LEICHTER: Explanation.

10 THE PRESIDENT: Explanation is
11 requested.

12 Senator Holland.

13 SENATOR HOLLAND: Mr. President,
14 this bill provides tax incentives for businesses
15 and individuals to encourage the purchase of
16 comprehensive long-term care insurance policies
17 and thus, over time, reduce reliance on the
18 Medicaid program for the provision of long-term
19 care services.

20 We believe we must take action
21 now to reduce the cost of Medicaid for long
22 term care. By encouraging businesses and middle
23 income individuals to consider the purchase of

1 long-term care insurance as an integral part of
2 their financial planning, the tax credit
3 provided for this legislation would help ensure
4 that many New Yorkers will not be forced onto
5 Medicaid as their savings are exhausted.

6 The credit against taxes is 20
7 percent of the premium paid in a taxable year
8 for long-term care insurance policies.

9 SENATOR LEICHTER: Mr. President,
10 will Senator Holland yield, please?

11 SENATOR HOLLAND: Yes, sir.

12 SENATOR LEICHTER: Senator, I
13 wonder if you could tell us, first of all,
14 whether this is an agreed-upon bill, and I'm not
15 one that generally thinks we shouldn't pass
16 one-house bills, because if the house feels
17 about a particular legislation a certain way
18 then we ought to act on it, but having in mind
19 the date, I think maybe my question is relevant
20 at this point.

21 SENATOR HOLLAND: There is a
22 similar bill introduced by Assemblyman
23 Schimminger. However, it does have technical

1 differences with this bill.

2 SENATOR LEICHTER: I'm sorry, I
3 couldn't hear you, sir.

4 SENATOR HOLLAND: There is a
5 similar bill that has been introduced by
6 Assemblyman Schimminger, but it does have
7 technical differences with this bill. That's
8 why it has no "same as".

9 SENATOR LEICHTER: All right. Am
10 I correct then -

11 SENATOR HOLLAND: They're not
12 exactly the same.

13 SENATOR LEICHTER: This is a nice
14 way of saying this is not an agreed-upon bill.

15 SENATOR HOLLAND: They're not
16 exactly the same.

17 SENATOR LEICHTER: Right, and
18 certainly something, Senator, that on July 3rd,
19 it's important for us to do. I see the bill
20 bears a date of January 20th, and I'm glad that
21 you left the bill for such a propitious time for
22 us to debate this one-house bill. It certainly
23 is significant.

1 SENATOR HOLLAND: Is that a
2 question?

3 SENATOR LEICHTER: Let me -- if
4 you'd be so kind just to yield to some
5 questions.

6 SENATOR HOLLAND: Certainly.

7 SENATOR LEICHTER: My
8 understanding is that we do have a program in
9 effect in this state relating to the purchase of
10 insurance for long-term health care.

11 SENATOR HOLLAND: True.

12 SENATOR LEICHTER: Right? And I'm
13 not sure how that program, which I think just
14 went into effect and I believe was sponsored by
15 our dear and beloved ex-colleague Senator
16 Lombardi, how does it -- how does your bill
17 accommodate and work and coordinate with his
18 bill?

19 SENATOR HOLLAND: We have been
20 successful, as you say, Senator, in creating the
21 long-term care insurance policy.

22 SENATOR LEICHTER: Excuse me, Mr.
23 President. It's very hard to hear Senator

1 Holland.

2 THE PRESIDENT: Senator
3 Leichter's point is well taken. There will be
4 order in the chamber.

5 SENATOR HOLLAND: As you say,
6 Senator, we have been successful in creating
7 long-term health insurance policies. This bill,
8 we hope, will reinforce the sale of those
9 policies by giving a tax credit to the people
10 who purchase long-term care policies so that
11 they -- their insurance takes care of their
12 long-term health instead of Medicaid.

13 SENATOR LEICHTER: O.K. Senator,
14 your -- your fiscal impact notes or fiscal
15 implication statement is always very interest
16 ingly worded. This one says "to be
17 determined."

18 I thought the whole idea,
19 Senator, of a fiscal implication statement was
20 that when we vote on the bill, we have some idea
21 what it's going to cost.

22 SENATOR HOLLAND: I'm sorry,
23 Senator, there is a fiscal implication note. I

1 don't know why you don't have it. It says
2 actually, and I thought you'd bring this up,
3 that this -- they're saying the cost, short-term
4 cost, would be \$22 million in the year of 1994.
5 However, in the long term, we believe that on
6 average, it would -- if people were encouraged
7 and given tax credits to buy the long-term
8 insurance policy, they would save or the state
9 would rather save 23 months of long-term care
10 services for each person kept from converting
11 from private pay to Medicaid, and that's
12 approximately \$70,000 per individual long-term
13 savings.

14 Initially, it would be a cost to
15 the state.

16 SENATOR LEICHTER: Senator, is
17 there anything in your bill which limits the
18 credit or conditions of credit upon what sort of
19 insurance company it is? I -- I assume that you
20 need to be a licensed insurer, but is there any
21 other supervision and control over the insurer
22 to make sure that what we're getting is
23 something that makes it worth this subsidy?

1 SENATOR HOLLAND: There's a
2 number of things, Senator. Must be -- the
3 credit must be approved by the Superintendent.
4 The policy must provide a minimum of three years
5 benefits, cover skilled, intermediate and long
6 term care, include a case management function,
7 provides indemnity levels for policies issued in
8 1992, and on and on and on.

9 SENATOR LEICHTER: Senator, among
10 the insurance coverage that can be purchased
11 under your bill, is there one that provides home
12 care?

13 SENATOR HOLLAND: Got it. On
14 page 4, line 39, coverage for skilled and
15 intermediate and long-term care, custodial home
16 care, home health care without the requirement
17 of a prior stay -

18 SENATOR LEICHTER: Where -
19 excuse me, Senator. Where are you reading, what
20 line?

21 SENATOR HOLLAND: Page 4, line
22 39. This is an "A" version.

23 SENATOR LEICHTER: O.K. O.K.

1 Thank you.

2 Mr. President. Mr. President,
3 there certainly is merit in trying to get people
4 to secure coverage to cover long-term health
5 care. I'm really not sure that this is the -
6 the most effective way of providing subsidies
7 for people to do that. It may be or it may not
8 be. Obviously, there's a lot of consideration
9 now being given to how we deal with health care
10 needs in this country, if we need a national
11 approach; there are things that we need to do in
12 this state.

13 Senator Holland's bill provides a
14 cost of \$22 million, as I understand that's an
15 annual cost, am I correct on that, Senator, or
16 the initial annual cost if I could ask you to
17 yield again, just so I understand what that 22
18 is.

19 SENATOR HOLLAND: Just projected
20 for 1994, Senator.

21 SENATOR LEICHTER: All right. So
22 that this bill carries a big price tag with it.
23 There's also a question in my mind who really

1 benefits. Are we reaching the people that we
2 most want to help? In order to get some benefit
3 out of the tax credit, you've got to pay a
4 substantial tax and, while this bill and this
5 credit certainly would be of value to people who
6 make over \$100,000, I'm not sure that it's going
7 to amount to very much and be significant for
8 most of the people in this state. Certainly
9 it's going to have limited value, if any value,
10 for working people, middle class people, so on,
11 so that if you're going to take \$22 million
12 maybe you want to target it more directly to
13 people who have greater need, Senator Holland.

14 That's why I think that this
15 bill, while it certainly grapples with the
16 problem, and I don't think anybody can say,
17 Well, this is a wrong way to go, but I'm not
18 sure that you have fine tuned it enough and
19 refined it enough, and I suspect and, as you
20 indicated, it's not something that we're going
21 to be able to get the Legislature to act on at
22 this time.

23 I don't know why you -- you know,

1 you bring out the bill at this late hour, and so
2 on, with, I think, such minimal chance that it's
3 going to receive consideration of both houses.
4 Maybe on the idea that as long as there's life,
5 there's hope, and you'll still get another bill
6 through, but I might suggest that you take a
7 look at the calendar. It's July 3rd. Maybe we
8 could be doing things that would be more
9 productive.

10 I don't mean to say it's not
11 important. It is important, but we certainly
12 could be spending our time much more product
13 ively like being at the beach or at a picnic or
14 some patriotic celebration.

15 Mr. President, it's just, I think
16 people ought to take a look. It has a \$22
17 million price tag, obviously is not considered
18 in the state's fiscal plan. It does primarily
19 benefit wealthier individuals. For these
20 reasons and also the fact that we're just voting
21 on a one-house bill, I would urge my colleagues
22 to vote in the negative.

23 THE PRESIDENT: Last section.

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

3 THE PRESIDENT: Call the roll.
4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 47, nays 3,
6 Senators Espada, Leichter and Solomon recorded
7 in the negative.

8 THE PRESIDENT: The bill is
9 passed.

10 SENATOR FARLEY: Mr. President,
11 could I be recorded in the negative on Calendar
12 261?

13 THE PRESIDENT: Without
14 objection, it's so ordered.

15 THE SECRETARY: Calendar Number
16 814, by the Assembly Committee on Rules,
17 Assembly Bill Number 8059, an act to amend the
18 Education Law, in relation to exempting certain
19 persons from licensing requirements for
20 practicing animal health technology.

21 SENATOR LEICHTER: Explanation.

22 THE PRESIDENT: Explanation is
23 requested.

1 SENATOR LEICHTER: I withdraw

2 my -

3 THE PRESIDENT: The -- read the
4 last section.

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

7 THE PRESIDENT: Call the roll.

8 (The Secretary called the roll.)

9 THE PRESIDENT: This is 814.

10 SENATOR JONES: To explain my -

11 THE PRESIDENT: Just a second,
12 Senator Jones. I'll recognize you as soon as
13 the -- Senator Jones.

14 SENATOR JONES: Yes, to explain
15 my vote, Mr. President.

16 I have never, I guess, in my life
17 seen so many untruths, misstatements and
18 ridiculous information disseminated anywhere as
19 I've seen on this bill. I am absolutely
20 astounded and shocked, and I want to say
21 particularly to Senator Cook, someone told me
22 once, there isn't any courage here. I want to
23 tell you that I believe that there is.

1 This bill involves nothing but
2 saving the life of a baby and, in return, it is
3 not harming the life of an animal. There could
4 not be more protection built into this bill to
5 protect the animal with the opportunity to save
6 hundreds of babies a year, and I just want to
7 say thank you to all of you that had the courage
8 to look at the truth and vote for this.

9 SENATOR COOK: Mr. President.

10 THE PRESIDENT: Senator Cook is
11 recognized.

12 SENATOR COOK: Mr. President, I
13 would like to explain my vote by a very unusual
14 method of reading the bill, in case anybody left
15 their glasses home.

16 A person, an unlicensed person
17 may perform endotracheal intubation on an animal
18 under supervision of a veterinarian in lieu of
19 the veterinarian personally performing the
20 procedure.

21 In other words, the procedure a
22 veterinarian was going to perform themselves
23 anyway, if the person doing it is a certified

1 emergency medical technician enrolled in a
2 course of advanced emergency medical technology
3 approved under Article 30 of the Public Health
4 Law.

5 (b) the procedure is performed as
6 a part of the certified emergency medical
7 technician's pediatric endotracheal intubation
8 training.

9 (c) And this is important, the
10 procedure is performed in a veterinary facility
11 under the immediate personal supervision of a
12 licensed veterinarian or a licensed veterinarian
13 technician acting under the direct supervision
14 of the veterinarian.

15 (d) the procedure is medically
16 indicated and performed as a part of treating or
17 operating on any non-emergency disease, pain,
18 injury, deformities or physical condition of the
19 animal.

20 (e) the procedure is performed
21 only when the animal is properly sedated.

22 (f) the procedure is performed no
23 more than once per animal.

1 (g) the animal owner or person
2 having lawful charge or custody of the animal
3 consents in writing to the performance of this
4 procedure.

5 Mr. President, if that sounds
6 anything like anything that other people have
7 been reading in the past week, I defy them to
8 show me the similarity.

9 I vote yes.

10 THE PRESIDENT: Senator Bruno is
11 recognized to explain his vote.

12 SENATOR BRUNO: Yes, thank you,
13 Mr. President.

14 Thank you, Senator Cook, for the
15 explanation. I am continually puzzled by the
16 organizations that support or oppose some of the
17 animal legislation that comes through here, and
18 I see for instance opposing this the New York
19 State Humane Society, among many others, and I
20 wonder why the Humane Society opposes this,
21 given that the cats, as we've heard, the kittens
22 are used in the way that they are used and not
23 abused.

1 It would seem that there ought to
2 be a plausible explanation as to why so many of
3 the animal organizations are against this, and
4 there appears from some of what I've read that
5 using models of infants that don't move serve a
6 very useful purpose as a substitute for using
7 live animals.

8 So, Mr. President, I hear the
9 explanations, but I for one am very uncomfort
10 able with the potential consequences to helpless
11 animals. So I will vote no.

12 SENATOR MEGA: Mr. President.

13 THE PRESIDENT: Senator Mega is
14 recognized to explain his vote.

15 SENATOR MEGA: May I explain my
16 vote?

17 This type of legislation
18 involving an animal and the memos that are
19 produced, and the distortions that are presented
20 to try and get someone to vote against this bill
21 -- and I have no problem with anybody voting
22 against this bill -- but I think Senator Cook
23 just very clearly indicated that no way is this

1 going to hurt an animal, and I think the most
2 important part of the legislation is that this
3 cannot be done, and I repeat that this cannot be
4 done, unless the owner of the animal consents.

5 Now, what owner of what animal is
6 going to consent to having this done if there
7 was something wrong with it? So a no vote, I can
8 understand, but what I can't understand is
9 anybody believing -- anybody believing the memos
10 in opposition. That boggles my mind.

11 I vote yes.

12 THE PRESIDENT: Senator Halperin
13 is recognized to explain his vote.

14 SENATOR HALPERIN: I'd like to
15 explain my vote.

16 Earlier today, I had a
17 conversation regarding this legislation and I
18 was advised that this legislation mandates that
19 trainees for emergency -- emergency medical
20 technician status must perform this type of
21 intubation in order to be certified.

22 I checked with the sponsor of the
23 bill, and I was assured that that's not the case

1 and, probably more importantly, I read the bill
2 and there's nothing in there that provides for
3 that, and I just want to say that I want to make
4 that clear on the record, and I want to make it
5 clear that this bill relates once again only to
6 voluntary situations where the owners are
7 authorizing this intubation which would
8 otherwise have to occur or has otherwise been
9 determined to be for the best interests of the
10 animal and, with that in mind, I vote in favor
11 of the bill.

12 THE PRESIDENT: Senator Libous.

13 SENATOR LIBOUS: Thank you, Mr.
14 President.

15 I was going to oppose this, and I
16 know that it's been discussed a little bit
17 within some particular groups but, as Senator
18 Jones mentions and as Senator Cook mentions, I
19 think it's very important that there's nothing
20 more important than the possibility of saving a
21 human life, and in this case an infant's life,
22 and I just think that what has been said on the
23 floor and actually reading the bill compels me

1 to change my vote, and I will support it and
2 vote yes.

3 THE PRESIDENT: Senator Farley.

4 SENATOR FARLEY: Yes, Mr.
5 President.

6 I was going to oppose this bill,
7 but I think the debate and the explanation makes
8 it absolutely essential that, in my judgment,
9 that there's no concern about inhumane treatment
10 of animals. I'm going to vote aye.

11 SENATOR LEVY: Mr. President.

12 THE PRESIDENT: Senator Levy.

13 SENATOR LEVY: Yes, Mr.
14 President.

15 I was going to vote against the
16 bill myself and, like so many people in this
17 chamber, I consider myself to be a -- a genuine
18 lover of animals and -- and I listened to the
19 debate, and we have had a bill here a short time
20 ago having to do with bicycle helmets and trying
21 to avert head injuries and this type -- this
22 type of work is vitally important as it relates
23 to dealing with head injuries.

1 But just in voting yes, let me
2 just say one other thing: The people who have
3 opposed this bill have worked diligently and
4 sincerely out of concern in opposition to this
5 legislation for a while and they are, they have
6 been, and I know that they will continue to
7 provide not only this house but the Assembly and
8 the Governor with -- with really very, very
9 valuable information that raises the level of
10 consciousness of all of us as it relates to
11 genuine problems in the treatment of animals,
12 and I think that -- that the job that they've
13 done ought to be recognized and -- and if there
14 was a misunderstanding over some of the
15 provisions of this bill, it certainly should not
16 work negatively against all of the hard and
17 effective work that has been done by those
18 people in those groups.

19 I vote aye.

20 THE PRESIDENT: Senator LaValle
21 is recognized to explain his vote.

22 SENATOR LAVALLE: Explain my
23 vote, Mr. President.

1 Like many of the others who have
2 risen to explain their votes, I, too, had
3 intended at one point in time to vote in the
4 negative on this legislation.

5 Last -- during this year, Senator
6 Bruno had asked me to take a -- a trip to Hudson
7 Valley Community College and, during that visit,
8 I had stopped at one of the -

9 THE PRESIDENT: Excuse me,
10 Senator LaValle. Senator LaValle is
11 recognized.

12 SENATOR LAVALLE: I had stopped
13 in one of the departments, respiratory therapy
14 department, and last year many of you might
15 remember that we passed legislation licensing
16 respiratory therapists.

17 During my visit, I asked several
18 people about the nature of this bill and whether
19 procedures could effectively, on youngsters
20 using a model, whether that would be effective,
21 and the answer was -- was no, and in talking
22 with so many people about whether a procedure
23 could be done using a model, the answer came

1 back consistently no.

2 I believe there are protections
3 in this bill and, like Senator Levy, I, too -- I
4 think my record has reflected -- has been one
5 consistently for humane treatment of animals. I
6 think there are sufficient protections in this
7 bill.

8 Therefore, Mr. President, I vote
9 in the affirmative on this bill.

10 THE PRESIDENT: The Secretary
11 will report. Senator Montgomery wish to be
12 recognized?

13 SENATOR MONTGOMERY: Yes. Thank
14 you. Mr. President, I would just like to, in
15 adding to what my colleagues have said regarding
16 this bill, I want to add my comments, my
17 compliments to Senator Cook for your courage in
18 putting this bill out.

19 I'm voting yes because I see
20 where the intent, the primary intent of the
21 bill, the ultimate outcome is that we will be
22 able to save the lives of many children. In the
23 support memo, I see where some 200 children die

1 every year because of the lack of experience on
2 this particular procedure and, if we can save
3 the lives of those children, I think it's worth
4 passing this legislation.

5 So I'm voting yes, and thank you,
6 Senator Cook, for putting the bill out.

7 THE SECRETARY: Those recorded in
8 the negative on Calendar Number 814 are Senators
9 Bruno, Johnson, Lack, Maltese, Nozzolio,
10 Padavan, Pataki, Spano, Trunzo, Velella and
11 Waldon. Ayes 40, nays 11.

12 THE PRESIDENT: The bill is
13 passed.

14 Senator Cook.

15 SENATOR COOK: Can I have
16 unanimous consent to make a statement?

17 THE PRESIDENT: Without
18 objection.

19 SENATOR COOK: Mr. President, I
20 want to thank this house. I think you saved the
21 lives of a hundred kids a year. Thank you.

22 THE PRESIDENT: O.K. Secretary
23 will read.

1 SENATOR PRESENT: Mr. President,
2 can we call up Calendar 287, please.

3 THE SECRETARY: Calendar Number
4 287, by Senator Tully, Senate Bill Number 724-C,
5 an act to amend the Public Health Law.

6 THE PRESIDENT: Last section.

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

9 THE PRESIDENT: Call the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 53.

12 THE PRESIDENT: The bill is
13 passed.

14 SENATOR PATAKI: Mr. President.

15 THE PRESIDENT: Senator Pataki.

16 SENATOR PATAKI: Mr. President,
17 I'd like unanimous consent to be recorded in the
18 negative on Calendar 859, Senate Bill 3401,
19 which previously passed the house.

20 THE PRESIDENT: Without
21 objection, so ordered.

22 THE SECRETARY: On page 23,
23 Calendar Number 1073, by Senator Hannon, Senate

1 Bill Number 3172, an act to amend the Tax Law.

2 SENATOR LEICHTER: Explanation.

3 THE PRESIDENT: Explanation is
4 requested.

5 SENATOR HANNON: Mr. President,
6 this bill would conform provisions of the Tax
7 Law to those provisions currently existing in
8 the federal Internal Revenue Code in order to
9 allow for the limited carry forward of net
10 operating losses when computing minimum taxable
11 income.

12 This bill was passed in this
13 house last year also.

14 SENATOR LEICHTER: Yeah, Mr.
15 President. If Senator Hannon would be so good
16 to yield.

17 Senator, as I said to Senator
18 Holland, I don't usually think it's significant
19 whether something is a one-house bill or not,
20 but I think when it's July 3rd, I see a bill
21 bearing a date of March 2nd, I'm interested in
22 knowing whether the bill is going to have any
23 chance in the other house.

1 Could you tell us whether this is
2 an agreed-upon bill?

3 SENATOR HANNON: I'm not going to
4 answer that question. The question -- you ask
5 me a question about the merits of the bill, how
6 many jobs are involved in New York State, what
7 it means to the economy of the state, whether
8 people are looking at this as to whether some
9 people are concerned as to whether or not we're
10 going to do anything for the economy of the
11 state, I'll be happy to answer about it.

12 I don't know what the state of
13 the mind of the other house is. Currently
14 they're in a full court stall on everything so
15 they can protect wealthy tenants. That's all I
16 know.

17 SENATOR LEICHTER: Senator, may
18 I -

19 SENATOR HANNON: I refuse to
20 yield, Mr. President.

21 SENATOR LEICHTER: Yeah, Mr.
22 President, that's all right. I thought it was a
23 good -- I thought it was a good statement about

1 where you're at, and where -- and what some of
2 the problems are in this Legislature, why we're
3 not getting anything done, and I'm referring to
4 your frame of mind.

5 Senator, would you be so good as
6 to yield?

7 SENATOR HANNON: I respectfully
8 decline, Mr. President.

9 THE PRESIDENT: Senator Hannon
10 has indicated he does not wish to yield.
11 Senator Leichter has the floor.

12 SENATOR LEICHTER: I think that's
13 unfortunate and let me just say, Senator Hannon,
14 I've always found you extremely courteous,
15 cooperative, we may not agree on the issues. I
16 think on July 3rd, being here in this chamber
17 anybody is allowed to be intemperate, and I
18 expect to be intemperate very soon too because I
19 think it is -- Senator Gold says I already am.

20 SENATOR GOLD: I said no, it is
21 impossible for you.

22 THE PRESIDENT: I'd like to ask
23 all the Senators if you will please keep order,

1 please not engage in cat calls or other kinds of
2 extraneous conversation.

3 Senator Leichter is recognized.

4 SENATOR LEICHTER: Yeah. Mr.
5 President, I -- I can understand the frustration
6 and the annoyance of Senator Hannon, and I think
7 all of us share that. I don't think we should
8 be here. I think it's absurd. I think it's
9 ridiculous. I know that the Majority all likes
10 to say, Well, we were elected to run this house,
11 and let me tell you, we have nothing to do with
12 running this house. You could take all the
13 credit for having us here over July 4th week end
14 doing one-house bills, and I don't -- and I
15 disagree with some of the colleagues on this
16 side of the aisle who in March or April will get
17 up and say, Is this a one-house bill? Why
18 shouldn't we pass one-house bills? You have a
19 particular viewpoint, that's fine.

20 But I think it's a little
21 different when it's July 3rd, and let me say,
22 Senator Hannon, to you and to the members of the
23 Majority, it's one thing for you to say, I'll

1 stay here on July 4th, nobody put a gun to your
2 head or to my head or to the head of 211
3 legislators and said, You've got to serve in the
4 New York State Legislature, but there happen to
5 be hundreds of people who work with us and for
6 us, and we're ruining their July 4th. These are
7 telephone operators, they're elevator operators,
8 they're guards, they're sergeant-at-arms,
9 they're people that work at the desk.

10 SENATOR TULLY: Mr. President,
11 Mr. President.

12 THE PRESIDENT: Senator Tully.

13 SENATOR TULLY: Would Senator
14 Leichter yield to a question?

15 SENATOR LEICHTER: Yes.

16 SENATOR TULLY: Senator Leichter,
17 do you really believe for one minute in
18 sincerity, in all due sincerity, and I have the
19 highest personal regard for you, that Senator
20 Hannon's bill that's before us today is the
21 reason we're going to be here the rest of the
22 day or the reason we're going to be here
23 tomorrow or the next day?

1 You do know, do you not, that
2 it's the Governor that's the reason that we're
3 here. It's no one else's reason; it's the
4 Governor we're here for, because the governor
5 hasn't agreed to things the two houses have
6 agreed upon and, if he would agree, we'd be out
7 of here. It's certainly not Senator Hannon.

8 SENATOR LEICHTER: Senator Tully,
9 I think there are a number of people, a number
10 of the institutions within this Capitol that are
11 responsible for the -- for us being here at this
12 time and accomplishing absolutely nothing.

13 SENATOR HANNON: Mr. President,
14 is this germane to the bill before the house?

15 THE PRESIDENT: The Chair will
16 advise Senator Hannon that there is a wide
17 latitude of relevance, and that this Chair does
18 not have the authority to rule a Senator out of
19 order on the grounds that his comments are
20 unrelated to the bill.

21 Senator Leichter.

22 SENATOR LEICHTER: Yeah.

23 Senator, I'm sure the Governor bears some

1 responsibility. I know that the Majority in
2 this house bears a great responsibility. I
3 believe that the Assembly Majority bears some
4 responsibility. I know one person who bears no
5 responsibility, and that's Franz Leichter, and I
6 know one Conference that bears no responsibility
7 and that's the Democratic Conference of this
8 house.

9 But I think the fact is, and the
10 point is, Senator Tully and Senator Hannon, and
11 it is relevant to your bill, it's relevant to
12 whether we ought to be discussing a bill of this
13 nature and this sort on July 3rd, and that is
14 that we have not gridlock in this Capitol. We
15 have stagnation. We have gone beyond grid
16 lock. We are totally non-functional.

17 The way we have conducted
18 business this session is a disgrace. Now, some
19 members have said, Well, the public will see
20 we're really working. We're working even on a
21 patriotic holiday. I think the public is either
22 going to laugh or cry, and they're going to say,
23 Look at these stumble bums. They couldn't get

1 their work done.

2 But I want to get back to the
3 fact. Listen, I feel terrible that I'm here,
4 but I don't think that we have the right for the
5 nature of the disputes that are going on, to
6 keep hundreds of people, it's probably thousands
7 that all work for us, and take away their
8 holiday. These are working people. They didn't
9 sign on for this sort of incompetence that is
10 being displayed here, and let me just say to
11 Senator Hannon, who feels, you know, that all
12 the reason that we're here -- Senator, yeah.
13 O.K. Senator Hannon said that he's -- he'd -- if
14 I'd just let this bill pass, he's going to go
15 and take care, and we're going to get out.

16 Senator Goodman already promised
17 that, Senator Hannon, so I have a guilt-edged
18 promise. Somebody said they saw it on
19 television. Senator Goodman said, Oh, yes,
20 we'll be out of here.

21 But let me just -- let me just
22 say that the whole concept of -- that has
23 characterized this session, which is that you

1 negotiate on nothing, and I think it's as true
2 of the Assembly as it is of this house, you wait
3 until the very last minute, you wait until
4 you're up against a deadline and then you're
5 going to start negotiating.

6 I -- I think it's led us to this
7 impasse. I think that we are the laughing stock
8 of -- of the state, but there are people's lives
9 that are being ruined by what we're doing here,
10 people's plans at least, I don't know if their
11 whole lives, but probably right now they feel
12 their whole lives are being ruined, and it just
13 doesn't make sense and the fact is that we have
14 a one-house bill which, I'm sorry to tell you,
15 Senator Hannon, isn't -- isn't a good bill
16 anyhow, and I'll just briefly say why I'm going
17 to vote against it.

18 This does give an additional tax
19 credit or -- or it's actually a carry-over which
20 means that we're going to have people paying
21 less taxes as it relates to the corporate
22 alternate minimum tax, Senator Hannon, as I
23 understand it, is trying to conform the New York

1 State tax to the -- to the federal tax.

2 Whether that has merit or not, he
3 makes his bill effective as of April 1, 1993, so
4 it will affect our current budget. It will
5 unquestionably mean that there will be less
6 taxes paid and we are already, as we know,
7 running a deficit. How can we conceivably
8 support a bill that's going to bring in less
9 revenues?

10 For that reason, that the bill is
11 not going to pass in the Assembly and the bill
12 would never been signed by the Governor, but it
13 shouldn't be passed by this house either because
14 it's irresponsible for us to do so, whether or
15 not it's July 3rd.

16 THE PRESIDENT: Last section.

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

19 THE PRESIDENT: Call the roll.

20 (The Secretary called the roll.)

21 SENATOR HALPERIN: Mr. President.

22 THE PRESIDENT: Senator

23 Halperin.

1 SENATOR HALPERIN: I'd like to
2 explain my vote.

3 Just in line with what Senator
4 Leichter said, I believe that this bill is
5 justified from a policy perspective, but given
6 the fact that there's already an over \$200
7 million shortfall in anticipated revenues in
8 this year's budget, and that the state lost a
9 round in its PEF legislation which could subject
10 it to very large additional expenditures, I
11 believe that it's not wise to impose another
12 loss of revenues upon the state at this time,
13 and should this approach be adopted in the
14 budget and be part of the fiscal plan, I think
15 it is much warranted, and I would be happy to
16 vote for it, but under these circumstances I'm
17 going to vote against it.

18 SENATOR GOLD: Mr. President.

19 THE PRESIDENT: Senator Gold.

20 SENATOR GOLD: Yeah, if I could
21 explain my vote.

22 Senator Halperin, there was, I'd
23 like to remind you -- I'm sure you heard this

1 debate the other day that we had on the -- I
2 think it was the Environmental Trust Fund and,
3 in that situation, Senator Halperin, we were
4 talking about \$100 million we had to come up
5 with. We didn't pass that bill and maybe,
6 Senator Halperin, the -- well, but it's a
7 one-house bill, one-house bill.

8 But, Senator Halperin, what I'm
9 getting at is maybe the sponsors of this bill
10 would use the method that was set forth in that
11 memo. They said they were going to skim the
12 money off the taxes so maybe what they're
13 saying, Senator Halperin, is if this becomes law
14 we can use the new Republican fiscal mechanism
15 of skim taxes. You don't like that?

16 I'll vote in the negative also.

17 SENATOR DOLLINGER: Mr.
18 President.

19 THE PRESIDENT: Senator Dollinger
20 is recognized to explain his vote.

21 SENATOR DOLLINGER: Mr.
22 President, I'm always amazed by the -- since
23 this is my first time around, about the budget

1 process that we went through, where there were
2 lots of things on the table from the Majority
3 Conference on this side, in this house, and they
4 were all negotiated, and we ended up with a
5 budget and certain things that didn't get into
6 the budget.

7 Lo and behold, they seem to pop
8 up all over the place as one-house bills now on
9 the 3rd of July, three months later. I gave a
10 speech here a couple of weeks ago about Harvey
11 economics. It seems to me that this is another
12 example of the Harvey economics practiced by the
13 other side, that sort of mythological viewpoint
14 of very rosy future for this state and the
15 things that we ought to do to keep Harvey
16 around.

17 Well, it seems to me you got me
18 again. I'm going to vote for this, but I have a
19 real question as to whether this rabbit is real
20 either, but you tell me it is, I'll buy the
21 rabbit.

22 THE SECRETARY: Ayes 50, nays 4,
23 Senators Galiber, Gold, Hal... Galiber, Gold,

1 Halperin and Leichter recorded in the negative;
2 also Senator Solomon in the negative; also
3 Senator Stavisky. Ayes 48, nays 6.

4 THE PRESIDENT: The bill is
5 passed.

6 THE SECRETARY: Calendar Number
7 1220, by Senator Holland, Senate Bill Number
8 5147-B, an act to amend the Public Authorities
9 Law.

10 SENATOR LEICHTER: Explanation.

11 THE PRESIDENT: Explanation is
12 requested. Senator Holland.

13 SENATOR HOLLAND: This bill would
14 establish the Rockland County Solid Waste
15 Management Authority and provide for its
16 purpose, powers and duties.

17 SENATOR LEICHTER: Mr. President.

18 THE PRESIDENT: Senator Leichter.

19 SENATOR LEICHTER: Yes. If
20 Senator Holland would yield?

21 SENATOR HOLLAND: Yes, sir.

22 SENATOR LEICHTER: Senator, I had
23 a brief occasion to speak to you in the hall

1 about a concern that I had about this bill, but
2 also a similar bill, I think, that you have for
3 Orange County dealing with the disposal of solid
4 waste, and that's the provisions that you have
5 in here on competitive bidding, and if you could
6 just address that.

7 SENATOR HOLLAND: I believe it's
8 covered, Senator, on page 17, line 44,
9 contracts.

10 SENATOR OPPENHEIMER: Mr.
11 President.

12 THE PRESIDENT: Senator Leichter
13 has the floor.

14 SENATOR LEICHTER: If you would
15 just bear with me a second, Senator
16 Oppenheimer. I'm sorry, that's page 17, what
17 line was that?

18 SENATOR HOLLAND: 44.

19 SENATOR LEICHTER: Since I don't
20 have the law, Senator, that is referred to in
21 that provision, if you would just tell me what
22 it does insofar as the competitive bidding
23 laws.

1 SENATOR HOLLAND: That particular
2 section says, I believe, says, subdivision 4 of
3 this section for construction of a solid waste
4 management resource recovery building by the
5 project developer shall contain provisions that
6 such building shall be constructed through
7 construction contracts awarded through public
8 competitive bidding in accordance with
9 paragraphs (a) through (g) of the subdivision;
10 that said project developer, et cetera, et
11 cetera.

12 SENATOR LEICHTER: Good. Thank
13 you, Senator. One other question if you would
14 be so kind as to yield.

15 What does it do with prevailing
16 wage?

17 SENATOR HOLLAND: It has nothing
18 specific, Senator. You know, we're working on
19 separate bills regarding prevailing wages. This
20 doesn't comment on it.

21 SENATOR LEICHTER: So, Senator,
22 am I correct that contracts let for construction
23 by this authority would not be subject to

1 prevailing wage?

2 SENATOR HOLLAND: They would be
3 subject to existing laws, Senator.

4 SENATOR LEICHTER: Existing laws,
5 and does that existing law include the
6 prevailing wage laws?

7 SENATOR HOLLAND: Only the
8 prevailing wage laws that are on the books
9 today, General Municipal Law, and you know we
10 are developing other bills regarding the
11 prevailing wage.

12 SENATOR LEICHTER: But you're
13 saying that it would be subject to -

14 SENATOR HOLLAND: Existing law.

15 SENATOR LEICHTER: -- existing
16 prevailing laws insofar as these affect
17 municipal contracts.

18 SENATOR HOLLAND: Correct.

19 SENATOR LEICHTER: O.K. Thank
20 you.

21 SENATOR OPPENHEIMER: Mr.
22 President.

23 THE PRESIDENT: Senator

1 Oppenheimer.

2 SENATOR OPPENHEIMER: If Senator
3 Holland would yield.

4 SENATOR HOLLAND: Yes, ma'am.

5 SENATOR OPPENHEIMER: The
6 construction that you're talking about in this
7 bill I'm not sure what that is. There's a
8 portion in the bill that talks flow control, and
9 flow control is fine with me if it involves
10 construction of a MRF, but it's not fine if it
11 involves construction of something that, of an
12 incinerator.

13 The construction you were just
14 talking about, what -- what is to be
15 constructed?

16 SENATOR HOLLAND: I don't believe
17 there's any discussion of construction of an in
18 cinerator, Senator. There might be construction
19 of a building where the refuse would be
20 separated.

21 SENATOR OPPENHEIMER: Right, a
22 MRF.

23 SENATOR HOLLAND: Yes.

1 SENATOR OPPENHEIMER: O.K. Yes,
2 I believe last year, you can correct me, I'd
3 like to ask Senator another question. This bill
4 last year, did it have the flow control in it as
5 well?

6 I question because I voted
7 against it last year, and I think it is -

8 SENATOR HOLLAND: Was it last
9 year's bill or not?

10 SENATOR OPPENHEIMER: We have
11 checked it out.

12 SENATOR HOLLAND: I don't have it.

13 SENATOR OPPENHEIMER: It was in
14 an earlier edition. It's now changed. I will
15 be supporting the bill.

16 SENATOR HOLLAND: O.K. Thank you.

17 THE PRESIDENT: Last section.

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

20 THE PRESIDENT: Call the roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes 56.

23 THE PRESIDENT: The bill is

1 passed.

2 Senator Present.

3 SENATOR PRESENT: Mr. President,
4 call up Calendar 1520, please.

5 THE PRESIDENT: The Secretary
6 will read.

7 THE SECRETARY: Calendar Number
8 1520, by Senator Cook, Senate Bill Number
9 5264-A, an act to amend the Public Health Law.

10 SENATOR PRESENT: Mr. President,
11 is there a message of necessity at the desk?

12 THE PRESIDENT: There is a
13 message at the desk.

14 SENATOR PRESENT: I move we
15 accept the message.

16 THE PRESIDENT: On the motion,
17 all those in favor say aye.

18 (Response of "Aye.")

19 Opposed nay.

20 (There was no response.)

21 The ayes have it. The motion is
22 agreed to. The message is accepted. Last
23 section.

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

3 THE PRESIDENT: Call the roll.
4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 56.

6 THE PRESIDENT: The bill is
7 passed.

8 THE SECRETARY: Calendar Number
9 1260, by the Senate Committee on Rules, Senate
10 Bill Number 5853-A, an act to amend the General
11 Municipal Law.

12 SENATOR SOLOMON: Explanation.

13 SENATOR PRESENT: Lay it aside
14 temporarily.

15 ACTING PRESIDENT LIBOUS: Lay
16 that bill aside temporarily.

17 THE SECRETARY: Calendar Number
18 1306, by Senator Spano, Senate Bill Number 2020
19 B.

20 SENATOR GOLD: Explanation.

21 THE SECRETARY: An act to amend
22 the Mental Hygiene Law.

23 ACTING PRESIDENT LIBOUS: Senator

1 Spano, an explanation is requested.

2 SENATOR PRESENT: Lay it aside.

3 ACTING PRESIDENT LIBOUS: Lay it
4 aside temporarily.

5 THE SECRETARY: Calendar Number
6 1331, by Senator Goodman, Senate Bill Number
7 4446-A, to determine -

8 SENATOR PRESENT: Lay it aside
9 temporarily.

10 ACTING PRESIDENT LIBOUS: Lay it
11 aside temporarily.

12 THE SECRETARY: Calendar Number
13 1338, by Senator Hannon, Senate Bill Number -

14 SENATOR PRESENT: Lay aside.

15 ACTING PRESIDENT LIBOUS: Lay it
16 aside temporarily.

17 THE SECRETARY: Calendar Number
18 1371, by member of the Assembly Lasher, Assembly
19 Bill Number 5823, Real Property Law.

20 SENATOR GOLD: Hold on one
21 second. Just one second.

22 SENATOR PRESENT: Lay it aside.

23 ACTING PRESIDENT LIBOUS: Lay the

1 bill aside.

2 THE SECRETARY: Calendar Number
3 1386, by Senator Velella, Senate Bill Number
4 5303, an act to amend the Insurance Law, the Tax
5 Law and the Administrative Code of the city of
6 New York.

7 SENATOR SOLOMON: Explanation.

8 SENATOR PRESENT: Lay it aside
9 temporarily.

10 ACTING PRESIDENT LIBOUS: Lay it
11 aside temporarily.

12 THE SECRETARY: Calendar Number
13 1389, by Senator Pataki, Senate Bill Number
14 5576-A, an act to amend the Mental Hygiene Law.

15 SENATOR PRESENT: Lay it aside
16 temporarily.

17 ACTING PRESIDENT LIBOUS: Laid
18 aside temporarily.

19 THE SECRETARY: Calendar Number
20 1416, by Senator Daly, Senate Bill Number
21 4757-B, Public Authorities Law.

22 SENATOR GOLD: Hold on one
23 second. Last section.

1 ACTING PRESIDENT LIBOUS: Read
2 the last section.

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

5 ACTING PRESIDENT LIBOUS: We'll
6 call the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 56.

9 ACTING PRESIDENT LIBOUS: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 1423, by the Senate Committee on Rules, Senate
13 Bill Number 5702, to amend Chapter 879 of the
14 Laws of 1936.

15 SENATOR GOLD: Explanation.

16 SENATOR PRESENT: Lay it aside
17 temporarily.

18 ACTING PRESIDENT LIBOUS: Lay it
19 aside temporarily.

20 THE SECRETARY: Calendar Number
21 1431, by the Senate Committee on Rules, Senate
22 Bill Number 6049, amends Chapter 814 of the Laws
23 of 1987.

1 SENATOR GOLD: Explanation.

2 SENATOR PRESENT: Lay it aside
3 temporarily.

4 ACTING PRESIDENT LIBOUS: Lay it
5 aside temporarily.

6 THE SECRETARY: Calendar Number
7 1444, by Senator Mega, Senate Bill Number 5985,
8 Uniform City Court Act.

9 SENATOR PRESENT: Lay it aside.

10 ACTING PRESIDENT LIBOUS: Lay
11 that bill aside.

12 THE SECRETARY: Calendar Number
13 1449, by Senator Daly, Senate Bill Number 6018,
14 New York State -

15 SENATOR PRESENT: Lay it aside
16 for the day.

17 ACTING PRESIDENT LIBOUS: Lay
18 that aside for the day.

19 THE SECRETARY: Calendar Number
20 1463, by member of the Assembly Pheffer,
21 Assembly Bill Number 1019, Tax Law.

22 SENATOR LEICHTER: Explanation.

23 SENATOR PRESENT: Lay it aside.

1 ACTING PRESIDENT LIBOUS: Lay the
2 bill aside.

3 SENATOR PRESENT: Temporarily.

4 ACTING PRESIDENT LIBOUS:
5 Temporarily.

6 THE SECRETARY: Calendar Number
7 1464, by Senator Holland, Senate Bill Number
8 5333-A, Social Services Law.

9 SENATOR LEICHTER: Explanation.

10 ACTING PRESIDENT LIBOUS:
11 Explanation. Senator Holland.

12 SENATOR HOLLAND: Mr. President,
13 we've gotten many complaints from the local
14 social services offices because we put an
15 administrative cap on them. In other words,
16 they couldn't spend any more money. This bill
17 will supplement and raise that cap if they have
18 a surge in case loads.

19 There is no money allocated this
20 year. It would be in next year's budget if this
21 bill is authorized. This bill is also carried
22 in the Assembly by Assemblyman Tallon.

23 SENATOR LEICHTER: Mr.

1 President.

2 ACTING PRESIDENT LIBOUS: Senator
3 Leichter.

4 SENATOR LEICHTER: If Senator
5 Holland would yield, please.

6 ACTING PRESIDENT LIBOUS: Senator
7 Holland, would you care to yield to Senator
8 Leichter?

9 SENATOR HOLLAND: Yes, sir.

10 ACTING PRESIDENT LIBOUS: Yes, he
11 will, sir.

12 SENATOR LEICHTER: Senator,
13 you've addressed what is my concern about this
14 bill is where we pass this bill and we tell the
15 communities, well, if you have a surge in your
16 welfare loads and the administrative costs
17 increase, we're going to help you, but we're not
18 putting any money in. So, you know, you may get
19 it some time in the future.

20 Is that a fair thing to do? Is
21 that a sensible thing to do?

22 SENATOR HOLLAND: I think it's
23 fair, Senator, because they have been asking us

1 to do this for a number of years and, if we're
2 successful in getting it passed this year, then
3 we'll fight over the money implementation next
4 March, and hopefully be successful.

5 SENATOR LEICHTER: But, Senator,
6 when you say that the localities have been
7 asking us to do this, they've been saying do it
8 with money, not with good wishes. I mean they
9 didn't -- they didn't say, please send us your
10 concern. They said, Send us your money, right?

11 SENATOR HOLLAND: I understand,
12 but we were unsuccessful in getting it done
13 before this. We were unsuccessful in getting it
14 done before this budget of April 1st. We want
15 to get it done next year. If we pass this bill,
16 we'll be required to look into the possibility
17 of funding this next year. It's better than
18 doing nothing.

19 SENATOR LEICHTER: Well, Senator,
20 as far as the localities are concerned, this is
21 exactly next to nothing. They're -- they're
22 coming here saying, Help us. I think they
23 probably make a fairly good -- good case.

1 You're saying, Well, I'm going to do what -- it
2 reminds me of Alice in -- in Wonderland, where
3 Alice -- where Alice was told, You can always
4 have jam tomorrow, but never today. Well, we
5 know your problem, we -- we really feel sorry
6 for you, and maybe we'll do something about it
7 one day. I mean the bill doesn't amount to
8 anything, does it?

9 SENATOR HOLLAND: Senator, it's
10 supported, you probably know this, by the New
11 York City -- I'm sorry, supported by New York
12 City, New York Public Welfare Association and
13 the New York State Association of Counties.

14 SENATOR LEICHTER: Senator, if
15 you would yield for one more question. You
16 certainly have distinguished sponsorship in the
17 Assembly and it has distinguished sponsorship in
18 the Senate, I want to make it clear.

19 SENATOR HOLLAND: Thank you,
20 sir.

21 SENATOR LEICHTER: Is that -- did
22 Assemblyman Tallon indicate he was going to pass
23 it?

1 SENATOR HOLLAND: Yes, sir.

2 SENATOR LEICHTER: O.K. Senator,
3 I guess the justification for the bill is that,
4 if we get it into law in this fashion, then
5 maybe we'll put more pressure on us next year to
6 put it in the budget.

7 SENATOR HOLLAND: Well said.

8 SENATOR LEICHTER: O.K.

9 ACTING PRESIDENT LIBOUS: Senator
10 Espada.

11 SENATOR ESPADA: Very briefly, on
12 the bill.

13 This is a good bill. It
14 certainly allows for many other things to
15 happen, some of them awaiting introduction in
16 this house for consideration, and I would urge
17 all my colleagues to support it.

18 ACTING PRESIDENT LIBOUS: Read
19 the last section.

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

22 ACTING PRESIDENT LIBOUS: Call
23 the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes 57.

3 ACTING PRESIDENT LIBOUS: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 1465, by member of the Assembly Brodsky,
7 Assembly Bill Number 5673-A, Local Finance Law.

8 SENATOR LEICHTER: Lay it aside.

9 ACTING PRESIDENT LIBOUS: Lay the
10 bill aside.

11 SENATOR PRESENT: No.

12 SENATOR LEICHTER: Explanation.

13 SENATOR JOHNSON: Mr. President,
14 this is a bill which, as we've heard, has
15 already passed the Assembly. I see no point in
16 laying it aside constantly. Is there a question
17 which could be addressed at this time?

18 SENATOR LEICHTER: Can you give
19 an explanation?

20 SENATOR JOHNSON: Yes, this
21 amends the water pollution control revolving
22 fund. It's making necessary changes to comply
23 with the federal requirements. It allows the

1 localities to execute a grid note, in other
2 words, a single bond for all the improvements to
3 the municipality's sewer district, and the money
4 would be advanced at the time it was actually
5 needed, the interest would start accruing from
6 the time the money is advanced, not from the
7 time the bond is actually issued.

8 This is a procedure which is done
9 privately many times which allows you to get a
10 line of credit and borrow what you need and pay
11 what you need at the time. It's a good
12 correction, will save the localities and the EFC
13 some monies, and there's no objection to it.
14 It's passed the Assembly, and it's something
15 that should be done.

16 SENATOR LEICHTER: Mr.
17 President.

18 ACTING PRESIDENT LIBOUS: Senator
19 Leichter.

20 SENATOR LEICHTER: Would Senator
21 Johnson yield?

22 ACTING PRESIDENT LIBOUS: Senator
23 Johnson, would you care to yield to Senator

1 Leichter?

2 SENATOR JOHNSON: Yes.

3 ACTING PRESIDENT LIBOUS: He will.

4 SENATOR LEICHTER: Senator
5 Johnson, does this affect in any way the bidding
6 requirements as to municipal notes or bonds?

7 SENATOR JOHNSON: No, it
8 doesn't. That's the same; this just protects
9 the way the money is -

10 SENATOR LEICHTER: I'm sorry,
11 can't hear you.

12 SENATOR JOHNSON: The answer is
13 no. The answer to your question is no.

14 SENATOR LEICHTER: Senator, if
15 you would yield to another question, would these
16 bonds or notes be subject to competitive
17 bidding?

18 SENATOR JOHNSON: Whatever the
19 present procedure is, Senator, will remain. All
20 we're saying is, the money can be advanced
21 incrementally and the interest due from that
22 date rather than the entire block being
23 contracted at once.

1 SENATOR LEICHTER: Good. No
2 objection.

3 SENATOR JOHNSON: Or having
4 multiple bond issues fattening multiple bond
5 dealers.

6 ACTING PRESIDENT LIBOUS: Read
7 the last section.

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

10 ACTING PRESIDENT LIBOUS: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 57.

14 ACTING PRESIDENT LIBOUS: The
15 bill is passed.

16 Senator Present.

17 SENATOR PRESENT: Mr. President,
18 may we call up 1449, please.

19 ACTING PRESIDENT LIBOUS: 1449,
20 Secretary will read.

21 THE SECRETARY: On page 33,
22 Calendar Number 1449, by Senator Daly, Senate
23 Bill Number 6018, New York State Urban

1 Development Corporation Act.

2 SENATOR LEICHTER: Explanation.

3 ACTING PRESIDENT LIBOUS: Senator
4 Daly, Senator Leichter is asking for an
5 explanation.

6 SENATOR DALY: Mr. President,
7 this bill extends the loan powers of the Urban
8 Development Corporation which expire on July
9 1st, 1993 for two years.

10 It also increases the number of
11 directors for UDC from 9 to 11.

12 SENATOR LEICHTER: Mr.
13 President.

14 ACTING PRESIDENT LIBOUS: Senator
15 Leichter.

16 SENATOR LEICHTER: Yes, Mr.
17 President, on the bill.

18 ACTING PRESIDENT LIBOUS: Senator
19 Leichter to speak on the bill.

20 SENATOR LEICHTER: Let me first
21 deal with what I think is a minor aspect of the
22 bill which doesn't bother me that much, in
23 increasing the membership of the board of

1 directors by providing for an appointee of the
2 Majority Leader of this house and the Speaker of
3 the Assembly.

4 I think -- I think that's good
5 although I wish that provision had also been
6 made for the Minority Leaders of the respective
7 houses to have an appointment. I think it's
8 good because the UDC has really become a
9 government within a government, and that leads
10 me to the second point and why I'm going to
11 oppose the bill is to extend its borrowing
12 powers.

13 UDC really has become, as I said,
14 a supergovernment that involves itself in numer
15 ous communities in the state in developments, in
16 projects, with extremely little control. Their
17 expenditures are outrageous. I'm going to be
18 issuing a report soon which will show you
19 enormous sums that the Urban Development
20 Corporation has spent on the so-called 42nd
21 Street Development Project which has gone
22 absolutely nowhere.

23 SENATOR DALY: Mr. President.

1 ACTING PRESIDENT LIBOUS: Senator
2 Daly, why do you rise?

3 SENATOR DALY: Will the Senator
4 yield?

5 SENATOR LEICHTER: Yes.

6 ACTING PRESIDENT LIBOUS: Senator
7 Leichter, will you yield?

8 SENATOR DALY: Senator, I think I
9 heard you say it extends UDC's loan -- borrowing
10 powers. This bill does not extend UDC's
11 borrowing powers. It extends its loan powers;
12 in other words, its power to give loans, not to
13 borrow money. I just want to make that point.
14 Does the Senator understand that?

15 SENATOR LEICHTER: Senator, I -
16 I'm glad you corrected me in that respect,
17 because I did misspeak. But even its loan
18 powers, I think, are suspect. I'm going to be
19 issuing another report on a program that the UDC
20 has had, a program that was supposed to help
21 minority businesses, that has been where they
22 make loans that has been an appallingly slipshod
23 program, lost money, hasn't achieved its

1 purpose.

2 I'm sorry to say that I think the
3 oversight of the Urban Development Corporation
4 by this Legislature has been really in
5 sufficient. We ought to be looking at it. We
6 ought to see what they do. We ought to see
7 where do these contracts go. I'd like to have
8 somebody check more carefully. Who are the bond
9 counsels? Who gets the insurance? What are
10 these projects? To what extent is there local
11 input, is there local control over these
12 projects?

13 But above all, how are we making
14 sure that public monies, and that's really what
15 we're talking about, I mean the UDC doesn't go
16 raise its own monies; they get large
17 appropriations. How is that being spent; how is
18 it being used?

19 Now, we'll of the Majority Leader
20 and the Speaker, their representatives will be
21 on the board, maybe there'll be a little more
22 openness, but I think really much more is
23 required, and I -- I just point out we're

1 dealing with millions and millions and millions
2 of dollars, without any of the controls that we
3 normally impose on governmental agencies, so I
4 wouldn't even call this an incremental step,
5 Senator Daly.

6 I think really so much more needs
7 to be done here, and I'm not -- I'm not willing
8 and ready at this time to give the UDC an
9 extension of any of its powers. Let's have an
10 audit. Let's have an accounting. Let's have an
11 investigation, because it's really called for.

12 SENATOR DALY: Mr. President.

13 ACTING PRESIDENT LIBOUS: Senator
14 Daly.

15 SENATOR DALY: Mr. President, in
16 many ways Senator Leichter and I agree on UDC.
17 However, I would like to make three points.

18 First of all, there is the PACB,
19 the PACB, which has the authority to and has to
20 approve any of the borrowings done by UDC.

21 Secondly, the Assembly is trying
22 to jam down our throats permanentization of the
23 loan powers and we, as you note in this bill,

1 say we'll go as far as two years, but we won't
2 go any further, and I think that's important,
3 Mr. President.

4 Also, the Assembly is not willing
5 -- does not want at this time to put any member
6 of the Legislature on the board, and I agree
7 with the Senator, and that's why we have asked
8 and we are requesting your approval to change
9 the law so that we do have one representative
10 from each house on the board of directors.

11 I think those three points are
12 important. One, PACB does have the authority to
13 have to approve any borrowing. Secondly, we
14 don't want to permanentize; we're saying we'll
15 go another two years, again because we want to
16 keep UDC on a short rein, and that is the
17 purpose of the language in it. That is our
18 approach to controlling UDC and its activities,
19 Mr. President. Thank you.

20 ACTING PRESIDENT LIBOUS: Read
21 the last section.

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

1 ACTING PRESIDENT LIBOUS: Call
2 the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes 55, nays
5 two, Senators Espada and Leichter recorded in
6 the negative.

7 ACTING PRESIDENT LIBOUS: Senator
8 Daly.

9 Oh, the bill is passed.

10 SENATOR DALY: Thank you, Mr.
11 President. May I move to reconsider the vote by
12 which Calendar Number 1416, Senate 4757-B
13 passed.

14 ACTING PRESIDENT LIBOUS:
15 Secretary will read.

16 THE SECRETARY: By Senator Daly
17 Senate Bill 4757-B, Public Authorities Law.

18 ACTING PRESIDENT LIBOUS: Call
19 the roll on reconsideration.

20 (The Secretary called the roll on
21 reconsideration.)

22 SENATOR DALY: I will shortly
23 have amendments to that bill. In the meantime,

1 I would like to lay it aside.

2 ACTING PRESIDENT LIBOUS: Bill is
3 laid aside.

4 SENATOR PRESENT: Regular order.

5 ACTING PRESIDENT LIBOUS:
6 Secretary will read regular order.

7 THE SECRETARY: Senate Bill 1469,
8 by the Assembly Committee on Rules, Assembly
9 Bill Number 8418, Estates, Powers and Trusts
10 Laws.

11 SENATOR GOLD: Explanation.

12 SENATOR PRESENT: Lay it aside.

13 ACTING PRESIDENT LIBOUS: Lay the
14 bill aside.

15 THE SECRETARY: Calendar Number
16 1472, by Senator Saland, Senate Bill Number
17 5979, an act to amend the Tax Law, the Labor Law
18 and the Navigation Law.

19 SENATOR GOLD: Explanation.

20 ACTING PRESIDENT LIBOUS: Senator
21 Saland, explanation, please.

22 SENATOR SALAND: Thank you, Mr.
23 President.

1 Mr. President, this is an omnibus
2 mandate relief act. The purpose of the bill is
3 to do just as the name would imply, which is to
4 basically try to attempt to give to the term
5 local/state partnership some substance, and what
6 this bill proposes to do with the relief of a
7 number of mandates which, in turn, would
8 translated to somewhere in the area of \$1.5
9 billion worth of tax relief to our localities,
10 is to accomplish that which we've heard much
11 talk about during the course of this -- of this
12 past session, and yet been unable to attain.

13 It is, in substantial part, the
14 end product of input from a number of my col
15 leagues, from a series of hearings that myself
16 and Senator Larkin conducted across the state
17 over the course of this session. It basically
18 has six major components.

19 Those components would be
20 reducing local fiscal burdens, permitting
21 localities greater administrative flexibility,
22 reducing the burden of state regulations,
23 eliminating unnecessary state reporting and

1 approval requirements, reforming municipal
2 liability and encouraging local consolidation
3 and cooperation.

4 ACTING PRESIDENT LIBOUS: Senator
5 Gold.

6 SENATOR GOLD: Yeah, thank you,
7 Mr. President.

8 Mr. President, I just want to ask
9 Senator Saland one question, if I could.

10 SENATOR SALAND: All right.

11 ACTING PRESIDENT LIBOUS: Senator
12 Saland, would you yield to Senator Gold?

13 SENATOR SALAND: Certainly.

14 SENATOR GOLD: Senator, is this
15 the same bill as 608-A of last year?

16 SENATOR SALAND: I don't believe
17 it is. It may -- it may have some of the same
18 components, but I don't believe it is.

19 SENATOR GOLD: All right. And
20 the second question is, this is my notes say the
21 Republican version. This is not an agreed bill,
22 is that right?

23 SENATOR SALAND: There are

1 currently three-way negotiations going on
2 dealing with the subject. As you may recall,
3 the Governor earlier this year at the time of
4 the State of the State and thereafter spoke very
5 glowingly about the subject of mandate relief.
6 We're hoping that that can be accomplished in
7 the remaining, if perhaps not hours then days of
8 this session.

9 SENATOR GOLD: Yeah. Mr.
10 President.

11 ACTING PRESIDENT LIBOUS: Senator
12 Gold.

13 SENATOR GOLD: First of all, I -
14 I want to relate to a point that Senator
15 Leichter made earlier today concerning so-called
16 one-house bills, and I think the point he was
17 trying to make was that we didn't resent so much
18 that we had to discuss a bill earlier today by
19 one of our Republican colleagues that had an
20 introductory date of February or March, in
21 July. I think the point was that, when we were
22 working for 15 minutes a day in February, we
23 could have worked an hour a day in February and

1 could have done all your one-house bills then.

2 But with regard to this specific
3 piece of legislation, this bill is opposed by
4 AFSCME and by CSEA. It was opposed, I believe
5 last year also, and I really don't want to get
6 overwhelmed by it, because the bottom line is
7 that there is a true mandate relief bill, I'm
8 sure that everybody will be in favor of it,
9 although, Senator Saland, I'm sure some people
10 over here may decide to vote for it.

11 But the hypocrisy of it all is
12 not Senator Steve Saland. The hypocrisy is that
13 this side of the aisle, day after day has to
14 point out to your side of the aisle each little
15 piece of schtiklauf which you'll explain to
16 them, Senator Saland, what that means that you
17 come up with each day that's a mandated on
18 localities and in each of your cases, when it's
19 your little bill, it's O.K. to mandate on
20 localities and, if you think that that comment
21 is made without back-up, you're wrong because I
22 would -- we are now up to, this is Calendar
23 Number 1472, Senator Saland, and if any of your

1 colleagues want to sit down with any of your
2 press or with your staffs and go from Calendar
3 Number 1 through 1472, I'm willing to bet you,
4 you won't find the Democratic bills that you've
5 let through, few as they may be, with mandates
6 in them, but you're going to find bill after
7 bill sponsored by Republicans in this house
8 which have unfunded mandates upon the
9 localities. But in each case we hear, Well, I
10 mean, but there'll be money for that. We'll
11 find money for that, or as somebody said, let
12 them skim tax, I still can't believe that one of
13 you people put that in your memo, that that's
14 how you're going to raise \$100 million by
15 skimming taxes.

16 But the point is that Senator
17 Leichter really was correct. This is the wrong
18 day, July 3rd, to start by negotiating out on
19 the floor. Senator Saland, I believe in my
20 heart that you would love to see a local mandate
21 relief bill, there's no doubt in my mind. I
22 also -- there's no doubt in my mind, Senator
23 Saland, that you have a very fine mind and I'd

1 like that mind off of this floor negotiating a
2 bill that we can pass, not standing here and
3 hoping, well, there are -- the Democrats in the
4 Assembly are now going to see that this house
5 passed a bill. This was not this house. The
6 Democrats who control the other house know that
7 you can pass anything you want and it doesn't
8 help your negotiating position or hurt it
9 whether you pass it or you don't pass it. All
10 you do is wind up wasting a lot of people's
11 time.

12 Now, I have heard just moments
13 ago that the Majority Leader of the New York
14 State Assembly has had the courtesy to come
15 before that chamber and announce that the
16 Assembly intends to work a little bit more
17 today, end at a reasonable time and come back
18 tomorrow and work through 'til we do our work.
19 All right?

20 I would think, if that's what
21 they are going to do, that who knows, at some
22 point we may decide that we are going to treat
23 this house like human beings and set up some

1 kind of a schedule and work out our problems.
2 But how do you do that if we got a calendar full
3 of things which are on the calendar for no other
4 reason than for people to take positions and
5 make speeches and not get any real laws passed?

6 When we do one-house bills in
7 July, we're not making laws. We're not doing
8 anything. We're doing nothing except things
9 which I start to resent very much and other
10 people do also.

11 So I'm not going to read the
12 memos. You've been through these memos before.
13 It's no secret where the opposition and where
14 the support comes from and, Senator Saland, it
15 would seem to me that there are two things that
16 can really happen: You can use your good
17 offices, which I happen to respect, and maybe we
18 can get a bill that becomes a law and, number
19 two, you can convince some of your colleagues on
20 that side of the aisle who I know respect you
21 very much, to stop putting in their bills which
22 are local unfunded mandates.

23 ACTING PRESIDENT LIBOUS: Senator

1 Saland.

2 SENATOR SALAND: On the bill.

3 Permit me to say, I certainly appreciate Senator
4 Gold's comments. He is certainly a most capable
5 representative of the chair, the Minority
6 Leader, and does his job very, very well. But
7 taking his comments and those of Senator
8 Leichter perhaps to their logical conclusion,
9 one would assume that what should be done is
10 during the first week of January, we should have
11 all bills agreed upon and at that time pass all
12 the bills and then spend the rest of our time
13 doing whatever it is that we have to do in order
14 to obtain some type of a budget agreement.

15 The reality is, as I mentioned in
16 my opening comments, Senator Larkin as the
17 chairman of Local Governments Committee, myself
18 as the vice-chair of the Legislative Commission
19 on State and Local Relations, conducted a series
20 of hearings statewide that concluded some two or
21 three weeks ago. It wasn't until after we had
22 concluded that series of hearings that we were
23 able to put together the bill that is currently

1 before the house, and the reality is that that
2 bill is supported by all of the municipal
3 organizations, the Association of Towns, the New
4 York State Conference of Mayors and Municipal
5 Officials, the Association of Counties, all with
6 memos strongly in support of the bill.

7 I certainly -- I don't feel that
8 any member who has been involved in the putting
9 together of this bill has anything to apologize
10 for. I think it certainly makes a statement of
11 where we're coming from. I think it remains to
12 be seen whether those in the other house and
13 whether the Governor can come to grips with what
14 we believe is a relatively simple matter and yet
15 get beyond the stage of paying lip service.

16 There should be little or no
17 reason not to support this bill, and even in
18 memos to which -- to which Senator Gold referred
19 deals with one small part of the bill, I believe
20 the part dealing with asbestos removal and
21 municipal contracts for roofing and the language
22 in this bill is supported by the roofing
23 unions.

1 Thank you, Mr. President.

2 ACTING PRESIDENT LIBOUS: Senator
3 Connor.

4 SENATOR CONNOR: Thank you, Mr.
5 President.

6 I realize that the whole concept
7 of mandate relief has a certain cachet and has
8 for the last few years in tough economic times,
9 times of budgetary constraint on the state level
10 and on the local and municipal level.

11 But I think we have to examine
12 each sort of mandate that we relieve and see
13 what its purpose and from whence it arose. Some
14 ten years ago, I was the chair of a task force
15 that conducted hearings around this state on the
16 problems of asbestos and the problem of asbestos
17 in public buildings, in school districts. Also
18 the hearings featured medical testimony and
19 expert testimony about the problem of asbestos
20 exposure and the health conditions it causes.

21 Very relatively small exposure to
22 asbestos fibers causes asbestosis, which impairs
23 lung functioning and is ultimately fatal. It

1 causes various types of cancers, which are
2 fatal, and literally in any given contaminated
3 area, there could be millions of virtually
4 invisible asbestos fibers, and it takes but the
5 inhalation of one of them to cause these
6 conditions.

7 There were, both locally in the
8 city of New York and on the state level,
9 attempts to remedy the asbestos problem and they
10 were two-fold. One was to provide for abatement
11 programs, and the second one was to make sure
12 that the people who were doing the abatement
13 work were qualified to remove asbestos because
14 unqualified, untrained workers removing asbestos
15 only enhance the pollution of the area. If
16 asbestos is removed improperly, the fibers are
17 spread throughout a building and, in some cases,
18 throughout whole neighborhoods when they took
19 off roofing materials, and so on, and we've all
20 experienced from Love Canal in that end of the
21 state, to problems in New York City what can
22 happen when you contaminate a whole
23 neighborhood. Indeed, in my district, lead

1 contamination in the soil and playgrounds and
2 whole neighborhoods is now a major problem. So
3 we provided that this asbestos abatement work,
4 asbestos removal, had to be done by specially
5 licensed and trained contractors whose workers
6 were trained.

7 This bill, and because of this
8 most of the public employee unions, AFSCME, C.C.
9 37, CSEA, are in opposition to it, would exempt
10 local governments and public authorities from
11 the requirements of our asbestos abatement
12 criteria and allow them to do the work, quote,
13 in-house with their own employees, not people
14 licensed to deal with asbestos.

15 Would they do it well? Well, let
16 me tell you something, my colleagues. We're all
17 dying from asbestos exposure in the LOB.
18 Thirteen or fourteen years ago OGS issued a
19 report, after studying the problem that the
20 whole LOB under those roofing tiles in your
21 office, those ceiling tiles, has friable
22 asbestos, the most contaminating, the most
23 dangerous form of asbestos. It's in your

1 office. It's in your staff's offices in the
2 LOB, it's throughout, and if you go into those
3 utility closets in the hallway across from your
4 office, it's not even covered by ceiling tiles.
5 You can see it flaking, falling down when you
6 open those doors.

7 What did OGS do about it? They
8 issued a report on asbestos containment in the
9 LOB, and they said no one can go in those
10 utility rooms to work without it being enclosed
11 in a special air-sealed bubble, without the
12 workers wearing all sorts of breathing
13 equipment. I have seen every year dozens of
14 times telephone company workers and electrical
15 workers in there tinkering around with the door
16 wide open, with the fibers coming out into the
17 hallway. I've seen that every year.

18 SENATOR SALAND: Mr. President.

19 ACTING PRESIDENT LIBOUS: Senator
20 Saland.

21 SENATOR SALAND: Would Senator
22 Connor yield, please.

23 ACTING PRESIDENT LIBOUS: I'm

1 sorry?

2 SENATOR SALAND: Would Senator
3 Connor yield, please?

4 ACTING PRESIDENT LIBOUS: Senator
5 Connor, would you yield?

6 SENATOR CONNOR: Yes, I will
7 yield.

8 SENATOR SALAND: Only for purposes
9 of brevity, because I know some folks on your
10 side of the aisle feel this has been going on
11 indefinitely. Your comments are certainly
12 pointed and well taken, but you understand this
13 is -- this only deals with roofing going on
14 outside of the building.

15 SENATOR CONNOR: I understand.

16 SENATOR SALAND: There is nothing
17 that's going to fall inside, nothing that's
18 going to be in any closets.

19 SENATOR CONNOR: No, I
20 understand, yes.

21 SENATOR SALAND: What's your
22 question? What's your question? You do
23 understand that?

1 SENATOR CONNOR: Yes.

2 SENATOR SALAND: O.K. I thought we
3 could move things up a little bit.

4 SENATOR CONNOR: Mr. President, I
5 have the floor. Thank you.

6 So asbestos certainly is
7 invidious. It's damaging to health; it's
8 damaging to your health. It's doing it right
9 now when you go back to your office because
10 those fibers get caught up in ventilation shafts
11 and you all laugh, you all laugh, but it's a
12 serious problem that our leadership, our
13 leadership in both houses, has not addressed.
14 Their offices are over here, by and large, in
15 the Capitol.

16 Outside, when you remove roofing
17 materials, there is a whole protocol that
18 regards -- that requires step by step that it be
19 done in a certain way and sealed because those
20 fibers can get into the air and, as I said
21 before, there is -- there has been experience
22 where whole neighborhoods, whole neighborhoods
23 have been contaminated with asbestos fibers for

1 the outside work.

2 And similarly the disposal of
3 that material that's removed is subject to a
4 whole series of protocols, that contractors and
5 workers are trained to do, the people who do
6 asbestos removal. This bill would exempt local
7 government, municipalities and public
8 authorities, from employing those trained
9 people, those experts. They do it with their
10 own in-house employees.

11 Now, frankly, a large portion of
12 the asbestos problem, the unremoved, unabated
13 asbestos roofing material, exists in public
14 buildings, in schools. And is it expensive to
15 do? Yes. But the only safe way to remove it is
16 that expensive way, and to say if they do it in
17 house, it's cheaper and they could get a lot
18 more done.

19 It's not just the problem in
20 removing the material. You have a worse
21 pollution problem if the removal isn't conducted
22 properly. It's safer to leave the asbestos
23 roofing materials there than it is to remove it

1 improperly. Obviously, the safest thing to do
2 is to properly remove it, and I don't think that
3 these in-house employees that there's any
4 assurance the in-house employees of public
5 authorities and local municipalities have the
6 expertise and knowledge or have even been
7 appraised of what the danger is.

8 Another thing we uncovered years
9 ago were workers who were sent in to remove
10 asbestos who weren't even told what it was, that
11 it was asbestos, weren't even told what the
12 threats were; they weren't told what precautions
13 they should take. I've seen those same kinds of
14 workers working in the LOB. I've gone into
15 those rooms and said as recently as a year ago,
16 to a phone worker, You know, that's asbestos,
17 you're not supposed to be in here without a
18 mask. This door is not supposed to be open
19 polluting all of our hallways. Actually had one
20 guy walk off the job and one union refuse to do
21 any more work in there. If that's the kind of
22 care we in our own house take with respect to
23 asbestos exposure, imagine what less

1 sophisticated local entities are going to do
2 with it.

3 This bill would say it's all
4 theirs to handle in their own way with their own
5 in-house employees, and I'm opposed to it.

6 ACTING PRESIDENT LIBOUS: Senator
7 Dollinger.

8 SENATOR DOLLINGER: Mr.
9 President, I rise on this bill, and I'm still
10 not sure what I'm going to do, but I wonder.

11 ACTING PRESIDENT LIBOUS: Excuse
12 me. Senator Saland, why do you rise?

13 SENATOR SALAND: I'll yield to
14 Senator Dollinger. I didn't realize he was
15 waiting to speak. I wanted to respond to
16 Senator Connor's comments, but -

17 ACTING PRESIDENT LIBOUS: Senator
18 Dollinger, would you yield?

19 SENATOR DOLLINGER: I'll yield
20 the floor to the sponsor if the sponsor wants to
21 to the last comments respond.

22 SENATOR SALAND: Thank you,
23 Senator Dollinger, I appreciate the courtesy.

1 ACTING PRESIDENT LIBOUS: Senator
2 Dollinger yields. Senator Saland.

3 SENATOR SALAND: I wouldn't want
4 the body to misunderstand anything that Senator
5 Connor may have said. One might be led to
6 believe that somehow or other, based upon his
7 comments, that there are no standards involved
8 with this bill.

9 Let me assure you, if you want to
10 take a look at the bill, and I believe the
11 language is contained in section 5, you will
12 observe that nobody gets a free ride. The OSHA
13 standards which requires -- which require
14 training of those people who are going to remove
15 the asbestos is what is required here.

16 Incidentally, most of this work
17 is done, not in-house, by in-house people. It's
18 done by roofing contractor union employees who
19 favor this bill, who are concerned about working
20 on a roof with an area that's enclosed, with
21 hoses all over the place, where they're at risk,
22 people who are concerned about wearing those
23 suits that they might be required to wear that

1 OSHA doesn't require in all circumstances, and
2 also it's the very same standard, not a
3 different standard, the very same standard
4 that's currently applied, the OSHA requirement
5 where we're talking private roofing contracts.

6 So I wouldn't want anybody to
7 misunderstand or somehow to think this is a
8 totally laissez faire operation where there are
9 not any requirements. OSHA not exactly renowned
10 as being a wimpy, sort of disinterested
11 organization requires the training and imposes
12 the standards that have to be met.

13 Thank you.

14 ACTING PRESIDENT LIBOUS: Senator
15 Dollinger.

16 SENATOR DOLLINGER: Mr. President,
17 will Senator yield just to one question, then
18 I -

19 ACTING PRESIDENT LIBOUS: Senator
20 Saland, would you yield for one question?

21 SENATOR SALAND: Certainly, and I
22 again thank Senator Dollinger for his courtesy.

23 ACTING PRESIDENT LIBOUS: He will,

1 Senator Dollinger.

2 SENATOR DOLLINGER: Senator, is
3 there an appropriation attached to this bill?

4 SENATOR SALAND: No appropriation
5 attached to the bill, I do not believe, Senator
6 Dollinger. Basically what we're talking here
7 is, in effect, a reduction of certain require
8 ments. Were there, in fact, to be any costs
9 associated with the bill, they'd be
10 significantly outweighed by the savings which
11 are identified by the bill.

12 SENATOR DOLLINGER: So I
13 understand it, this is mandate relief but there
14 are no funds, sort of unfunded mandate relief,
15 it's a real thing?

16 SENATOR SALAND: No, for
17 instance, your local governments and school
18 districts would save probably somewhere in the
19 area of 175 million dollars. That's the savings
20 we're talking about by reason of the current
21 asbestos standards that they're required to
22 adhere to. There's a host, probably somewhere
23 in the area of about 40 different mandates that

1 are addressed in here, each of which has some
2 different fiscal impact which translates to a
3 savings to local government.

4 SENATOR DOLLINGER: O.K.

5 ACTING PRESIDENT LIBOUS: Senator
6 Stachowski, why do you rise?

7 SENATOR STACHOWSKI: You asking
8 questions?

9 SENATOR DOLLINGER: I was.

10 SENATOR STACHOWSKI: I was going
11 to ask just one.

12 ACTING PRESIDENT LIBOUS: Senator
13 Dollinger was asking his one question.

14 SENATOR STACHOWSKI: I wanted to
15 ask a question; I thought he was through, but go
16 ahead. I'll wait.

17 ACTING PRESIDENT LIBOUS: Senator
18 Dollinger, you have the floor.

19 SENATOR DOLLINGER: Well, O.K.,
20 Mr. President, I got the answer I was looking
21 for.

22 When the issue of funded or
23 mandate relief comes up, Mr. President, I guess

1 it always perks my ears up. It's one of those
2 little catchy things that ends up on a key card
3 pro or con, you know, Dollinger favored mandate
4 relief or didn't favor mandate relief or voted
5 for or against mandate relief and, of course,
6 they leave off the fact that some time in this
7 chamber I proposed the Governor's mandate relief
8 bill which would have saved local communities
9 billions of dollars, but that bill didn't quite
10 go very far, voted down on a voice vote, so I
11 guess we're not talking about funded mandate
12 relief. We're talking about a series of things
13 we can do, and I sat in on one of the hearings
14 in Rochester, and I applaud some of the things
15 you're trying to do. But when you end up
16 shifting 30 or 40 variables in a bill, it
17 represents some interesting dilemmas. So what I
18 did is I did just a little lottery here and just
19 put my finger down on it and said let's look at
20 section 117 of the bill, which requires state
21 agencies -- this is according to the sponsor's
22 memo -- to consider local government petitions
23 for mandate relief and flexibility.

1 So I took a look at Section 117
2 and this is where, quite frankly, Mr. President,
3 the question of whether this really is mandate
4 relief or whether this is just mandating a whole
5 bureaucracy in this state to spend a ton of time
6 doing something that they're not currently doing
7 is an interesting question.

8 Just run through the section,
9 page 54 in the bill, Section 43, it starts off
10 petitions for rule changes, doesn't say local
11 governments can file the petition. It says a
12 person can file a petition. That means anybody,
13 anybody doesn't like a regulation can send a
14 petition to the state of New York to any one of
15 the agencies asking them to take a look at the
16 rules and regulations.

17 I don't know, a hundred a year, a
18 thousand a year, 18 million people in this
19 state, maybe several thousand a year flooding
20 into our agencies, all different kinds of
21 agencies, asking them, according to the rule,
22 according to this proposed law, to consider
23 amending or repealing their rules.

1 What are the bases for doing
2 that? Well, the first one is, they're based on
3 inadequate statutory authority. Quite simply,
4 if a rule or regulation is based on inadequate
5 statutory authority, it's unenforceable. That's
6 a simple principle of law. I'm sure most of us
7 can appreciate that. You don't enact rules that
8 are not based on statutory authority. If you
9 do, you can just challenge them in the courts.

10 It says imposes excessive costs
11 on regulated parties. I think that's an
12 interesting one. I'd leave that one there.
13 Says they're outdated; I think that you should
14 always have agencies looking at them again.
15 Says they're not clearly written. I'm not so
16 sure what that means. It says does not include
17 provisions for making the rules sufficiently
18 feas... flexible to meet the particular unique
19 needs of those who must comply with it.

20 What that suggests to me is that
21 this is an admonition to our agencies that you
22 should write rules which are specific, and
23 unique to specific situations. What that

1 suggests to me, Mr. President, is that isn't a
2 rule; that says that you have nothing but
3 exceptions. You have lots of little unique and
4 individual places that you'll simply create a
5 whole bunch of exceptions for all the people
6 that come in and file a request to have their
7 particular needs set.

8 So we'll end up with something
9 less than statewide regulation. We'll end up
10 with a bunch of little regulations trying to
11 meet all these little unique needs.

12 Then it says, or they're
13 duplicative or inconsistent with other state or
14 federal rules. We have a whole body of law that
15 applies in those instances when you can simply
16 say, if they're inconsistent with federal law
17 the supremacy clause takes care of them, they're
18 preempted; they're gone. Not a real difference
19 from the law, or they do not fulfill the
20 requirements of law. That falls back to the
21 first section. If they're not following the
22 requirements of law, they're unenforceable; you
23 don't have to worry about it.

1 Then what does it say? Well, it
2 says you file the petition; you put all this
3 stuff in the petition; you spend all your time
4 doing this, you submit it to the agency and then
5 they have an obligation within a certain period
6 of time to respond, and they say, Oh, yeah,
7 we'll do something or we won't do anything.

8 But what happens if they do
9 nothing? Well, there's no enforcement provision
10 in the reg, in this proposed law, so the agency
11 doesn't really have to do anything, except, and
12 I will predict that, if this bill passes, if
13 this some day becomes law, every one of our
14 agencies are going to show up at our doorstep
15 and ask for dozens of new employees so that they
16 can respond to this request, so that they can
17 set up an office which will be their regulation
18 review office to handle the hundreds, if not
19 thousands of requests that are going to pour
20 into state agencies asking them to do this.

21 That's going to generate a huge
22 cost, a huge cost for us. It may look like
23 we're creating mandate relief for someone else

1 or that we're giving them relief from the
2 flexibility to create flexibility in regulation
3 but to get through this process, we're going to
4 have a need, in my opinion, for hundreds of new
5 employees to handle the thousands of requests.
6 These are detailed, complicated judgments,
7 complicated legal analyses. I think it will be
8 a bonanza for lawyers, and I think you're going
9 to end up in a position where you'll have great
10 frustration because there's no enforcement
11 provision at the end of this. You're going to
12 have someone go through the process. You're
13 going to raise their expectation that they'll
14 get relief, and when the agency basically says
15 six or eight months later, yes, we missed the
16 time period and, Oh, by the way, we've decided
17 not to respond, you don't leave them with any
18 reasonable legal alternative to sue them to
19 force them to do it.

20 You don't create mandate relief.
21 You simply create the need to create a whole
22 bigger bureaucracy to deal with the whole new
23 series of problems that you create.

1 Mr. President, I see that this
2 bill has some very good things in it. I
3 appreciate the sponsor trying to package it all
4 together. I understand the complexity of that,
5 and frankly, I'm probably going to vote for it.
6 But my gut reaction is that, if you look at the
7 individual items in this, you'll see that it's
8 not so much creating mandate relief as it's
9 simply creating a whole new level of bureaucracy
10 in this government under the pretext of trying
11 to create mandate relief for some other
12 government.

13 ACTING PRESIDENT LIBOUS: Senator
14 Saland, do you wish to respond?

15 SENATOR SALAND: Mr. President, I
16 certainly appreciate Senator Dollinger's
17 comments, and I believe his concern with regard
18 to flexibility can be readily addressed just in
19 terms of what we're attempting to do here is to
20 make sure that there's the ability to handle the
21 unique situation, one in which many regulations
22 require or afford the ability for a waiver
23 mechanism. Not all do, and we basically wanted

1 to make sure that that mechanism is available;
2 and secondly, I would think that instead of
3 burdening the state in court with Article 78
4 proceedings, which would be the only measure by
5 which some of these things could be
6 accomplished, in effect, working it out in a
7 less than adversarial situation by way of a
8 petition process would, in the long run, be a
9 less costly process and I don't -- your -- I
10 certainly respect your concerns. I don't know
11 if they necessarily would come to fruition.

12 ACTING PRESIDENT LIBOUS: Senator
13 Stachowski, did you have a question?

14 SENATOR STACHOWSKI: Would
15 Senator Saland yield for a question, please?

16 ACTING PRESIDENT LIBOUS: Senator
17 Saland, would you yield?

18 SENATOR SALAND: Yes.

19 SENATOR STACHOWSKI: In your
20 response to Senator Connor, you said that -- how
21 much did you say the school districts and local
22 governments would save on that?

23 SENATOR SALAND: 175 million.

1 SENATOR STACHOWSKI: You said
2 they save \$175 million and that the work will be
3 done by the same people that are doing it now
4 who all support the bill.

5 SENATOR SALAND: No, I think I -

6 SENATOR STACHOWSKI: That's what
7 you said.

8 SENATOR SALAND: I said there are
9 people who are currently doing that work who are
10 union roofing contractors. It's not done -
11 it's generally not done in-house and they are
12 regulated by OSHA. It's not, somehow this
13 unfettered "we're going to send the janitor up
14 on the roof and have him remove asbestos."

15 SENATOR STACHOWSKI: But pretty
16 much, you say -- O.K., it's not exactly the same
17 time people, it's the union people that are
18 going to do the work under OSHA standards. Now,
19 maybe I missed something because I know that a
20 lot has happened, but most of the focuses are on
21 places where President Clinton hasn't been so
22 fortunate in a rapid turn-over and a great
23 change in the way things operate, but if I'm not

1 mistaken in the last 12 years, OSHA has spent
2 more time chasing volunteer fire companies and
3 paid fire companies for the jackets they wear
4 and the air packs they use and the boots they
5 wear to cover fires than they have done on
6 enforcement of work place safety standards, and
7 maybe I missed it, and maybe you can tell me yes
8 or no, but has there been such a change now,
9 that OSHA is once again checking up on these
10 work place safety standards, so that because of
11 that, there will be -- the workers will be safe
12 and we shouldn't pay any attention to these
13 memos, because OSHA will be making sure that the
14 workers are safe and that these memos really
15 aren't necessary and they probably shouldn't
16 have been submitted?

17 SENATOR SALAND: I didn't know
18 OSHA had stopped, and if you're -- if you're
19 aware of that, I think you should really come to
20 the forefront with it and make sure that the
21 immediate world is aware of it. I think they're
22 doing far more than concerning themselves with
23 volunteer firemen which I perhaps believe

1 they're being a bit excessively zealous on, but
2 I suggest to you that to assume that OSHA would
3 have no interest or that people such as yourself
4 if you felt somehow or other they were doing an
5 inadequate job wouldn't have the ability to
6 apprise OSHA of a glaring oversight on their
7 part for failing to regulate this area, you
8 know, to me that sort of confounds both logic
9 and reality.

10 SENATOR DOLLINGER: Mr.
11 President.

12 THE PRESIDENT: Senator
13 Dollinger.

14 SENATOR DOLLINGER: Will Senator
15 Saland yield to a question, please? Am I next?

16 SENATOR SALAND: Certainly,
17 Senator.

18 SENATOR DOLLINGER: Again, I
19 apologize, I don't mean to be picayune, by
20 pulling out one section, but it happened to be
21 the one that I decided to take a look at. My
22 question is, you talked about negotiating a
23 resolution of these regulations, but isn't the

1 one lesson that we've learned in the last two
2 weeks, ten days, 24 hours, six days, that
3 someone has to have a hammer somewhere so that,
4 when the negotiations break down, someone can
5 lower the hammer and try to get this process,
6 force someone to actually do this process under
7 penalty of law, penalty of public opinion, and
8 doesn't the absence of any legal alternative in
9 this section, doesn't it render it meaningless?
10 People will go through it, they'll find out that
11 they can't reach resolution and then, oh, by the
12 way, there is nothing else you can do; you've
13 given it a try but you don't have the ability to
14 take them to court and force them to do it.
15 Doesn't that indicate that this will end up
16 being pretty much useless?

17 SENATOR SALAND: My assumption
18 would be that this would occur within the
19 context of an interested party or an interested
20 locality or some level of government having
21 something that they have a particular issue that
22 they wish to resolve, and I would assume that in
23 lieu of bringing -- bringing on an Article 78

1 proceeding in an adversarial situation, that
2 they would attempt to try and resolve it by way
3 of working it out in a conciliatory or
4 mediation-like fashion. Assuming they could
5 not, they would still have that remedy.

6 I would have to think that the
7 people on the other side, the people who were
8 providing the regulations, would be well aware
9 of what the process was all about, would
10 understand where the applicant or petitioner was
11 coming from, and would understand that they'd be
12 prepared to, if necessary, go Article 78.

13 The Article 78, as you know and I
14 know, is certainly a costly and time-consuming
15 process, but I would assume everybody would
16 prefer avoiding by way of working these out in a
17 conciliatory fashion.

18 SENATOR DOLLINGER: I concur that
19 conciliation is always the way to go but,
20 Senator, as I think you and I know, at some
21 point somebody has got to have a hammer to make
22 these things happen. My fear is, and again I
23 don't mean to be picayune, I think this bill has

1 some very good points in it, I don't simply pick
2 this out to see whether it really will do the
3 job, and my sense is that you will have a
4 provision which people will utilize once, get
5 through the process and figure out, Gee, the
6 state agency, as Senator Stafford -- I'm
7 reminded of Senator Stafford who constantly
8 stands here and says the state of New York
9 doesn't respond, they want to litigate, they
10 force those poor towns in the Adirondacks to do
11 this. They're going to force -- the state of
12 New York is going to force this poor community
13 that you just mentioned, this hypothetical
14 community, they'll say, We don't want to change
15 because it's going to cost us money, it's going
16 to take us time, and everybody will sit down and
17 say, Gee, we had a wonderful experience. We
18 tried to conciliate. It didn't work. We're
19 going to go to the lawyer and they say, Can we
20 sue 'em now? And the answer is, Gee, there is
21 no provision for suing them to force them to do
22 it, and I -- unfortunately, you may end up with
23 a procedure that ends up being a form of a cruel

1 hoax because you raised the expectations but
2 leave them at the doorstep and don't actually
3 get them to bring them in to get the kind of
4 conciliated result that you seek.

5 THE PRESIDENT: Last section.

6 SENATOR LEICHTER: Mr.
7 President.

8 THE PRESIDENT: Senator
9 Leichter.

10 SENATOR LEICHTER: I just want to
11 point out one aspect of the bill that
12 particularly concerns me. I think others have
13 been pointed out, and I think this bill is going
14 to fall very far short of its goal and, indeed,
15 in many instances, I think it's going to end up
16 costing some of the communities in this state.

17 But I'm particularly concerned
18 about the provision that the Commission on
19 Correction, which has supervision and oversight
20 over the detention facilities, both state and
21 local, will lose the power to direct change.
22 We've had instances where some of the local
23 jails failed to meet basic human standards.

1 I believe Dutchess County had a
2 problem, Senator Saland. That must be in your
3 district; many years ago where the commission
4 had to go in and had to point out that the
5 conditions were so terrible that changes needed
6 to be made.

7 Now, you're taking away the power
8 of that commission to direct those changes and
9 saying they can issue advisory opinions. Well,
10 you know, some sheriff who is mismanaging a
11 jail, he gets an advisory opinion. You know
12 what he's going to do with it? Right into the
13 nearest waste basket.

14 That was an important commission
15 that we set up. It's lost, unfortunately, a lot
16 of its power, a lot of its efficacy, but now
17 you're going and really cutting it off at its
18 knees and saying that it loses its control and
19 power over these local facilities.

20 I think that's very un
21 fortunate. You know, mandate relief is great.
22 It sounds good, but there are many things that
23 need to be done. There are many times that we

1 do have to tell a community what it has to do
2 and, as Senator Gold rightly pointed out, nobody
3 imposes more mandates than the Majority. I mean
4 Senator Maltese still has a bill on the calendar
5 that's going to cost the city of New York
6 millions and millions of dollars if -- if that
7 bill were passed and, as was pointed out, it
8 would also cost other localities if they go from
9 a two-person police car to a one-person police
10 car.

11 Talk about expensive mandates.

12 You have no shame, you'll vote for this bill and
13 you say, We're against mandates, and then you're
14 going to spend the rest of the day imposing
15 mandate upon mandate upon mandate.

16 But there are some mandates,
17 there are some functions that are important.
18 One of them is to see that the detention
19 facilities meet basic human conditions. We
20 learned after Attica what it means when our
21 facilities, when our prisons fail to meet those
22 conditions, and that's why we set up the
23 Commission of Correction and to take that power

1 away, I think is a serious mistake.

2 THE PRESIDENT: Last section.

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

5 THE PRESIDENT: Call the roll.

6 (The Secretary called the roll.)

7 SENATOR STACHOWSKI: Explain my
8 vote.

9 THE PRESIDENT: Senator
10 Stachowski.

11 SENATOR STACHOWSKI: To explain
12 my vote.

13 I would love to support a mandate
14 relief bill. I wish this bill didn't have the
15 asbestos section. I appreciate Senator Saland's
16 comments on asbestos, but unfortunately, in my
17 area, the OSHA inspectors aren't noted for being
18 on all the work sites and that the construction
19 industry for years has had a major complaint of
20 unsafe conditions that when you file a
21 complaint, go through the formal process of
22 filing a complaint, they can't get the proper
23 OSHA inspections.

1 So with that kind of exposure,
2 possibly to our employees in the local
3 government sector, I've got a major concern,
4 because that concern was brought to my attention
5 by the local -- by the unions that represent
6 those local people, and I don't think if it was
7 such a great procedure and that if OSHA
8 regulations were so good for them and that they
9 were as safe as it was stated by the sponsor,
10 that these memos would be here in front of us
11 and because of that exposure and because of that
12 human safety section of this bill, unfortunately
13 I'm going to find myself voting in the
14 negative.

15 SENATOR STAVISKY: Mr. President.

16 THE PRESIDENT: Senator
17 Stavisky.

18 SENATOR STAVISKY: Explain my
19 vote. There have been other occasions when we
20 have dealt with asbestos. In 1979, both houses
21 of the Legislature adopted a measure known as
22 the School Asbestos Safety Program which
23 required an inventory of every school in the

1 state to determine whether it contained friable
2 or crumbling asbestos.

3 We did that in the right way. We
4 required the inspection. This house and the
5 Assembly both adopted the legislation which, in
6 this house, was carried by the chairman of the
7 Senate Education Committee. In this
8 legislation, however, we provided funding for
9 the removal of the asbestos through building aid
10 and special asbestos removal aid.

11 I must tell you that, in
12 preparation for this legislation, I reached out
13 to the Mount Sinai School of Medicine
14 Environmental Science personnel. I reached out
15 to the unions which handle asbestos, and I
16 discovered that every former head of the
17 asbestos workers' union had died of lung
18 cancer.

19 It is a highly carcinogenic
20 substance which cannot be entrusted to amateurs
21 for removal. It has to be removed by competent
22 people, not by anyone who may be assigned the
23 job at his or her risk.

1 For this reason, I wish to be
2 recorded in the negative on this legislation.

3 THE PRESIDENT: Senator Stavisky
4 votes no.

5 THE SECRETARY: Those recorded in
6 the negative on -- those recorded in the
7 negative on Calendar Number 1472 are Senators
8 Connor, Espada, Galiber, Gold, Gonzalez,
9 Leichter, Markowitz, Mendez, Montgomery,
10 Ohrenstein, Onorato, Solomon, Stachowski,
11 Stavisky and Waldon. Ayes 43, nays 15. Also
12 Senator Smith in the negative.

13 THE PRESIDENT: The bill is
14 passed.

15 SENATOR PRESENT: Mr. President,
16 will you call up Calendar Number 1331.

17 THE SECRETARY: Calendar Number
18 1331, by Senator Goodman, Senate Bill Number
19 4446-A, an act to determine the date of birth of
20 Elaine Budoff, a Holocaust survivor.

21 SENATOR GOLD: If you will wait
22 one second. Where is Senator Leichter?

23 SENATOR LEICHTER: Last section.

1 THE PRESIDENT: Last section.

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

4 THE PRESIDENT: Call the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes 58.

7 THE PRESIDENT: The bill is
8 passed.

9 SENATOR PRESENT: Calendar 1306.

10 THE SECRETARY: Calendar Number
11 1306, by Senator Spano, Senate Bill Number 2020,
12 an act to amend the Mental Hygiene Law, in
13 relation to the reinvestment of funds.

14 SENATOR GOLD: Mr. President.

15 THE PRESIDENT: Senator Gold.

16 SENATOR GOLD: If Senator Spano
17 be kind enough just to explain briefly the "B"
18 print of this bill. We passed the "A" print
19 earlier, and some of us had some concerns, and I
20 believe those concerns may well have been taken
21 care of in the "B" print.

22 THE PRESIDENT: Senator Spano.

23 SENATOR SPANO: Mr. President,

1 this bill which we debated at length a couple
2 days ago, was recalled, was amended to
3 accommodate some of the concerns that were
4 raised by some of the members here, frankly, as
5 well as some of the members in the other house.

6 We -- what we have done is
7 increased the amount of money that would go to
8 community reinvestment to \$49 million per year
9 over a five-year period which comes to a total
10 of \$245 million, and we have also increased some
11 of the percentages in terms of the prevalence of
12 unmet need and of mental illness in some of the
13 different areas that are set forth in this
14 legislation, the result of which will be that
15 we'll be able to send some more money to some of
16 the areas that have a real serious problem,
17 namely, the city of New York, as well as to the
18 areas that are affected by consolidation and
19 closure of psychiatric centers and, at the same
20 time, we still have some of the money that would
21 be given to the Commissioner for -- for his
22 decision as to where the balance of it would
23 go. Difference is it goes from 36 percent in

1 the original bill that would be to the
2 Commissioner's discretion to 20 percent in this
3 bill, and that's where it gave us some of the
4 flexibility to help some of the other regions of
5 the state.

6 THE PRESIDENT: Last section.

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

9 THE PRESIDENT: Call the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes fifty...

12 THE PRESIDENT: Senator Espada.

13 SENATOR ESPADA: To explain my
14 vote.

15 I think that the term "landmark
16 legislation" is loosely used many times.
17 Certainly we've debated many things back and
18 forth in terms of the needs of real people and
19 this vote cast goes through at least on my part
20 without laying forth or putting forth my
21 feelings that this is, indeed, from the
22 perspective of the homeless, from those that
23 have psychic and emotional pain in our cities

1 and our state, that this is, indeed, overdue
2 landmark legislation.

3 My congratulations to Senator
4 Spano for this, and all the mental health groups
5 and the collaboration of both houses on this
6 bill.

7 THE SECRETARY: Ayes 58.

8 THE PRESIDENT: The bill is
9 passed.

10 SENATOR PRESENT: Mr. President,
11 can we call up Calendar 1463, please.

12 THE SECRETARY: Calendar Number
13 1463, by member of the Assembly Pheffer,
14 Assembly Bill Number 1019, an act to amend the
15 Tax Law, in relation to evidence of residence.

16 SENATOR GOLD: Mr. President, I
17 laid it aside yesterday. I did not lay it aside
18 today. Senator Leichter did. If you'd be kind
19 enough to bear with me one moment.

20 SENATOR LEICHTER: Yes. Senator
21 Maltese, I wanted to ask you a question on the
22 bill.

23 As I understand it, this bill

1 makes evidence of someone's membership in a
2 religious org... or institution, such as a
3 synagogue, inadmissible proof as to their
4 residence; is that correct?

5 SENATOR MALTESE: Mr. President,
6 the -

7 THE PRESIDENT: Senator Maltese.

8 SENATOR MALTESE: The terminology
9 of the bill indicates that it shall not
10 constitute evidence of residence within the
11 state for tax purposes. Rather than making it
12 inadmissible, it probably makes it of no
13 probative value and not to be considered as a
14 factor by the taxing authority.

15 It applies not only to the -- it
16 applies, as the terms of the bill indicate, any
17 regularly organized church, synagogue or
18 religious organization.

19 SENATOR LEICHTER: Senator, what
20 concerns me, and this was brought to my
21 attention by somebody else, but I think it's a
22 valid point. I can certainly see that you don't
23 want to make such membership conclusive, but you

1 -- your bill provides that no probative value
2 whatsoever can be given to the membership in a
3 synagogue or other religious institution or
4 organization.

5 That, it seems to me, goes too
6 far. I mean you could draft a careful bill
7 which accomplishes your purpose, which I gather
8 is that you want to make sure that, if somebody
9 has moved to Florida but they keep a membership
10 in the church or the synagogue that they
11 belonged to for many years, that in itself
12 should not be the basis for the Tax Department
13 saying, you're still a resident of New York and
14 we're going to tax you.

15 But I don't know why they can't,
16 together with other evidence, take a look at the
17 fact that somebody belongs to a particular
18 religious institution.

19 SENATOR MALTESE: Mr. President,
20 I think that the purpose of the bill is clear by
21 its terms. There was -- there is not -- should
22 not be a desire on the part of the state to
23 penalize somebody for a religious affiliation or

1 a religious membership.

2 I think that what the -- the
3 rationale behind this bill can best be referred
4 to by reading from a paragraph of a -- a
5 gentleman who was having his tax returns audited
6 by the state, and was advised that his
7 membership in his temple was being considered as
8 a factor to determine residence, even though it
9 was considered as a factor of lower
10 determinative value; and his -- his letter
11 reads, in the applicable portion:

12 "One approach has me
13 particularly up in arms. One of the questions
14 asked by the examiners and stated by
15 conciliation conferees is," quote, "'Is the
16 taxpayer still a member of his New York
17 temple?'" Unquote. And following the letter.

18 Now, I don't care if the taxpayer
19 is a member of a New York country club or if he
20 is a member of a Florida country club, but I
21 look upon a question of religious affiliation,
22 as in the case of Jewish affiliation, as being
23 anti-Semitic at the worst or an illegal act by

1 the state upon religion at the worst.

2 Now, I don't buy that paragraph
3 as completely as I do this one. "I have been a
4 member of my temple for 36 years, have served as
5 its president, served as its finance chairman
6 and served on its board of trustees. If I move
7 to the furthest corner of the earth, I will
8 still be a member of the temple. How dare
9 anybody question the fact that I might still be
10 a member?"

11 Mr. President, I think this
12 gentleman says it far better than I do. Most
13 people, no matter where they move, still feel a
14 kinship, a tie, a permanent tie, that could
15 never be severed by distance with their temple
16 or their church.

17 This bill seeks to not have that
18 tie, that affiliation, that nostalgia or
19 religious affiliation to be considered as a
20 factor in auditing his tax returns.

21 SENATOR LEICHTER: Well, Mr.
22 President, Senator Maltese, if you wrote the
23 bill in this fashion based on that letter, now I

1 know why you wrote the bill that way. But with
2 all due respect to the person who wrote that
3 letter, and certainly we do want people, even
4 after they leave this state, and God forbid that
5 they ever should leave the Empire State, but we
6 know it happens, and we certainly want them to
7 remain in religious institutions. But certainly
8 if the Tax Department asks about whether you
9 still belong to a particular institution doesn't
10 mean that they're anti-Semitic or anti-Catholic
11 or whatever.

12 The point is, all I'm trying to
13 point out to you, sir, is that I think that you
14 could achieve your purpose, write a bill that I
15 think would be effective in achieving that
16 purpose and would avoid a veto by the Governor.
17 If you just said that they could not base the
18 residency of somebody solely on the fact that
19 they still belong to a religious institution or
20 organization that was in this state, but I think
21 to say that they could not consider it in toto
22 with other things -- hey, it's really not worth,
23 you know, a protracted debate, but I think you

1 are inviting a veto because I think you've
2 written -- you've written it so broadly.

3 SENATOR MALTESE: Mr. President,
4 in response, I could understand Senator
5 Leichter's worry, apprehension that the Governor
6 might veto this if this were a very substantial
7 factor in the determination of residents' audits
8 by the state of New York Department of Taxation
9 and Finance.

10 But I have a document from that
11 very same department, dated February 17, 1993,
12 that indicates that this is a tertiary factor
13 where it indicates by definition a third ranking
14 of importance. These factors are below
15 secondary in importance and are far below
16 primary in importance, and, as a matter of fact,
17 are some 10 or 15 pages down in importance from
18 the primary factors in considering residence.

19 So I do not believe we are taking
20 a substantial determining factor away from
21 either the state Department of Taxation or any
22 of its agencies.

23 THE PRESIDENT: Last section.

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

3 THE PRESIDENT: Call the roll.
4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 58.

6 THE PRESIDENT: The bill is
7 passed.

8 THE SECRETARY: Excuse me, ayes
9 57, nays one, Senator Galiber recorded in the
10 negative.

11 THE PRESIDENT: The bill is
12 passed.

13 SENATOR PRESENT: Regular order.

14 THE SECRETARY: Calendar Number
15 1474,, by the Assembly Committee on Rules,
16 Assembly Bill Number 8663, an act to amend the
17 Executive Law.

18 SENATOR LEICHTER: Explanation.

19 THE PRESIDENT: Explanation is
20 requested. Senator Wright.

21 SENATOR WRIGHT: The bill
22 provides changes to the name of the Office of
23 Business Permits and Regulatory Assistance and

1 modifies the powers and duties of that office.
2 The bill is consistent with the requests of the
3 Governor in his program bill dealing with this
4 area also.

5 SENATOR LEICHTER: Mr.
6 President.

7 THE PRESIDENT: Senator Leichter.

8 SENATOR LEICHTER: If Senator
9 Wright would yield, please.

10 SENATOR WRIGHT: Certainly, Mr.
11 President.

12 SENATOR LEICHTER: Senator, what
13 intrigued me about this bill is that we're going
14 to have this name change of this office which
15 really has no change in functions. I know you
16 make a few changes. You, on the margin, make a
17 few changes, but essentially it's the same
18 office, isn't it?

19 SENATOR WRIGHT: Well, no, I
20 wouldn't -- wouldn't agree with that, Senator.
21 In fact, it's a merger of the Office of
22 Management and Productivity with the Office of
23 Business Permits and Regulatory Assistance.

1 If you will recall, earlier this
2 year, during the budget deliberation, that was a
3 proposed consolidation that we supported in this
4 house, and it was ultimately adopted in the
5 budget. So, in fact, it merges two units within
6 the executive branch and, correspondingly, this
7 title change places a new title and incorporates
8 those new duties in statute.

9 SENATOR LEICHTER: O.K. One more
10 question, Senator. I -- I didn't read the bill
11 maybe that carefully, but is -- is that
12 consolidation effected by this bill?

13 SENATOR WRIGHT: The
14 consolidation was effected by the authorization
15 in the budget as well as an executive order that
16 the Governor initiated. This bill changes the
17 statutory language to incorporate those changes,
18 and outline the additional duties.

19 SENATOR LEICHTER: Good. I
20 understand. Thank you.

21 THE PRESIDENT: Last section.

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

1 THE PRESIDENT: Call the roll.
2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 58.

4 THE PRESIDENT: The bill is
5 passed.

6 THE SECRETARY: Calendar Number
7 1476, by Senator Johnson, Senate Bill Number
8 6037, an act to amend the Social Services Law.

9 THE PRESIDENT: Explanation is
10 requested. Senator Johnson.

11 SENATOR JOHNSON: Mr. President,
12 we have on the books a program which permits
13 Onondaga and Rockland Counties to use finger
14 imaging to screen applicants for home relief.
15 They found out that they saved more than twice
16 as much money in the first few months as it cost
17 to install the system, that in Onondaga County
18 alone some 55 people, when they saw they had to
19 have their finger-imaging processed, they simply
20 decided not to apply for the program. In New
21 York City, it was revealed that last year some
22 45 million people cheated the system that they
23 know of, and people are very seldom, when

1 they're caught they're very seldom punished
2 because it's more expensive to prosecute and
3 jail them than just to turn them loose and let
4 them run off with what they've got, their
5 ill-gotten gains.

6 This does not -- not respect the
7 taxpayers' dollars and it certainly doesn't
8 deter people from trying to do it again. This
9 system did deter people in the few experiments
10 that have been tried. In Suffolk County, they
11 know that they're being ripped off and many
12 times Social Services, Medicaid, and so forth.

13 This is a very modest bill
14 really. It doesn't do what we ought to do. It
15 doesn't require the finger-imaging of all people
16 applying for welfare programs but only those on
17 home relief, single men, women, who apply for
18 money and they figure if they get it, they get
19 it if they don't, they don't. They probably
20 have off-the-books jobs and other things, so
21 it's just a little supplemental income.

22 So we're saying let's check these
23 people out, see if they've applied to more than

1 one place. At least let's not give them more
2 than one welfare check to which they're not
3 entitled.

4 Now, with the economic problems
5 facing all of our counties I say and the city of
6 New York, it should be statewide. A bill like
7 that was passed by Senator Holland, but
8 apparently it's not going anywhere in the other
9 house.

10 This is a Suffolk County bill.
11 We do have a Democrat Assemblyman who is
12 interested in putting this bill in the other
13 house. I hope that bill will be filed shortly
14 but, in any event, this bill is before us today
15 and we'd like to respond to the request of the
16 county to give them a chance to save some of
17 their taxpayers' dollars.

18 SENATOR GOLD: Mr. President.

19 THE PRESIDENT: Senator Gold.

20 SENATOR GOLD: Yes, as Senator
21 Johnson indicated, a similar bill was before
22 this house earlier today which dealt with
23 Onondaga and Rockland Counties, and we had a

1 debate on the issue, and Senators Connor and
2 Dollinger, Espada, Galiber, myself, Gonzalez,
3 Leichter, Markowitz, Montgomery, Ohrenstein,
4 Oppenheimer, Smith all voted in the negative. I
5 don't think anything's changed. The idea still
6 (whispering) stinks.

7 Last section.

8 THE PRESIDENT: Last section.

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

11 THE PRESIDENT: Call the roll.

12 (The Secretary called the roll.)

13 SENATOR MARKOWITZ: Mr.
14 President, I'd like to explain my vote.

15 THE PRESIDENT: Senator Markowitz
16 is recognized to explain his vote.

17 SENATOR MARKOWITZ: Senator
18 Johnson, the reason why I'm voting against this
19 bill and the other bills of similar nature is
20 because I just find the idea of finger-printing
21 of welfare recipients to be repulsive. To be
22 honest with you, Senator Johnson, I know a lot
23 of very good people that are in a circumstance

1 and a situation, as my family was when I was
2 younger, to have to receive welfare, and I think
3 that there are ways of going about eliminating
4 fraud which we all want to eliminate from the
5 system, not only from people that collect
6 welfare, perhaps people that collect SSI,
7 perhaps -- perhaps doctors that are -- provide
8 Medicaid services, as we continue to see on
9 various programs like 60 Minutes, 48 Hours, and
10 other programs.

11 So it seems to me that if we're
12 about to set up a program of preventing fraud on
13 -- on programs which the state provides money,
14 it seems I would be much more likely to support
15 a bill if it covered the total universe of those
16 that receive benefits and programs provided by
17 public dollars, rather than focus in on only one
18 segment, and that's how I feel, and I -- I would
19 eagerly -- eagerly want to work with you and
20 others on a program that prevents fraud and yet
21 doesn't take away the dignity of people that
22 find themselves in a circumstance that they have
23 to collect welfare and so they can pick

1 themselves up and make their lives whole again.

2 So I vote no on this.

3 THE SECRETARY: Those recorded in
4 the negative on Calendar Number 1476 are
5 Senators Dollinger, Galiber, Gold, Markowitz,
6 Mendez, Montgomery, Ohrenstein, Oppenheimer,
7 Smith, Stavisky, Waldon. Ayes 47, nays 11.

8 THE PRESIDENT: The bill is
9 passed.

10 THE SECRETARY: Calendar Number
11 1477, by Senator Nozzolio, Senate Bill Number
12 6044-A, an act to amend the Election Law.

13 SENATOR OPPENHEIMER: Explanation,
14 please.

15 THE PRESIDENT: Explanation is
16 requested. Senator Nozzolio.

17 SENATOR NOZZOLIO: Thank you, Mr.
18 President. My colleagues, the legislation
19 before us takes another step in our efforts to
20 reform the state's election laws.

21 The the measure will increase the
22 maximum civil penalty for political candidates
23 who fail to file their financial disclosures, to

1 require the boards of election to make public a
2 list of those candidates who fail to comply,
3 requires the treasurer of political committees
4 to attest whether or not expenditures have been
5 made independent of the candidates, to close
6 what we believe is a glaring loophole in the law
7 where independent committees come in and make
8 significant expenditures without proper
9 accountability.

10 We also require campaign
11 disclosure statements to be filed on a more
12 timely basis. Those 10-day election statements
13 will have to be filed by overnight mail or in
14 person with the board of elections, and to allow
15 -- require a greater scrutiny as to those
16 campaign -- campaign contributions made to
17 candidates.

18 We also make adjustments in the
19 terms of office of the chairmen of the boards of
20 election in order to have more continuity and to
21 have them file on the same calendar year basis,
22 their terms would be every two-year cycle.

23 Also, and something I believe

1 very strongly in, the language of voter
2 registration forms and absentee ballots are
3 attempted to be made, by this legislation, more
4 understandable to the public-at-large to have,
5 in fact, a plainer, clearer language, more
6 readily understandable, less legalese, in an
7 effort to enhance voter registration and par
8 ticipation.

9 We also, something I also feel
10 very strongly about, in conclusion of my
11 explanation, is that in order to enhance voter
12 participation in this state, we believe it
13 essential that we should begin at an early age
14 and that our classrooms across New York, I
15 believe, have been dismal in their efforts to
16 promote the importance of voting in our New York
17 schools, that we learn a great deal about other
18 countries, other societies, but fail, I believe,
19 to learn enough about the fundamental precepts
20 of our democratic system, and that is the right
21 to vote and the necessity to vote, and we think
22 that can be enhanced by increasing educational
23 voter opportunity in the classroom at a very

1 young age.

2 Thank you, Mr. President.

3 THE PRESIDENT: Senator Gold.

4 SENATOR GOLD: Mr. President. I
5 know that Senator Connor has some suggestions,
6 very excellent suggestions on how we can make
7 this a better bill. I would like to offer one,
8 and, Senator Nozzolio, I stand up here with a
9 different kind of confidence than I would
10 normally stand up with an amendment because I
11 had the occasion to visit the Senate print shop
12 a few weeks ago, and I was met there by such
13 distinguished people as Senator Larkin, and,
14 Senator Daly, were you there? No, you were -- I
15 didn't think so. But Senator Larkin was there,
16 and, well, I know the very distinguished Senator
17 Kuhl was there, did not have his clubs, neither
18 did I.

19 But I know I'm going to get
20 support from people like that for this amendment
21 because, on that day, we were told how -- I know
22 Senator Libous was there -- everybody on your
23 side is for total open government, and if we're

1 going to reform the Election Law, I think my
2 amendment really has to be a part of it.

3 So, Mr. President, I have an
4 amendment at the desk. I would waive its
5 reading and ask the opportunity to explain it.
6 The amendment is really very simple. It would
7 amend the Public Officers Law to set up an
8 annual mass mailing allotment for each member of
9 the Senate and Assembly. So far, as you can
10 see, that's simple enough. It would provide for
11 three pamphlets per household within a district,
12 100,000 additional sheets of mass mailing within
13 a district, 22,730 first class mailings within a
14 district for each Senator, and in the Assembly
15 the numbers are a little bit different because
16 obviously the size of the districts are
17 different.

18 It also codifies the policy of
19 the 30-day mail blackout prior to elections, but
20 then it goes a little further, and this is where
21 the real election reform comes in, Senator
22 Nozzolio. It would require the Senate of the -
23 the Secretary of the Senate and the Clerk of the

1 Assembly to notify any member in an itemized
2 statement of any items in excess of their
3 allotment if it's been printed or posted, and
4 it's the duty of the member to so notify -- to
5 communicate this with the person or treasurer or
6 entity that they have to deal with, and report
7 it as a contribution to their campaign. Failure
8 to do so would be a misdemeanor.

9 It also amends the Election Law
10 to require any member who receives any mass
11 mailing in excess of their allotment to report
12 the allotment as a contribution in the campaign
13 disclosure filing.

14 Now, we have discussed this issue
15 in 17 different ways 'til Sunday, but I think
16 this really deals with the issue in its most
17 open fashion. If a member of the Legislature is
18 going to use public funds to communicate with
19 constituents about the wonderful things we do,
20 then each person, each of the 211 is a person,
21 and the office should be treated equally among
22 the 211 persons who hold that office.

23 But if a policy is going to exist

1 whereby, in an election year, as was shown by
2 the wonderful charts prepared by Senator
3 Dollinger which we won't bring to the floor
4 because I don't want the roof to fall in, the -
5 if, as those charts indicate, there are
6 additional mailings and additional postage that
7 hits our post office around election time and if
8 it develops that that is in excess of the policy
9 which is three mailings per member, then indeed
10 there is a campaign contribution that the New
11 York State Senate or the New York State Assembly
12 has made to that member, and if we believe that
13 that ought to happen, we should have no shame in
14 telling the public that it happened.

15 I know every member of this
16 Legislature and I know, God bless you, I know
17 that no one would consciously do something that
18 they weren't proud of. So I can only imagine
19 that when we send out these mailings that are
20 way in excess of mailings that other people get,
21 it is something that we are not ashamed of. It
22 is a policy of spending taxpayer money and
23 financing campaigns.

1 It's the same, if you want to
2 label it that in New York or in Rochester or in
3 Syracuse, even in Syracuse, that is campaign
4 financing, back door campaign financing, when
5 you use the public's money to give Senator X
6 extra mailings more than gets Senator Y.

7 And, Senator Nozzolio, in your
8 attempt to reform, if that's your word, the
9 election laws, this has to be a part of it, if
10 we are going to go to the public with clean
11 hands. And so that is what my amendment does,
12 plain and simple.

13 It doesn't tell you in this that
14 we can't do it. It tells you that, if you do
15 it, well, actually, it does say you can't do
16 it. It sets up a standard for the Assembly and
17 the Senate but, if you're going to violate that
18 standard, you must at least recognize you're
19 having an impact on elections. If it becomes an
20 Election Law matter, it becomes a campaign
21 contribution, and it must be reported as such.

22 That is the amendment, and I hope
23 there will be some support for it.

1 THE PRESIDENT: Senator
2 Dollinger.

3 SENATOR DOLLINGER: On the
4 amendment.

5 Mr. President, I rise in support
6 of this amendment from Senator Gold. It's
7 probably no surprise, given my activities in
8 this body for the last four months on the issue
9 of mail. And my only rhetorical inquiry to
10 Senator Gold would be, Gee, Senator, did this
11 ever go through the Insurance Committee?

12 And you'd say, why would it go
13 through the Insurance Committee? Well, because
14 my view has always been that, if you use the
15 mail right, if you use that thing the taxpayers
16 paid for, we in this chamber and, frankly, our
17 colleagues in the Assembly and those who scolded
18 me for not taking them to task, we get, by
19 virtue of this office, that form of incumbency
20 insurance. The only thing about it is, Senator,
21 some of us get a little bit more than others. I
22 guess if you're a Republican born before 1977,
23 you get a little bit more and, if you're a

1 Republican that might be under a political
2 attack, you might even get a little bit more
3 than that, but they don't -- that rule is not
4 written. We haven't found that one in writing
5 anywhere.

6 But the moral of the story is, we
7 end up with this little form of insurance for
8 incumbents. I get it, you get it, we all get
9 it. The only people that don't get it, of
10 course, are the people that come to challenge us
11 in those things that we call elections. We get
12 the ability to generate name recognition through
13 the taxpayers. We have this huge taxpayer PAC
14 sitting out there in the form of our \$10 million
15 mail operation, those little machines, and I'm
16 ashamed that Senator Wright or Senator Spano,
17 Senator Kuhl, those of us who were out there
18 watching those machines grind out those news
19 letters and all that mail, all that printing,
20 they aren't here. They can't appreciate what we
21 saw. I hope you got a full account of it.

22 But it seems to me that what we
23 ought to be doing is talking about real election

1 reform in which we try to balance the playing
2 field. Give everyone a chance, give everyone
3 the opportunity. Submit to some reasonable
4 restrictions such as those that are contained in
5 this amendment and we will level the playing
6 field, maybe not perfectly, but we'll begin to
7 balance it off, and it seems to me that's what
8 this amendment is designed to do.

9 This would be the real first step
10 on the road to creating competitive elections in
11 this state, and giving the people of this state
12 a real opportunity when they go to the polls to
13 make a judgment based on what they see in the
14 campaign and not what they've already paid for
15 through their tax dollars through publicly
16 supported mail.

17 I think it's a wise amendment,
18 and I hope my colleagues will accept it.

19 THE PRESIDENT: Last -- on the
20 amendment of Senator Gold.

21 SENATOR GOLD: Party vote.

22 THE PRESIDENT: All those in
23 favor say aye.

1 SENATOR GOLD: Party vote in the
2 affirmative.

3 SENATOR PRESENT: Party vote in
4 the negative.

5 THE PRESIDENT: Party vote in the
6 affirmative for the amendment and party vote
7 opposed to the amendment. The amendment is not
8 agreed -- or, oh, the Secretary will call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 23, nays 35,
12 party vote.

13 THE PRESIDENT: The amendment is
14 not agreed to.

15 Senator Connor.

16 SENATOR CONNOR: Thank you, Mr.
17 President.

18 I call up my amendment, first
19 amendment Number 1, previously filed, served and
20 filed at the desk, waive its reading and
21 explain.

22 THE PRESIDENT: Senator Connor is
23 recognized.

1 SENATOR CONNOR: In essence -
2 and let me comment on the main bill first just
3 very briefly. The main bill is a hodge-podge of
4 technical corrections, minor changes and slight
5 improvements over the present Election Law.

6 I don't think it even rises to
7 the misnomer of the bill we had last year under
8 Senator Bruno's sponsorship, the so-called
9 Election Reform Act of 1992. This bill, I don't
10 even think with a straight face, could be called
11 the Election Reform Act of 1993, and I'll
12 comment on its specific provisions when we're on
13 the main bill, assuming that my amendments are
14 unsuccessful. I don't know why I have that
15 instinct, but I suspect after all these years I
16 can usually smell when an amendment is a winner
17 or a loser.

18 But my amendment would substitute
19 for the language of this bill, a bill previously
20 passed by the Assembly which, of course, would
21 add the virtue then of presenting us with an
22 opportunity to engage in lawmaking rather than
23 one-house one-upsmanship.

1 The bill is denominated in the
2 other house as Assembly 1 or A. 1, which does
3 contain a number of important Election Law
4 reforms, principal of which is a public -
5 voluntary public campaign financing law which
6 we've debated before on this floor. We've seen
7 motions to discharge, and we've had debates on
8 it.

9 In summary, it would provide for
10 matchable public funding for the offices of
11 Governor, Lieutenant Governor, Attorney General
12 and Comptroller and also for the Senate and the
13 Assembly. There would be -- there's a
14 definition of matchable contributions which, in
15 essence, says those that are matchable come from
16 persons who reside -- natural persons who reside
17 in New York, they're matched one for one up to a
18 maximum of \$500.

19 There, of course, is a bonus
20 mechanism should someone opt not to be in, in
21 order to once again try and level the playing
22 field. Should, for example, a wealthy
23 individual opt -- not opt in and decide to spend

1 obscene amounts of his or her own money to run
2 for office.

3 The funding also is provided for
4 a primary, as well as a general election. There
5 are appropriate limits on contributions. For
6 example, in a statewide office an individual
7 contribution would be limited to \$4,000 and for
8 the Senate and Assembly \$1500, not insubstantial
9 fund amounts, but certainly not amounts large
10 enough to raise the appearance that undue
11 influence is being purchased by a contributor,
12 an appearance that often arises under the
13 present law, I think unfairly, but it's an
14 appearance, and it's there and the public
15 believes it and perceives it and it does do a
16 lot to undermine the public's confidence in the
17 work we, in elected office, do and we ought to
18 do what we can to dissipate that mistaken
19 appearance that is often given.

20 The overall spending limits, I
21 think, for those who participate, are certainly
22 substantial enough to allow the candidates to
23 get their message to the voters in the modern

1 electronic campaign era. For example, in the
2 general election, a gubernatorial candidate
3 could spend \$7 million. A state Senate
4 candidate could spend \$150,000, an Assembly
5 member \$75,000, certainly enough money to do
6 enough mail or media to get out the message.

7 Provision is also made for a tax
8 check-off so the public can voluntarily
9 participate. There are, of course, penalties
10 naturally for -- in this bill, there are also
11 penalties for failures of people, candidates and
12 committees to apply -- to comply with the law or
13 those who make misstatements.

14 Other changes in this amendment
15 with respect to campaign finance law do not
16 relate to public financing per se, but change
17 the present law in ways that I think ameliorate
18 some of the faults or loopholes that have been
19 exposed in recent years. For example, it
20 requires things like express mail for financial
21 reports mailed within two weeks of an election.

22 Now, Senator Nozzolio's bill, the
23 main bill here, appears to do that but it leaves

1 out the 11-day pre-election report, so while
2 Senator Nozzolio's bill would require the
3 24-hour notice of receipt of a contribution
4 greater than a thousand dollars after the cut
5 off date of the 11-day pre-election report, he
6 would require -- his bill would require it be
7 mailed by express mail. The -- his bill does
8 not address that 11-day pre-election report.

9 Now, we all have experienced, I'm
10 sure, the frustration of having opponents mail
11 in some remote mail depository, at the final
12 moment on the 11th day before the election, by
13 ordinary mail their filing which may take, given
14 the vicissitudes of the U. S. Postal Service,
15 four or five days to arrive at the state Board
16 of Elections in Albany.

17 By then, you're in the final week
18 end of a campaign and certainly don't have time
19 to take a look at the report to see if therein
20 lies anything that might be politically
21 exploited, and even if you did find something
22 there's certainly no time to publicize it, no
23 time to give, in all fairness, your opponent a

1 chance to reply to some appearance in there that
2 may cause political questions.

3 Other -- and I won't go through
4 every provision. But one of the things, for
5 example, this bill, this amendment would do is
6 -- is add a tie breaker to the Board of
7 Elections. We now have two Democrats and two
8 Republicans. This would add a fifth
9 commissioner, a person who doesn't belong to
10 either -- who belongs to neither party, who is
11 independent and, in effect, would be the tie
12 breaker.

13 Why? Well, there are times when
14 the two parties disagree. For example, should
15 they disagree on partisan lines over the
16 validity of a petition or should they, as often
17 happens in carrying out of the their investigat
18 ive responsibilities, they divide along partisan
19 lines and, therefore, an investigation is -- is
20 thwarted, a matter doesn't get referred to the
21 proper authorities or whatever. Not because
22 that's the way the commissioners voted, but
23 because there's a tie.

1 Even in this body, we have our
2 own tie breaker who stands above us all in the
3 event there ever would be a tie although with 61
4 Senators it's difficult to see how that could
5 transpire. As we know, the U. S. Senate has a
6 tie breaker. Why not the Board of Elections, a
7 person of such independence and credibility that
8 he or she could be the tie breaker.

9 The bill -- the amendment would
10 also provide for registration and enrollment of
11 voters up until 15 days before an election, in
12 this age of computer processing enough, a
13 sufficient time for the board of elections to
14 process a new voter and get them onto the
15 computer generated rolls which we more and more
16 in every county of this state are now turning to
17 for election day.

18 The bill also with respect to
19 ballot access, my amendment does not go as far
20 as I would go, and we've had this debate
21 before. My proposal to eliminate virtually
22 every technicality connected with the gathering
23 of signatures, all but the verification that the

1 signature is actually that of a registered
2 eligible voter, get away with -- do away with
3 witness statements, numbering, cover sheets,
4 E.D.s, A.D.s, all the nonsense we've imposed
5 over it. Maybe it wasn't nonsense 40 years ago,
6 but in the age of computers, the name and
7 address of a voter is sufficient identification
8 to find out if they're registered, and that
9 should be the only criteria.

10 Regrettably, this amendment
11 doesn't go as far as my proposals would, but it
12 is an improvement. Why do I embrace it now in
13 this amendment? Because it is from A. 1; it
14 last passed the Assembly. This week is no time
15 to engage in offering legislation or amendments
16 that would be merely one house. Adopt my
17 amendment, it's already been enacted by the
18 Assembly and we have legislation that can be
19 presented to the Governor for his signature.

20 What this does do though, with
21 respect to ballot access, is first of all
22 embrace the principle that I think is long
23 overdue do. It would provide that in

1 construction of all the valid access provisions,
2 the petition provisions of the Election Law,
3 that the court be directed to liberally construe
4 all those provisions; to, in effect, look at
5 them from the standard of whether they, in fact,
6 in a reasonable way, comply with the
7 requirements of law and, if they do, the court
8 would be, of course, expected to overlook
9 technical deviations, mistakes, clerical errors,
10 and so on.

11 This is the kind of standard that
12 applies in most areas of the law, and it's very
13 difficult to explain to those not familiar with
14 the arcane provisions of New York election law
15 just how bad it can be. In the course of some
16 work I was doing last year, I had occasion to
17 talk to a very prominent Texas lawyer in Dallas
18 and explain how it wasn't good enough for his
19 client, perhaps one of the best known men in
20 America, had signed a piece of paper in the
21 presence of his secretary who was a notary in
22 the state of Texas who signed her name to it,
23 who but failed to affix her seal with her number

1 on it, and when I explained to this partner in a
2 large Dallas law firm that that wasn't good
3 enough, it would have to be all redone because
4 the absence of a statement as to the authority
5 of the notary to act would, in fact, invalidate
6 the entire candidacy of a gentleman running for
7 one of the highest offices in the land, and this
8 lawyer in very lawyer-like language said to me,
9 "Mr. Connor, that's about as picky as it gets,"
10 and I said, "You've got it. Welcome to New
11 York. We're just about as picky as it gets,"
12 and we shouldn't be because we're playing with
13 people's right to vote. We're playing with the
14 right of people, whether you agree with them or
15 not, to run for office, to make their case in a
16 democratic, small "d" way, and we shouldn't be
17 as picky as it gets, and, therefore, embracing
18 the liberal construction provisions of this
19 amendment would go a long way.

20 And let me say, I don't -- I lay
21 upon the Legislature the responsibility at this
22 date, the responsibility for not dealing with
23 the problems, for not changing it, for not

1 making it more liberally construed. It's not
2 necessarily the Legislature's fault, for all the
3 strict construction. As I've said before, the
4 courts of this state have, for the last 40
5 years, embraced the doctrine of strict uniform
6 and mandatory construction of every provision in
7 the Election Law without regard for whether it's
8 form, substance or of any other significance,
9 and it is judge-made law, and it's a judge-made
10 standard, but that's the Court of Appeals has
11 said that's the standard they're using until we
12 give them a different one.

13 This amendment would give them a
14 different standard, a standard that every
15 reasonable person in this state agrees ought to
16 apply, a standard that is applied across the
17 board in other areas of the law, a standard that
18 is applied across the country.

19 So I can't blame this institution
20 of the Legislature for adopting this approach,
21 because we've all seen -- we've all experienced,
22 indeed former members of this house have been
23 removed from the ballot while they were

1 incumbents for very unanticipated reasons
2 because of provisions set forth in the Election
3 Law that no one ever dreamed would be applied in
4 such a strict manner; yet the court said this is
5 how you do it.

6 So the -- with respect to ballot
7 access, the most important provision that my
8 amendment would do is to adopt this standard of
9 liberal construction, one that has already been
10 passed by the Assembly, one that I think would
11 meet with great approbation throughout the state
12 from editorial boards, from good government
13 groups, and one which would put New York into
14 the 20th Century with respect to ballot access
15 laws.

16 It would also eliminate the
17 requirement of a hundred signatures from each
18 Congressional District for a statewide candidate
19 and merely go with the total number being
20 sufficient to qualify the candidate. It would
21 amend the Election Law to provide something that
22 the -- let me say, Senator Bruno's so-called
23 Election Reform Act of 1992, if you will recall,

1 provided that the boards of elections, the state
2 Board of Elections and the county boards of
3 election should provide forms for petitions for
4 primary elections and forms for general
5 elections and should also provide sample cover
6 sheets to candidates.

7 This is something good government
8 groups wanted. We adopted it. At the time of
9 imposing that so-called reform legislation, one
10 of the objections I raised, it remains to this
11 day, is the fact that that law tells the boards
12 of elections, give out these forms. It does not
13 tell the candidates or -- that they may rely on
14 that, and the courts of this state, specifically
15 the court of Appeals in a case called Galletta
16 against Mahoney, a Buffalo -- case originating
17 in Buffalo some seven or eight years ago,
18 specifically said that when the form is provided
19 by the board of elections the candidate has no
20 right to rely on it, and in that case where the
21 candidate relied on the form given out by the
22 board of elections, the form was erroneous in
23 that it admitted -- omitted calling for some

1 required simple information. In relying on
2 that, the candidate did so to her own detriment
3 and she was removed from the ballot.

4 We've now passed a law that's on
5 the books saying they have to give these forms
6 out. They give them out. I have seen sample
7 petition forms being given out that omitted
8 required information, that were erroneous as the
9 cover sheets. I've seen that in the city of New
10 York. Given my interest in the area, I've seen
11 it early, early enough to tell the board, This
12 is wrong, and have them change the sample they
13 were giving -- given out.

14 But should that fall in the hands
15 of an unwary candidate and should they rely on
16 it, they could be removed from the ballot.
17 That's a ridiculous thing. We've gone from
18 worse -- from bad to worse. It used to be the
19 board didn't give out the forms and candidates
20 were left to their own devices and if they were
21 wrong they were off the ballot.

22 Now, we have what I call the set
23 up law of 1992. You can be set up if you're a

1 candidate, set up by the Legislature and the
2 board of elections. Go in; well, what do I have
3 to do? Here, follow this form. Fine. Follow
4 the form, have someone take you to court after
5 the fact and say, The form's in error. Oh, but
6 I relied on the board of elections. Well, you
7 can't do that. Our Court of Appeals has said
8 you have no right to rely on the board of
9 elections.

10 So one of the things my amendment
11 would do is say you have a right to rely on the
12 information they give you. If you follow the
13 form they give you, you can be on the ballot.
14 This, then, in sum, is what my amendment would
15 do: It would adopt the provisions of Assembly
16 Number 1 which have been adopted, which contain
17 important reforms.

18 Let me say, Mr. President, in
19 closing, because I have a second amendment which
20 I will discuss in the briefest terms, but what
21 I've observed this year between the two houses,
22 for a long time, there was a long-standing
23 practice that the houses of this Legislature

1 would cooperate in making necessary technical
2 amendments to the Election Law because from time
3 to time quite apart from policy differences,
4 technical problems arise.

5 For example, last year we amended
6 the C.P.L.R. in a way that quite unintentionally
7 gravely affected the way the Election Law will
8 operate in this state. Not intended. I have a
9 bill that would correct this, correct it in a
10 most technical way. I've been told in this
11 house they'll pass it, and I find out, well,
12 it's hostage to some policy thing the Assembly
13 wants to do. There are other technical things
14 that I believe are being held hostage by this
15 house because of policy differences, and I would
16 suggest in these closing days of the legislative
17 session, that the responsible people in both
18 houses, and I've conveyed this to the Assembly,
19 sit down and sort out, sort out these technical
20 provisions from the policy differences and at
21 least adopt them, so then the policy can be
22 weighed against policy and a lot of technical
23 administrative problems in the Election Law

1 won't be held hostage to the policy differences
2 that are embodied in the differences between my
3 amendment and the main bill.

4 Mr. President, I urge adoption of
5 the amendment.

6 ACTING PRESIDENT MEGA: On the
7 amendment, all those in favor signify -

8 SENATOR LEICHTER: Mr.
9 President.

10 ACTING PRESIDENT MEGA: Senator
11 Leichter on the amendment.

12 SENATOR LEICHTER: Yeah, Mr.
13 President. I think that in this house we're
14 extremely fortunate that we have one of the
15 leading experts not only in this state but in
16 the nation on the Election Law in Senator
17 Connors, and I think that he made most eminent
18 good sense in the proposals that he put before
19 us in this amendment.

20 It's hard for me to understand
21 that we would not do it except for what has been
22 the attitude of the Majority here that you make
23 elections as difficult, try to make them as

1 confusing, try to make it as confrontational
2 between candidates on technical requirements.
3 It's -- it's a real pity. It's a disgrace.

4 But the biggest disgrace is that
5 we failed to address the issue of big money in
6 elections, and that this Majority takes the
7 hypocritical position that we don't want to use
8 public monies for campaigns and yet you're
9 dipping into the legislative appropriation to
10 send out mailings for your candidates, and we've
11 documented it this year. You've tried to keep
12 it secret which, in itself, is disgraceful
13 because you're telling the public that they
14 don't have a right to know how their money is
15 being spent.

16 But we found out more and more
17 and more information about the tons of mail that
18 you send out before primary dates for some of
19 your candidates, that you send out before the
20 general election.

21 So don't tell us that you don't
22 believe in the public financing of campaigns.
23 You don't believe in the public financing of

1 campaigns other than for incumbent Republican
2 Senators, and I assure you we're going to
3 continue on this issue, we're going to disclose
4 it, you're going to be shown for what you are,
5 which is, when it comes to this particular area,
6 you're out and outright hypocrites.

7 But it's -- it's really
8 unfortunate not only in respect to how you
9 misuse the public money and seek to hide that,
10 but it's unfortunate that you're willing to
11 address what is really a cancer in the body
12 politick in New York State and throughout the
13 nation, and that is the effect of big money.
14 It's something that we need to address if we're
15 going to preserve our democracy.

16 If you're going to keep special
17 interest groups from having undue influence, if
18 you're going to make it possible for other than
19 very well connected, very rich people to run for
20 public office. We must address this. We need
21 to address it in New York State. We need to do
22 it nationally. At least some progress is being
23 made in the Congress. They are facing up to the

1 issue, but here absolutely not. There's a
2 Berlin wall up when it comes to any changes that
3 would make our elections easier, fairer, greater
4 access to the ballot, and would also preclude
5 the expenditures of enormous sums of money.

6 That's why Senator Connor's
7 amendment is so terribly important and this
8 issue is going to come back and back and back
9 and we're going to make sure that the public
10 knows who practices for themselves, financing of
11 their campaigns with public monies, refuses to
12 disclose it, and that issue will stay until you
13 come clean, until you face up to those matters
14 and those provisions that are raised in Senator
15 Connor's amendment.

16 ACTING PRESIDENT MEGA: Senator
17 Dollinger.

18 SENATOR DOLLINGER: Thank you,
19 Mr. President.

20 I rise to address the specific
21 issue of campaign financing and public financing
22 of campaigns. I was a young voter at the time
23 the presidential campaign -- public financing of

1 presidential campaigns went into effect and I
2 can remember, I guess it was, it was probably
3 largely Republican members of the Senate and the
4 Congress who said this is going to change the
5 whole political dynamics. It's going to change
6 the entire politics, the democracy as we know it
7 is going to cease to exist because we now have a
8 Socialist system of financing presidential
9 campaigns.

10 Well, Mr. President, my
11 recollection is that, since that went into
12 effect, Republicans have won the presidency
13 three or four times and Democrats have won it
14 once or twice. So obviously the danger of
15 campaign financing, controls on campaign
16 financing, and public financing of campaigns and
17 caps on the amount that could be spent in
18 campaigns has not worked to the disadvantage of
19 the Republican Party even though, quite frankly,
20 in this nation, and I'll bow to my colleagues if
21 they've got better information, but my
22 recollection is, you're still a minority party.
23 There's still more Democrats registered than

1 Republicans in this nation. So you can hardly
2 suggest that campaign financing and public
3 financing of campaigns has in any way damaged
4 the ability of Republicans to get elected at
5 least to the nation's chief office.

6 But more important than that, and
7 I think the message has to be heard from Senator
8 Leichter's point of view, about what this means
9 to this body. Senator Connor, in explaining
10 this amendment, said he regretted the mistaken
11 assumption that somehow giving large amounts of
12 money would be perceived by the public as buying
13 votes.

14 I'd submit to you, my colleagues
15 on the other side of the aisle, that that's
16 their perception. That's their perception on
17 rent control, when three of the major real
18 estate PACs give \$355,000 to the Republican
19 Senators, and suddenly six months after the
20 election is over, we talk about luxury rent
21 decontrol.

22 The perception on the part of the
23 public, quite candidly, not without significant

1 foundation, is that that money was used to buy
2 votes, if not buy results. The public would not
3 be unjustified in making -- drawing that
4 conclusion.

5 It seems to me the solution to
6 that is present in this amendment, that if you
7 had public financing of campaigns, if you had
8 everyone, challengers and incumbents alike, have
9 access to public campaign dollars, if you had
10 spending limitations, you would get rid of the
11 notion that big money is all that matters in
12 politics, that big money can buy votes, big
13 money can buy results, big money can buy
14 government.

15 That is the greatest danger to
16 our political system is that we simply become a
17 wealth-based democracy. We can not allow that
18 to happen.

19 I'm reminded of the old two
20 dollar bill story, when I first came into
21 politics in the early 1960s with my grandmother
22 who was a Republican elected official who told
23 me the story about what two dollar bills were

1 and why they disappeared. You don't see them
2 any more because they used to give them out in
3 downtown Rochester when you went in to vote.
4 You got a two dollar bill, and that's all it
5 cost for your vote.

6 Well, I suggest to you,
7 gentlemen, that the same thing is now true here
8 and certainly the public perception is strong
9 that you can buy votes in this chamber, that you
10 can buy political power by giving massive
11 campaign contributions. That notion is deadly
12 to our system of democracy and deadly to the
13 public's confidence in this government and in
14 this house.

15 I suggest to you that the kind of
16 things embodied in this amendment on campaign
17 financing have to be enacted in order to
18 preserve the public's confidence in what we do
19 and to create the one thing that I think we all
20 acknowledge a democracy depends on, fair and
21 truly competitive elections in which incumbents
22 and challengers both -- both have access to
23 public financing and opportunity to have their

1 message heard.

2 Without that, this system becomes
3 a fraud in and of itself.

4 ACTING PRESIDENT MEGA: Any
5 further debate on the amendment?

6 All those in favor of the
7 amendment, signify by saying aye.

8 SENATOR GOLD: Party vote in the
9 affirmative.

10 ACTING PRESIDENT MEGA: All those
11 opposed nay.

12 SENATOR PRESENT: Party vote in
13 the negative.

14 ACTING PRESIDENT MEGA: Call the
15 roll on a party vote.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 22, nays 37,
18 party vote with two exceptions.

19 ACTING PRESIDENT MEGA: The
20 amendment is defeated.

21 Senator Connor.

22 SENATOR CONNOR: Mr. President,
23 most briefly, I call up my second amendment.

1 That is -- this second amendment is essentially
2 A.1, the bill we just discussed in amendment
3 form without public campaign financing.

4 It embraces all the myriad
5 reforms contained in the Assembly version but
6 does not provide for the expenditure of public
7 money to support campaign activities.

8 Apparently some members have obviously -- some
9 members have objections and differences about
10 that and I wanted to give those members an
11 opportunity to make clear their position on all
12 of the other campaign and Election Law reforms.

13 ACTING PRESIDENT MEGA: On the
14 amendment before the house, all those in favor
15 signify by saying aye.

16 SENATOR STACHOWSKI: Party vote
17 in the affirmative.

18 ACTING PRESIDENT MEGA: Call the
19 roll on a party vote.

20 SENATOR PRESENT: Party vote in
21 the negative.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 2, nays 35,

1 party vote.

2 ACTING PRESIDENT MEGA: The
3 amendment is defeated.

4 Are there any other amendments?

5 SENATOR DOLLINGER: No. On -

6 ACTING PRESIDENT MEGA: Read the
7 last section. On the bill?

8 THE SECRETARY: Section 30 -

9 ACTING PRESIDENT MEGA: Withdraw
10 it. Senator Dollinger on the bill.

11 SENATOR DOLLINGER: Mr.
12 President, on the bill.

13 I think my views on the issues
14 raised by Senator Connor's amendment have been
15 articulated in this chamber. I guess, when all
16 is said and done, if this is what we're going to
17 pass, I agree with the sponsor this is a step
18 but I'm reminded of that old game I used to play
19 as a kid, Mother, May I. Somebody get real
20 close to the goal, and you'd say, Sure, you can
21 take little teeny weeny itsy bitsy tiny winy
22 wine steps, can't take a giant step, can't take
23 a normal step, but we'll let you have one of

1 those little tiny, tiny, tiny steps.

2 This is a little tiny, tiny, tiny
3 step in the right direction. My hope is that
4 next year, as we approach the election in 1994,
5 the kind of giant step that is embodied in
6 Senator Connor's amendment that has already
7 passed one house, that we know has support in
8 the other chamber, that that giant step forward
9 for the Election Law, where we'll look at the
10 issues of ballot access and access to petitions
11 and campaign finance and spending limitations,
12 all of those giant steps that are being talked
13 about in places like Washington, D.C. and other
14 state capitols, that we'll actually have the
15 courage to say, "Mother, may I take a giant
16 step?"

17 The ayes -- from this chair, the
18 answer is clearly yes, and I hope the chairman
19 of the Election Committee will take that giant
20 step next year.

21 ACTING PRESIDENT MEGA: Senator
22 Jones.

23 SENATOR JONES: Yes. While I

1 agree with my colleagues that a lot more is
2 needed, and I'm certainly going to support
3 Senator Nozzolio's bill, but I couldn't let his
4 definition of public school education as dismal
5 in the effort that we're putting into elections
6 and even in first grade in school, we do show
7 the ballot, we do talk to kids about elections,
8 so I just couldn't let your definition of
9 "dismal" stand. But otherwise I support you.

10 ACTING PRESIDENT MEGA: Senator
11 Connor.

12 SENATOR CONNOR: Thank you, Mr.
13 President.

14 I'm going to vote for this bill
15 not because it's great. It's just because it's
16 like pabulum, I mean it doesn't taste good but it
17 doesn't make you sick. So there's no point in
18 making a big fuss about it.

19 Just let me note though, that a
20 number of provisions in this bill have already
21 been adopted by the Assembly in the form of
22 separate bills and I really, going back to what
23 I said at the beginning, would urge the chairman

1 of the committee and his staff, the Majority
2 Leader's staff and the staff -- the
3 corresponding people in the Assembly, to sit
4 down and adopt them as separate legislation.

5 It seems to me we're now engaged
6 in a bit of a charade here by putting all of
7 these individual technical provisions in one
8 bill and maybe it's so you can call it omnibus.
9 They're not going to correspond to the measures
10 adopted by the Assembly. There are slight
11 differences. They're not identical bills and
12 we're going to leave here without even doing
13 some of these technical changes.

14 And I would also suggest that,
15 you know, the board of elections has prepared,
16 pursuant to legislation that we did in 1992, new
17 vote, new statewide voter registration forms and
18 new statewide absentee ballot applications and
19 they proposed a bill, a plain language bill in
20 effect, on the voter affirmation section. It's
21 embodied in a separate bill. It's embodied in a
22 bill sponsored by Senator Nozzolio and
23 Assemblyman Vitaliano and, in this bill, the

1 language is added on rather than substituted for
2 the present convoluted technical language.

3 I don't understand that. This is
4 a very important piece of legislation only
5 because the board is ready to roll the printing
6 presses on new plain language, easily
7 understandable statewide uniform forms that we
8 directed them to do, and I've talked to
9 officials at the state board in the last few
10 days, last night, and so on, and they say,
11 What's going on here? We were told to do these
12 forms. We've proposed them. Everybody said the
13 forms are fine. Senator Nozzolio is sponsoring
14 a bill, Assemblyman Vitaliano is sponsoring a
15 bill adopting the language, and now it's all
16 going to be lost because this omnibus bill is
17 coming out that has a different form in it,
18 Senator. It's not the same form.

19 ACTING PRESIDENT MEGA: Senator
20 Nozzolio, why do you rise?

21 SENATOR NOZZOLIO: Will the
22 gentleman yield?

23 SENATOR CONNOR: Certainly.

1 ACTING PRESIDENT MEGA: Senator
2 yields. Senator Nozzolio.

3 SENATOR NOZZOLIO: Thank you, Mr.
4 President.

5 Mr. Connor, I just wanted to
6 touch base on a point you were skimming across.
7 Before you continued to skim, I thought we
8 should cross, and maybe you were not aware of,
9 Senator, the fact that we have signed off on
10 those plain language measures that the Assembly,
11 members of your party and particularly the black
12 and Puerto Rican Caucus have raised concern or
13 objection, objection of which I know not what
14 the specifics are.

15 Now, maybe you could do us a
16 service today by talking to your members, your
17 colleagues there, and find out exactly what
18 their objections are because that, in fact, is
19 what I understand the hold-up to be.

20 SENATOR CONNOR: O.K. Thank you,
21 Mr. President.

22 ACTING PRESIDENT MEGA: Senator
23 Connor on the bill.

1 SENATOR CONNOR: And thank you,
2 Senator Nozzolio, and I'll be happy to make
3 those inquiries because I sense -- I think what
4 the Senator is saying is that they're prepared
5 to move this separate bill that embraces those
6 changes.

7 Some of the other things in here
8 are just innocuous. Name stamps, it's already
9 case law. Again, not to belabor it. There are
10 things in here that I think the houses can agree
11 on, not in the present form, not in the
12 so-called omnibus bill.

13 In the meantime, as I said,
14 there's nothing to brag about, nothing to get
15 upset about. I'm voting yes.

16 ACTING PRESIDENT MEGA: There
17 being no further debate on the bill, read the
18 last section.

19 THE SECRETARY: Section 30. This
20 act shall take effect on the 30th day after it
21 shall have become a law.

22 ACTING PRESIDENT MEGA: Call the
23 roll.

1 (The Secretary called the roll.)

2 SENATOR NOZZOLIO: Mr.

3 President.

4 ACTING PRESIDENT MEGA: Senator

5 Nozzolio.

6 SENATOR NOZZOLIO: Mr. President,

7 I ask unanimous consent to refrain from voting

8 and ask to explain my vote.

9 ACTING PRESIDENT MEGA: Explain

10 your vote.

11 SENATOR NOZZOLIO: My colleagues,

12 there has been many words used today to describe

13 all issues relating to election law but not the

14 issues that we are addressing in this bill. If

15 you favor increased accountability, if you favor

16 leveling the playing field for insurgent or

17 write-in candidates, if you favor public

18 disclosure, increased public disclosure for

19 political candidates, if you favor increased

20 ballot access for write-in candidates, if you

21 favor increasing the civil penalties for

22 candidates who fail to file the disclosure

23 forms, if you believe that these are important

1 issues, then the right thing to do is vote for
2 the bill.

3 This bill is more than a small
4 step. It's an important step in the effort to
5 reform our Election Law.

6 Mr. President, I vote in favor of
7 the bill.

8 ACTING PRESIDENT MEGA: Results.

9 THE SECRETARY: Ayes 59.

10 ACTING PRESIDENT MEGA: The bill
11 is passed.

12 Secretary will -- Senator
13 Present.

14 SENATOR PRESENT: Mr. President,
15 is there a message of necessity at the desk?

16 ACTING PRESIDENT MEGA: Yes,
17 there is.

18 SENATOR PRESENT: Can we call up
19 1522?

20 ACTING PRESIDENT MEGA: The bill
21 is on Supplemental -- the Supplemental 1
22 calendar, Senator Present. Do you wish to take
23 up that bill? It's on the Supplemental 1

1 calendar.

2 SENATOR PRESENT: Right.

3 ACTING PRESIDENT MEGA: And we do
4 have a message.

5 SENATOR PRESENT: Calendar Number
6 1522, on the supplemental calendar, by Senator
7 Trunzo, Senate Bill Number 5885-B, Retirement
8 and Social Security Law.

9 SENATOR PRESENT: Mr. President,
10 I move we accept the message.

11 ACTING PRESIDENT MEGA: So
12 ordered. Message is accepted.

13 ACTING PRESIDENT MEGA: Read the
14 last section.

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

17 ACTING PRESIDENT MEGA: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 59.

21 ACTING PRESIDENT MEGA: The bill
22 is passed.

23 Senator Present.

1 SENATOR PRESENT: Calendar 1498.
2 ACTING PRESIDENT MEGA: Secretary
3 will read.
4 THE SECRETARY: Calendar Number
5 1498.
6 ACTING PRESIDENT MEGA: 1498 on
7 the regular calendar.
8 THE SECRETARY: On page 40, by
9 Senator Tully, Senate Bill Number 5608-A, an act
10 to amend the Public Health Law.
11 ACTING PRESIDENT MEGA: Read the
12 last section.
13 THE SECRETARY: Section 2. This
14 act shall take effect on the 30th day.
15 ACTING PRESIDENT MEGA: Call the
16 roll.
17 (The Secretary called the roll.)
18 SENATOR OPPENHEIMER: Explanation.
19 Sorry. Thank you.
20 (The Secretary called the roll.)
21 SENATOR GOLD: Hold on.
22 ACTING PRESIDENT MEGA: Senator
23 Gold, why do you rise?

1 SENATOR GOLD: Explain my vote.

2 ACTING PRESIDENT MEGA: Senator
3 Gold to explain his vote.

4 SENATOR GOLD: Yeah, Mr.
5 President. In explaining my vote, I'd like to
6 point out that this is a different bill. No,
7 the last bill we passed just went so fast, and
8 I -- I want to congratulate Senator Trunzo.

9 The fact of the matter is
10 somebody made the comment in Rules that this is
11 a legislative mandate relief act. Thanks to the
12 work of Senator Trunzo, we hopefully will not be
13 flooded with all of these absurd pension bills.

14 SENATOR TULLY: Mr. President.

15 SENATOR GOLD: And it's about
16 time.

17 ACTING PRESIDENT MEGA: Senator
18 Tully, why.

19 SENATOR GOLD: And from that work
20 on that bill, I'm going to vote on this bill.
21 What do you want?

22 SENATOR TULLY: That's fine.

23 SENATOR GOLD: What do you want?

1 ACTING PRESIDENT MEGA: Read the
2 last section.

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

5 ACTING PRESIDENT MEGA: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 59.

9 ACTING PRESIDENT MEGA: The bill
10 is passed.

11 SENATOR PRESENT: Mr. President,
12 now take up Calendar 1262.

13 ACTING PRESIDENT MEGA: Calendar
14 1262.

15 THE SECRETARY: Calendar Number
16 1262, by Senator Johnson.

17 ACTING PRESIDENT MEGA: On page
18 27.

19 THE SECRETARY: Senate Bill
20 Number 5900, Environmental Conservation Law.

21 ACTING PRESIDENT MEGA: Read the
22 last section.

23 SENATOR OPPENHEIMER: No, not so

1 fast. Explanation.

2 ACTING PRESIDENT MEGA:
3 Explanation requested. Senator Johnson, page
4 27, Calendar Number 1262.

5 SENATOR SOLOMON: I have an
6 amendment, I think it's been handed up and
7 served on the bill.

8 ACTING PRESIDENT MEGA: There's
9 an amendment at the desk.

10 SENATOR SOLOMON: O.K. Thank you,
11 Mr. President. Just give me a second to pull
12 out my papers.

13 Mr. President, the amendment on
14 the bill is actually -

15 ACTING PRESIDENT MEGA: We're on
16 an amendment to the bill.

17 SENATOR SOLOMON: -- actually
18 deals with the piece of legislation that was
19 introduced by Assemblyman Silver and Senator
20 Mega dealing with air emission offsets for
21 incinerators in New York City.

22 The Clean Air Act which we know,
23 the federal Clean Air Act, which was originally

1 designed to improve air quality in this state
2 and in the country and particularly in urban
3 areas, prohibited any new pollution sources from
4 opening up and further worsening air quality
5 within the particular designated geographic
6 areas unless there are offsets, and air
7 pollution and emissions had to be -

8 ACTING PRESIDENT MEGA: Senator
9 Solomon, excuse me. Can we have some order in
10 the house.

11 SENATOR SOLOMON: -- had to be
12 reduced.

13 ACTING PRESIDENT MEGA: Senator
14 Solomon.

15 SENATOR SOLOMON: -- had to be
16 reduced. Thank you, Mr. -- Senator Mega.

17 And other air emissions had to be
18 reduced. As a matter of fact, the New York City
19 metropolitan area has been designated as a
20 severe non-attainment area for ozone standards.
21 Only two other areas in the country, Denver and
22 Los Angeles, come into that specific
23 designation.

1 Now, specifically what this would
2 do is, there are two incinerators, one in the
3 Brooklyn Navy Yard and one called the Southwest
4 incinerator. What was interesting was that the
5 Southwest incinerator just happened to have had
6 its application completed several days before
7 the effective date of the federal Clean Air
8 offset requirements, did not receive its permit;
9 it only had its application completed and, in
10 fact, that wasn't even completed because there
11 were subsequent amendments to applications.

12 This would, in effect, amend the
13 bill we have before us with a great piece of
14 legislation developed by Senator Mega in this
15 house, and all it does is take Senator Mega's
16 legislation and attach it to this bill, which
17 would, in fact, require the city of New York to
18 meet the standards as they really should be
19 meeting under the federal Clean Air Act so they
20 can not pull the wool over everyone's eyes and
21 say, Well, we filed the application with the
22 state of New York a week and a half before the
23 federal Clean Air Act.

1 This is a very important bill to
2 anyone who represents the city of New York
3 because, in fact, what's going to happen is in
4 the Southwest incinerator, we're going to
5 probably have an additional 700 tons annually of
6 pollution, whereas if we pass this bill, we'll
7 have to offset those -- offset approximately 325
8 tons of nitrogen oxide.

9 This also affects the Brooklyn
10 Navy Yard and I believe the Allis Head plant on
11 Staten Island, and I would just suggest everyone
12 vote yes on this amendment.

13 ACTING PRESIDENT MEGA: Any
14 further discussion on Senator Solomon's
15 amendment?

16 Senator Galiber.

17 SENATOR GALIBER: Senator yield
18 for a question?

19 ACTING PRESIDENT MEGA: Senator
20 yields, Senator Galiber.

21 SENATOR GALIBER: When you say
22 "offset," from a practical standpoint, what
23 does that really mean?

1 SENATOR SOLOMON: What happens
2 under the offset requirement, Senator, if the
3 city is going to open any new sources of air
4 pollution, they have to reduce air pollution in
5 other areas.

6 SENATOR GALIBER: How would they
7 go about doing that?

8 SENATOR SOLOMON: How would they
9 go about doing that? Well, that's some of the
10 problems that they've talked about. Whether
11 they've talked about reducing the number of cars
12 that come into Manhattan in the central business
13 district, whether they've talked about stricter
14 standards on some private businesses in the
15 area, that's the City's main problem, the main
16 sources of air pollution of this type that comes
17 into the -- the main sources is automobile
18 pollution, by the way.

19 SENATOR GALIBER: Senator, will
20 you yield for one other question?

21 SENATOR SOLOMON: Yes.

22 SENATOR GALIBER: Almost in the
23 form of a statement really. "Offset" always

1 means to me that, if you clear it up on this
2 side of the street, it has to go some place
3 else. So in the city of New York if we talk
4 about offsets in the Brooklyn Navy Yard, because
5 of whatever the criteria may be, would Mount
6 Vernon be affected by your offset from the city
7 of New York taking care of Brooklyn Navy Yard,
8 but impacting on another part, no, another
9 county in this instance?

10 SENATOR SOLOMON: No, it would
11 have to be within the city of New York, the City
12 would have to offset it.

13 SENATOR GALIBER: O.K. Let me go
14 to my other part of my district, I have fun
15 doing that.

16 SENATOR SOLOMON: O.K.

17 SENATOR GALIBER: For example, if
18 your amendment passes and this offset that we
19 make reference to, is it conceivable that we do
20 not have an incinerator or we cut down on the
21 pollution in Brooklyn Navy Yard and you add to
22 the South Bronx where we have in the matter of
23 four or five miles an incinerator, a sludge

1 printing press, Hunt Point Market and more
2 recently the burning of medical wastes within a
3 radius of four or five miles.

4 Would your offset open up the
5 possibility of another variable coming into that
6 community?

7 SENATOR SOLOMON: The -- I
8 believe the offsets specifically deal with the
9 emission, type of emission, from that plant. So
10 for that type of emission, there has to be an
11 offset.

12 SENATOR GALIBER: O.K.

13 SENATOR SOLOMON: So there may be
14 a different emission from the medical waste in
15 cinerator than there is from the garbage
16 incinerator.

17 SENATOR GALIBER: My point being
18 that we've got it all in my district; we've got
19 every bit of it. We have got a little bit of
20 Hunt's Point which calls for the trucks coming
21 in, so we've got type of that emission you're
22 talking about still within the frame of the four
23 or five miles; so if you want to offset it in

1 kind, if you will, the emissions from the smoke
2 trucks et cetera, that's conceivable that could
3 be added onto Bronx County in that particular
4 area where emissions in kind, like if you will.

5 SENATOR SOLOMON: Senator, if
6 these plants didn't open it wouldn't have to be
7 offset. The offsets only occur if these plants
8 open, and we're able to adopt this amendment.
9 That's what I'm saying. If these plants didn't
10 open, there would not have to be offsets. The
11 offsets only occur if the plants open, because
12 they're adding more pollution.

13 ACTING PRESIDENT MEGA: On the
14 amendment. On the amendment, all those in favor
15 signify by saying aye.

16 (Response of "Aye.")

17 All those opposed no.

18 (Response of "Nay.")

19 The noes have it. The amendment
20 is defeated.

21 On the main bill, Senator
22 Johnson, explanation requested.

23 SENATOR JOHNSON: Mr. President,

1 this will -- this bill is designed to comply
2 with the federal law requiring clean air, amends
3 the Environmental Conservation Law, Economic
4 Development Law, Executive Law, Finance Law,
5 Transportation Law, all in regard to clean air
6 compliance, makes an appropriation for that
7 purpose.

8 The 1990 amendments placed many
9 requirements on us, and what we're doing by this
10 legislation is giving the necessary legislative
11 authority to implement the federal
12 requirements.

13 We are -- we put a few other
14 things in addition to the federal requirements,
15 for example, Section 17 would have the state be
16 a leader in development and use of electric
17 cars, would help make a pilot program for
18 reduced trips for employees by having the state
19 do this for every 50 employees instead of a
20 hundred, which is mandated by law for other
21 businesses.

22 It will provide the Department of
23 Environmental Conservation and the Motor Vehicle

1 Department with flexibility to protect the
2 environment by reducing vehicle emissions with
3 new inspection stations, centralized
4 inspections, and so forth, as required by the
5 federal law.

6 It has some fees in it on
7 business and we tried to keep the fees to a
8 minimum so that it would not adversely affect
9 business, but as it is, the fees in the first
10 year would bring in about \$5 million, over 10
11 million the second year, and by the third year
12 of implementation in 1995-96, \$13.6 million
13 dollars annually.

14 I could talk more about this
15 bill, but essentially what we're trying to do is
16 what the law requires and so we can comply with
17 the law so we don't have any federal penalties
18 or federal usurpation of the regulations by
19 federal agencies, namely, the EPA.

20 ACTING PRESIDENT MEGA: Senator
21 Oppenheimer.

22 SENATOR OPPENHEIMER: I would
23 like first to make a couple of comments and then

1 question the Senator on the bill.

2 The Clean Air Act Amendments of
3 1990, the federal Clean Air Act, it places many
4 new obligations on the state to -- to control
5 the urban smog that we are dealing with, and the
6 acid rain and the toxic pollution and all the
7 other pollutants that come from the smoke
8 stacks.

9 New York State legislation is -
10 is needed to avoid the rather severe mandatory
11 federal sanctions that will come if we do not
12 pass substantive legislation and it will mean
13 for us the loss of a good deal of money in
14 transportation aid from the fed's and it will
15 put a virtual ban on -- on our industrial growth
16 if we don't get into control and get emission
17 restrictions that meet the federal government's
18 requirements, and I don't have to tell any of
19 you, because you've heard it too often, that we
20 live in an area where the air is considered -
21 the quality is considered unacceptable, and it's
22 the whole metropolitan area that's considered
23 unacceptable, and it's a severe non-attainment

1 area, right after Los Angeles, and -- yes, in
2 Colorado, Denver. There you go.

3 Before I speak specifically on
4 the bill, I would like to ask Senator Johnson a
5 couple of questions, if he would yield.

6 ACTING PRESIDENT MEGA: Senator
7 Johnson, do you yield to a question or two?

8 SENATOR JOHNSON: Yes, Mr.
9 President.

10 ACTING PRESIDENT MEGA: Senator
11 Johnson yields.

12 SENATOR OPPENHEIMER: Senator
13 Johnson, there was a concern in Westchester that
14 we were being grouped into the environmental
15 area with New York City and, therefore, the
16 federal attainment goals could not really be
17 reached as far as the limitation on vehicular
18 traffic.

19 Do you know if -- if Westchester
20 has been separated out from New York City and
21 put in with Rockland and other suburban
22 counties?

23 SENATOR JOHNSON: In regard to

1 trip reduction, yes, Westchester will be able to
2 be handled differently.

3 SENATOR OPPENHEIMER: We'll be
4 separated out from New York City.

5 SENATOR JOHNSON: Yes.

6 SENATOR OPPENHEIMER: Excellent,
7 that was a requirement.

8 Let me comment on the bill now.
9 Thank you, Senator.

10 ACTING PRESIDENT MEGA: Senator
11 Oppenheimer, on the bill.

12 SENATOR OPPENHEIMER: We have
13 very serious concerns about the fee structure.
14 The fee structure looks like it is not
15 sufficient to avoid federal sanctions. The -
16 the Senate's fee structure is -- appears to be
17 inadequate to fund the programs that are
18 required to implement -

19 SENATOR DALY: Mr. President.
20 Senator yield for a question?

21 SENATOR OPPENHEIMER: Yes,
22 Senator.

23 SENATOR DALY: Do you know under

1 this bill, as far as fees are concerned,
2 Senator, how much money will be raised say by
3 the year 1996 on an annual basis?

4 SENATOR OPPENHEIMER: It is
5 considered by the environmental groups of this
6 state -

7 SENATOR DALY: I said how much -

8 SENATOR OPPENHEIMER: -- to not be
9 a fraction of how much is needed.

10 SENATOR DALY: But I asked you
11 how much money would be raised?

12 SENATOR OPPENHEIMER: Can you
13 tell me, Senator?

14 SENATOR DALY: Oh, I can tell
15 you, it's \$20.4 million, \$20.4 million in fees
16 through this bill by the year 1996.

17 SENATOR OPPENHEIMER: And you're
18 probably familiar with the serious costs
19 involved in bringing our polluting stationary
20 sources and mobile sources under control.

21 SENATOR DALY: Yes, Senator, I
22 am, and I think if you studied the bill and
23 studied and worked with DEC and found out what

1 they want to use this money for, I think you
2 would find that this fee schedule would meet the
3 needs of DEC in properly implementing the Clean
4 Air Act.

5 Now, let me say we want to
6 properly implement the Clean Air Act. We want
7 in law, in statute, a bill that will satisfy the
8 federal government, as we have to do by November
9 15th, and much of what Senator Johnson has done
10 in this bill parallels the Clean Air Act.

11 Now, the basic question, Senator,
12 we have to ask ourselves is how far, how far up
13 in -- in front of the federal government should
14 we move. If you'll note -- Senator, if you will
15 note in the bill, if you've read the bill and
16 compare it to the Clean Air Act, you obviously
17 will see that this bill does meet the
18 requirements of the federal Clean Air Act.

19 The question is how far should
20 New York State go? Should we move ahead of all
21 other states, again having a tremendously
22 horrible impact on the economy of the state or
23 should we play on a level playing field with

1 other states? We believe Senator Johnson in
2 this bill has done an exceptionally good job of
3 trying to obtain -- attain a level playing field
4 status where New York State will honor the
5 federal Clean Air Act and yet not put itself in
6 a position where it goes so far ahead that we
7 are at a great disadvantage in other areas.

8 SENATOR OPPENHEIMER: Thank you,
9 Senator.

10 ACTING PRESIDENT MEGA: Senator
11 Oppenheimer to continue.

12 SENATOR OPPENHEIMER: Thank you.
13 I would question Senator Daly -

14 ACTING PRESIDENT MEGA: Senator
15 Oppenheimer, would you -

16 SENATOR OPPENHEIMER: -- in his
17 assessment -

18 ACTING PRESIDENT MEGA: Senator
19 Oppenheimer, please.

20 SENATOR OPPENHEIMER: If Senator
21 Daly will -

22 ACTING PRESIDENT MEGA: I'm
23 trying to get some order for you so we can

1 listen to your debate.

2 SENATOR OPPENHEIMER: Thank you; I
3 pointed this right out.

4 ACTING PRESIDENT MEGA: Would we
5 please -

6 SENATOR OPPENHEIMER: (speaking
7 loudly) can you hear me now? Senator Daly, if
8 you would yield.

9 ACTING PRESIDENT MEGA: I guess
10 you want no help. Continue.

11 SENATOR DALY: I will yield.

12 ACTING PRESIDENT MEGA: Senator
13 Daly yields.

14 SENATOR OPPENHEIMER: I -- I have
15 figures that show that what appears to be the
16 Governor's, I think -

17 SENATOR DALY: May I break in?

18 SENATOR OPPENHEIMER: The
19 Governor believes that -- the Governor's bill
20 apparently would require about 18 -- 28? .8 -
21 18.8 million -- \$18.8 million per year to im
22 plement what he feels will be required by the
23 federal government to put us in compliance and

1 to avoid federal sanctions.

2 The DEC believe \$23 million per
3 year will be required to put us into compliance
4 with federal statutes.

5 What's this 4 million?

6 SENATOR DALY: May I? May I
7 answer you, Senator?

8 SENATOR OPPENHEIMER: Yes.

9 SENATOR DALY: The figures -- the
10 figures Senator Johnson has and let me speak to
11 '94-95 and '95-96. '93-94 are almost finished;
12 we're halfway through there, but in '94-95 we
13 have 10.4 million and 4.35 million from the
14 inspection fee which totals out to almost \$15
15 million. In 1995-96, 13.6 million, 7.8 million
16 which, as I said before, comes out to 20.4
17 million, and we believe very sincerely, Senator,
18 that that is the amount of money that will do
19 the job for us. We don't see the need for
20 allowing the Department of Environmental
21 Conservation to fold in other jobs that have
22 nothing to do with the Clean Air Act.

23 We want to relegate these fees to

1 the administration or the implementation and
2 administration of the Clean Air Act.

3 SENATOR OPPENHEIMER: There is -
4 Senator, could I ask you to yield to one more
5 question?

6 ACTING PRESIDENT MEGA: Senator
7 Daly, do you yield?

8 SENATOR DALY: Yes, sir.

9 ACTING PRESIDENT MEGA: Senator
10 Daly yields.

11 Senator Oppenheimer.

12 SENATOR OPPENHEIMER: I'm
13 curious, Senator. You talk about other jobs
14 that the DEC wants to do with this funding
15 source. What -- what jobs are you talking
16 about?

17 SENATOR DALY: Well, you see,
18 basically, Senator, we believe that some of the
19 positions identified under these two categories
20 are Title V related, but we believe that they're
21 not needed to implement this particular piece of
22 legislation. We believe that DEC has included
23 in its, quote/unquote, jobs we need much more

1 than are needed and we have actually -- I know
2 that Senator Johnson in negotiating team sat
3 down and went through the jobs and worked -- we
4 worked from those jobs that -- those jobs on the
5 list that DEC gave to the negotiating team.

6 SENATOR OPPENHEIMER: They don't
7 have to base it on anything. Let me -- let me
8 say that there is room for disagreement here,
9 but that the various groups that have been
10 following closely the environment in our state
11 for many, many years -

12 SENATOR DALY: Can I point out a
13 job to you, Senator? Excuse me. I don't mean
14 to interrupt you, but you wanted me to list some
15 jobs for you. Can I give you some of that right
16 now?

17 SENATOR OPPENHEIMER: O.K.

18 SENATOR DALY: Let me give you an
19 example of what we mean. Let me point out that
20 the Environmental Chemist 3 position is not
21 related to Title V, and the position description
22 deals with the CEM program mandated by Title IV,
23 and is not required for implementation or not

1 needed for the implementation of the Clean Air.
2 That's the type of thing we mean that he's
3 including in the list of jobs supposedly
4 required, jobs that are not. That's one
5 example.

6 SENATOR OPPENHEIMER: All right.

7 ACTING PRESIDENT MEGA: Senator
8 Oppenheimer has the floor. Senator Johnson, why
9 do you rise?

10 SENATOR JOHNSON: I'd like to
11 know if I may help to respond to that question
12 that Senator Oppenheimer expounded on a few
13 moments ago.

14 ACTING PRESIDENT MEGA: Without
15 objection, Senator Johnson to respond.

16 SENATOR JOHNSON: I'd just like
17 to clarify a few things because some of the
18 memos are very confusing. There's one put out
19 by the American Lung Association, the EPL and
20 other groups collectively, which said that we're
21 only charging \$6 a ton and the EPA recommends
22 \$22 a ton.

23 Senator, I'd just like you to

1 know that the EPA recommends up to \$25 a ton or
2 whatever amount is required to perform the job,
3 whatever amount the state feels they need up to
4 \$25 a ton, but that doesn't start until 1995,
5 Senator.

6 What we're doing here is we're
7 phasing in, we're giving them money in advance.
8 We're giving them \$6 a ton for '93, \$12 a ton
9 for '94 so they can build up and get this thing
10 going, and up to \$17 a ton in 1995. So,
11 Senator, we are probably being as generous or
12 more than the federal EPA recommends.

13 As far as the Governor's memo
14 saying he would like \$40 a ton, I'm sure he
15 would because he could pass off more of the
16 costs of running the various departments on the
17 backs of the industries and the vehicle
18 operators of this state. But, Senator, I don't
19 know that it's a good idea to load on all you
20 can on this -- on this camel's back without
21 breaking its back.

22 So, Senator, our goal is to
23 charge what we feel is necessary to do the job

1 and not more. That doesn't mean, Senator, we
2 can't go from 17 to \$25 some time in the future,
3 but I don't think it's a good idea to send a
4 message to our business and our commuters in
5 this state, we're going to get all we can out of
6 you as fast as we can, and maybe you better make
7 plans to follow up on that inquiry from Kentucky
8 or North Carolina or Mexico and take your
9 business there before we get you for all that
10 big money.

11 So, Senator, we're trying to be
12 responsible and some of these memos are not
13 accurate, and I would like you to know that and
14 would like you to know that this has been well
15 thought out and, by the time this bill is up and
16 running, they're going to have about \$30 million
17 just alone from these fees, let alone another
18 \$10 million a year from auto inspections. So
19 they're going to have an awful lot of money,
20 Senator, under this bill; I think enough to do
21 the job.

22 ACTING PRESIDENT MEGA: Senator
23 Oppenheimer still has the floor.

1 SENATOR OPPENHEIMER: If -- if
2 Senator Johnson would just yield for one
3 question.

4 ACTING PRESIDENT MEGA: Senator
5 Johnson, do you yield?

6 SENATOR JOHNSON: Yes, Senator,
7 Mr. President.

8 SENATOR OPPENHEIMER: Senator,
9 are you aware that the New York State Business
10 Council has stated, I believe this month, that
11 the \$6 per ton that you have mentioned is in
12 sufficient and that \$10 per ton is what would be
13 required to do the job this year?

14 SENATOR JOHNSON: Senator, I
15 don't know how the Business Council did their
16 calculations, and whether they're right or
17 wrong, or whether the Governor is right or wrong
18 with his call for \$40 a ton. All I know is,
19 Senator, we have tried to structure this in a
20 way that the money will be sufficient to do the
21 job, and the Business Council is very supportive
22 of our bill, so I feel perhaps that any
23 appraisal you got of what the correct price

1 should be is merely a shot in the dark, and the
2 present bill is perfectly acceptable to the
3 Business Council.

4 SENATOR OPPENHEIMER: One more
5 question, Senator, if you will yield. You
6 mention the emissions inspection fees. Are you
7 -- how does that jibe with the fact that, in
8 this bill, these fees are supposed to go back
9 into the general fund, not for this purpose?

10 SENATOR JOHNSON: Senator, thank
11 you for bringing that subject up. It's
12 something we're well aware of and, as you may
13 know, this bill has been under active
14 negotiation for quite a period of time and we
15 know we're going to have to have an amendment to
16 this bill, perhaps to conform it to the Assembly
17 bill or they're going to get together and make a
18 completely new bill. But, Senator, everything
19 is on dead center with the Governor's office.
20 He doesn't seem to want to pursue any further
21 negotiations.

22 When we -- when we revise this
23 bill, Senator, we will make sure that that money

1 goes into a dedicated fund, which is what we
2 want to do.

3 SENATOR OPPENHEIMER: Excellent.
4 Could I ask the question that the ongoing
5 negotiations are moving ahead and we can expect
6 a two-house bill shortly?

7 SENATOR JOHNSON: Senator, you
8 know, I think we were further ahead last week
9 than we are this week on the negotiations, and
10 the Governor seems to be very reticent to come
11 to closure on this measure.

12 Senator, this is one of the most
13 important bills before this house this year, as
14 was the Environmental Trust bill. We passed
15 good bills. If they could be perfected by two
16 or three-way discussions, we'd like to have them
17 but, Senator, we can't leave here without doing
18 this bill, and the only way to make any progress
19 from this point on is to adopt this bill, and
20 let the Governor know this house is serious.
21 This has to be done before we leave here and
22 we're certainly looking forward to having a bill
23 that passes both houses and gets the signature

1 of the Governor.

2 SENATOR OPPENHEIMER: Thank you,
3 Senator.

4 On the bill, I would just like to
5 mention a few other serious concerns that I
6 have. First of all, this bill prohibits New
7 York from adopting the California fuels. I
8 better ask Senator Johnson, does this bill
9 prohibit us from adopting the California fuel?

10 SENATOR JOHNSON: Senator, yes,
11 it's in the bill. It's in the bill, and it's in
12 the bill because we are trying not to interfere
13 with the California regulations promulgated by
14 the Commissioner which, upon the advice of his
15 advisory board, Environmental Advisory Board,
16 said they would not adopt California fuel, so we
17 are putting in statute his present regulation,
18 Senator.

19 SENATOR OPPENHEIMER: Thank you,
20 Senator.

21 My concern is that there ought to
22 be some flexibility built in here and not -- not
23 a prohibition built in. We -- there is current

1 litigation going on now, and I think we have to
2 wait to see what the outcome is based on the
3 court's interpretation, so I think we are pre
4 mature and certainly ought to adopt flexibility
5 as our goal rather than a prohibition.

6 I'm also concerned about the -
7 the fact that this bill omits warranty and
8 recall. Warranty and recall would require car
9 manufacturers to warranty air emission systems
10 and issue recalls if the standards aren't met.
11 Without this provision, the consumer, the
12 customer, is going to suffer rather than the -
13 the com... holding the companies accountable, it
14 is going to be the consumer that will have to
15 improve the defective emission system. That
16 seems rather unfair to the consumer.

17 At this present time, I think I
18 will complete what I had to say and let another
19 Senator speak on the subject.

20 ACTING PRESIDENT MEGA: Senator
21 Daly.

22 SENATOR DALY: Mr. President,
23 going back to the discussion we had before, I

1 would remind my colleagues that the fastest
2 growing part of the state budget over the last
3 six years has been the special revenue other and
4 the first incursion into is that, into the SRO,
5 special revenue other, by any department was DEC
6 back about six years ago when they tried to move
7 -- they tried to move 135 jobs that were
8 normally funded out of the general fund over to
9 SRO and we very frankly believe, Mr. President,
10 that the DEC's request for these additional
11 monies will -- will -- is a clear indication
12 that they will be using those monies for
13 positions other than those required to implement
14 the Clean Air Act.

15 Point two. The Senator mentioned
16 or questioned Senator Johnson on the fact that
17 this bill includes a prohibition on California
18 reformulated fuels. I would point out that the
19 Governor's bill does exactly the same thing, and
20 DEC agrees with the language we have on this
21 particular situation on this particular part of
22 the bill.

23 And three, I think the bottom

1 line, Mr. President, on this bill, and the
2 difference between the executive branch and in
3 particular, the DEC, boils down to one question:
4 Should the Department of Environmental
5 Conservation be given the regulatory power to go
6 well beyond the requirement of the federal Clean
7 Air Act? That's the bottom line. Should the
8 DEC be given that kind of power?

9 And, very frankly, my colleagues,
10 we don't believe that the DEC should. All you
11 have to do is look at the history of DEC,
12 particularly under the present Commissioner, and
13 you will find constant battles and court cases
14 where DEC is trying to establish itself as the
15 body who will establish policy in this state on
16 environmental matters.

17 I'm sure my colleagues on both
18 sides of the aisle would take exception to a
19 department trying to take over or usurp the
20 powers in this house and our colleagues in the
21 Assembly.

22 So, Mr. President, I feel Senator
23 Johnson has done an exceptional job in putting

1 together a bill that will meet the needs -- meet
2 the requirements of the federal Clean Air Act.
3 This bill will meet those requirements so that
4 on November 15th, if this bill becomes law, New
5 York State will be in compliance and yet we will
6 have not taken that step where we will have
7 given power to a department to go well beyond
8 the requirements established by Washington.

9 And, again, I remind you of how
10 easy it has been for New York State in the past
11 to take steps that, while certainly well
12 intended, come back and haunt us. And again,
13 I'm talking about balance, the balance about the
14 economy, about the economy, with the environment
15 and again, in no way reducing the urgency of the
16 passage of proper legislation which will help to
17 make our air cleaner.

18 ACTING PRESIDENT MEGA: Read the
19 last section.

20 SENATOR LEICHTER: Oh, just a
21 second.

22 ACTING PRESIDENT MEGA: Senator
23 Leichter.

1 SENATOR LEICHTER: Mr. President,
2 this is indeed an important issue. I'd like to
3 say it's an important bill. It does come on an
4 important day for Senator Johnson, and Senator
5 Farley and Senator Oppenheimer and myself, and I
6 think Senator Saland. We're all the July 3rd
7 committee. Some of us have anniversaries; some
8 of us have birthdays. So, Senator Johnson, I
9 congratulate you, on your birthday, not the
10 bill.

11 But, Senator, in all seriousness,
12 I think Senator Oppenheimer's tried to bring out
13 some of the concerns and problems we have.
14 First of all, let's -- let's remember, because I
15 think it's important, particularly from your
16 approach, Senator Daly, we're concerned here
17 with two important issues.

18 One is the health and welfare of
19 the people of the state of New York. Remember
20 that. We're dealing -- we're dealing with ozone
21 depletion. We're dealing with areas of the
22 state that have very high pollution that -- that
23 are non-, what is the technical term?

1 SENATOR DALY: Mr. President.

2 SENATOR LEICHTER: Let me just
3 finish, Senator.

4 ACTING PRESIDENT MEGA: Senator
5 refuses to yield.

6 SENATOR LEICHTER: -- that are
7 non-attainment areas. So to comply, first of
8 all we want to do it because it's the right
9 thing, we owe it to the people of this state.

10 Secondly, we've got to do it
11 because, if we don't act, if we don't comply
12 we're going to lose a billion dollars and more
13 of federal funds. We're in violation, and the
14 EPA is going to come down, and I've got a letter
15 here that they wrote on June 7th to Governor
16 Cuomo saying, What are you guys doing? Now, they
17 put it much more diplomatically, and it took
18 them two pages to do it, but they say, We're
19 warning you, that money is going to be cut off.

20 Now, what the response of the
21 Republican Majority in this bill is foot
22 dragging, trying to stonewall and total
23 illusion. I mean we've seen the fantasies that

1 you people have with money all along. We saw it
2 with Senator Johnson's trust fund. We've seen
3 it with -- with other bills that you have.
4 Earlier today, a Senator Holland bill where he
5 was going to do something for local communities,
6 he said, Well, when we get the money, we'll do
7 it.

8 But we're dealing with something
9 that's very real and the problems that you have
10 with this bill are numerous. First of all,
11 there's no question the fee structure is
12 inadequate. Senator Daly, you say \$20 million.
13 Nonsense. That figure as studied by the -- by
14 the OMB is that at best you're going to get \$13
15 million with the fee structure. That's going to
16 be insufficient. We're going to be penalized by
17 EPA.

18 Senator Oppenheimer pointed out
19 you prohibit the use of California gas. We
20 should give that flexibility to DEC. You don't
21 have a warranty and recall. Your employee trip
22 reduction is inadequate. The operating permit
23 provisions, you impose limitations that make

1 that ineffective.

2 I find one of the worse features
3 of the bill that you prohibit DEC from going
4 beyond federal clean air standards. Senator
5 Daly, I couldn't believe, you got up there and
6 you're beating your chest, Oh, that's wonderful,
7 we're really macho see how tough we are. See
8 what you're doing.

9 You're hurting the people of the
10 state of New York. You might need to go beyond
11 federal clean air standards because that's a
12 homogenized standard for the whole country. We
13 have pockets in our state that have a terrible
14 problem, as far as non-attainment. Rockland
15 County, Manhattan, Westchester, and so on. You
16 may need to go beyond this.

17 But listen, here we are on July
18 3rd. I don't know why we couldn't have done
19 this in May or June. What is -- what is this
20 about this brinksmanship that we've got to wait
21 until it's way beyond reasonable time to do it?
22 And Senator Johnson says, Well, we were further
23 along last week than we were this week. There's

1 got to be some reason prevail in this chamber
2 and the other chamber and in the Governor's
3 office, not only because it's a matter of
4 getting out. I guess that's secondary to the
5 fact that we need to do this.

6 We need to do this, because the
7 penalties that are going to be imposed on New
8 York State are going to be extremely severe and
9 unacceptable. So let's get to work in a
10 reasonable and in a productive fashion and not
11 in this way and, again, Senator Johnson,
12 congratulations on your birthday.

13 ACTING PRESIDENT MEGA: Senator
14 Oppenheimer.

15 SENATOR OPPENHEIMER: I just want
16 to reiterate something that Senator Leichter
17 said which is that the -- the standards that EPA
18 put out, the standards in the federal
19 legislation are minimal standards for the entire
20 United States, and many parts of our state -- of
21 our nation have relatively clean air and they
22 really don't have to put in the kind of effort
23 that we need to put in to start to meet these

1 standards.

2 As we all know, we do have the
3 third worst air in the metropolitan area and
4 that's a serious health hazard to the people of
5 this state.

6 I also wanted to point out that
7 joining the environmental groups of EPA and
8 Sierra Club and the various environmental groups
9 of our state is also a group that I am very
10 close to, the League of Women Voters which has
11 taken a very strong stand and is anxious to move
12 ahead with a clean air bill that is a clean air
13 bill and not, as many of us believe, truly a
14 dirty air bill.

15 Thank you. I will be voting in
16 the negative.

17 ACTING PRESIDENT MEGA: Read the
18 last section.

19 SENATOR JOHNSON: Mr. President.

20 ACTING PRESIDENT MEGA: Senator
21 Johnson.

22 SENATOR JOHNSON: Like to correct
23 a couple of, again, misapprehensions which are

1 flowing fast and furiously around this place.

2 Senator Leichter, I hope you know
3 there's been no foot-dragging on our part.
4 We've had our bill drafted for months; we filed
5 it several weeks ago but we were trying to get a
6 bill that all sides would agree upon.

7 Nevertheless we have a good bill
8 which will do what it has to do. I think I may
9 have misled you, maybe Senator Daly misled you,
10 by saying we're not going beyond federal
11 requirements. Yes, we're talking about we're
12 doing what the law requires so that we comply
13 with the law. We're trying to minimize the cost
14 to businesses, as I said, but this does not say
15 that if you've got an area that's impacted with
16 excessive pollution or other problems that you
17 can't go beyond it. But we're not giving the
18 department carte blanche to make their own rules
19 and regulations about what they will or will not
20 do anywhere, but on page 5, if you'd like to
21 look at that at the top of the page, it says
22 that you can exceed the requirements or
23 regulations, they can exceed this bill

1 essentially, providing that they -- and set up
2 regulations which exceed the authority
3 specifically set forth in this bill to require
4 the -- if it's required to satisfy the act, to
5 prevent an assessment or imposition of sanctions
6 pursuant to the act, to comply with a final
7 decree of a federal court.

8 So there are some reasons by
9 which they can go beyond the regulations and the
10 laws contained in this bill.

11 As far as warranty and recall,
12 there's no need for that. We don't have any
13 California car standard in this state due to the
14 federal court action. We're all aware of that,
15 so there's no point to amplify the California
16 law which -- regulations which are not in place
17 at the present time.

18 California fuels, the entire
19 Northeast Air Transport Region said they're not
20 going to do California fuels. The fact that we
21 have it in here is because the Commissioner's
22 own agency, the environmental board, decided not
23 to have the California fuels. We merely put

1 into law what they said they would do, even if
2 they did California cars they would not do
3 California fuels, and just the thought of us
4 standing up here on the floor to defend
5 California fuels at a cost of 20 or 30 cents a
6 gallon more than fuels in any surrounding state,
7 that would be economic idiocy to be polite about
8 it.

9 So, Senator, we don't even think
10 it makes a lot of sense to put in here that you
11 can charge 20 or 30 cents a gallon more than
12 anybody else in the surrounding states and think
13 that that's going to make any difference in your
14 air quality in this state.

15 So, Senator, this is a good
16 bill. This bill should be brought forth by the
17 other house, and it should be supported by the
18 Governor and all of you here.

19 ACTING PRESIDENT MEGA: Senator
20 Galiber.

21 SENATOR GALIBER: Senator, will
22 you yield for a question?

23 ACTING PRESIDENT MEGA: Senator

1 yields. Senator Galiber, for a question.

2 SENATOR GALIBER: Senator, I was
3 questioning Senator Solomon on some amendment
4 because there were adjustments to be made as a
5 result of testing and the shifting process.

6 I guess what troubles me somewhat
7 is the fact that we have so many memos in
8 opposition to this. Usually we have one and, if
9 we try to identify that group, they have very
10 little standard, if you will, but here we have
11 some objections, and what I guess I'm getting at
12 is if this minimum amount of -- to comply with
13 the federal Clean Air Act saves us X number of
14 dollars, and as a result of monies will be
15 earned, made, what happens to those communities
16 such as the one that I mentioned before, and it
17 was mentioned at our committee meetings, where
18 I'm concerned about the cumulative impact in the
19 community.

20 It's conceivable that we may
21 comply on the one hand but yet do violence to
22 certain communities on the other hand, and I
23 guess more importantly, we are tying -

1 fettering, if you will, the hands of the state
2 regulatory agency, DEC, which you and I don't
3 have similar feelings towards from time to time,
4 from coming into the community under the guise
5 of saying, Well, it doesn't do enough here, but
6 look at the money that we're making. And we
7 have an Assembly person on the other side who
8 says, Well, if we do violence to your community
9 from an environmental standpoint, I have a piece
10 of legislation that I'm going to put in which is
11 going to offer some jobs to that community.

12 That doesn't help at all, because
13 if they offer the jobs and you're killed off, it
14 becomes irrelevant except for those persons who
15 are concerned about making the money. Senator,
16 tell me, if we pass this piece of legislation,
17 will there be communities in our state and in
18 particular in our metropolitan area who will not
19 gain from it, but who will be seriously -- the
20 possibility of being seriously impacted from a
21 negative standpoint as the result of the formula
22 here and as the result of you fettering, if you
23 will, the hands of the regulatory agency.

1 SENATOR JOHNSON: Your question
2 is, are there people in the metropolitan area
3 which will be negatively affected by this bill?

4 SENATOR GALIBER: Well, that's
5 good for openers, Senator. Yes, that's part of
6 it.

7 SENATOR JOHNSON: The answer is
8 no, Senator.

9 SENATOR GALIBER: No?

10 SENATOR JOHNSON: Yes. The
11 answer is no.

12 SENATOR GALIBER: O.K.

13 SENATOR JOHNSON: They may be
14 negatively affected in that they'll have to do
15 car pooling or ride a bus or other things of
16 that nature, Senator, or buy an electric car
17 eventually or other things, but this is going to
18 -

19 SENATOR GALIBER: Will I have to
20 get rid of that old, old car I have because it
21 burns that other kind of gas? I'm not talking
22 about that; I'm talking about health
23 conditions.

1 SENATOR JOHNSON: Senator, the
2 only health condition which affects people
3 respiratorily, which presently exists is ozone,
4 ground level ozone, and that, Senator, was only
5 out of compliance four days last year, down from
6 over 120 days ten years ago, so we've made great
7 progress, Senator. This is is like the icing on
8 the cake. You already have the cake.

9 SENATOR GALIBER: But I'm saying,
10 why, again, I know you've answered the question,
11 but again I think in closing off the debate or
12 coming pretty close to it, why again if these
13 memos in opposition keep repeating one serious
14 factor or factors, one factor; that is why are
15 we fettering the hands of DEC or keeping the
16 hands or whatever from imposing stricter
17 regulations where they feel it's necessary?
18 Because it was brought out that there is some
19 nice clean air between here and California but
20 they use that as minimum standards, and it
21 doesn't exist in this area, and I'm not being
22 facetious about it at all.

23 We have a serious, serious

1 problem in the metropolitan area, not only in
2 the city of New York but up in other -- other
3 big metropolitan areas in our state where people
4 are going to be seriously damaged or harmed long
5 range, families, children, as far as their
6 health conditions are concerned as a result of
7 us not being able to have confidence in our
8 regulatory agencies saying, no, you can't come
9 in and arbitrarily set higher standards where
10 they may, in my judgment, be necessary.

11 Why are we doing this? Why are we
12 cutting down -- down on the DEC powers?

13 SENATOR JOHNSON: Senator, the
14 entire purpose of this bill is to comply with
15 the federal regulations who many have said
16 weren't necessary in the first place.
17 Nevertheless, they're being -- they're being
18 complied with, Senator. They're clean air. And
19 the provisions are adequate.

20 Now, you ask me why -- why do
21 some people put up memos against these things?
22 Because they would like to -- they would like
23 the agencies to charge higher fees than we're

1 permitting under this bill so, therefore, they
2 are as a handmaiden of the DEC, generally,
3 always supportive of more fees, more
4 regulation.

5 Warranty and recall, it's not
6 required at the moment because there's no such
7 California regulations in place. The trip
8 reduction, now, they criticized the trip
9 reduction, and let me see what their problem is
10 with that. Failure to include an enforcement
11 mechanism, or failure to submit plans, et
12 cetera, et cetera, et cetera. That's not true.
13 There are penalties for not complying with it.

14 There was some talk about the
15 fines aren't high enough, that some groups want
16 \$50,000 fines while the recommendation of the
17 EPA is to have a fine equal to 50 percent of the
18 -- of the -- of the payment which is not made.
19 The fee payment was not made, a fine of 50
20 percent of the fee in addition to collecting the
21 fee. Some people want \$50,000. Well, you can
22 give the agencies all the money you want, I
23 guess, but you have to think about the fact that

1 it should be enforceable generally by consent
2 and not by beating or use or digging in
3 everybody's pocket for all the money you can get
4 as a sort of a supplement to the budget.

5 SENATOR GALIBER: Senator, I'm
6 not too concerned about the money aspect. What
7 I'm concerned about is the memo from the
8 American Association -- New York State
9 Environmental Planning Lobby, the Sierra Club
10 and just a couple of others and all of them say
11 something which is of concern to me and I'm sure
12 it concerns you.

13 It says the bill also prohibits
14 DEC from adopting any rule or regulation which
15 is tougher than the standard set by EPA for the
16 smog, ozone, and New York State population at
17 risk. Senator, the population at risk includes
18 2,146,891 children and 1,492 -- 1 million, 492
19 million -- 1 billion -- what is it, elderly, and
20 438,492 individuals, in other words the at risk
21 factors for those categories, whatever the
22 numbers may be. They're saying that those
23 persons will be at risk. Is that so?

1 SENATOR JOHNSON: I don't know
2 where you got the figures, Senator, but I doubt
3 it, Senator, since the law which the present
4 federal law and the bill we have here will
5 permit the meeting of all the standards which
6 are thought to affect any health.

7 Now, there may be people that
8 have illnesses which they've had them for 20 or
9 30 years, Senator. It's not going to cure them,
10 but it's not going to foment any further
11 illnesses if this law is put in place.

12 ACTING PRESIDENT MEGA: Read the
13 last section.

14 THE SECRETARY: Section 25. This
15 act shall take effect immediately.

16 ACTING PRESIDENT MEGA: Call the
17 roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT MEGA: Those in
20 the negative please raise your hands.

21 SENATOR LEICHTER: Mr.
22 President.

23 ACTING PRESIDENT MEGA: Senator

1 Leichter to explain his vote.

2 SENATOR LEICHTER: Yes, just to
3 explain my vote, because there have been
4 references to various groups that have opposed
5 this, but I think it would be helpful to have
6 the whole list read; I'm not sure they all
7 were. It includes the American Lung Association
8 of New York State, the Environmental Planning
9 Lobby, the New York Public Interest Research
10 Group, the Sierra Club, Atlantic Chapter and the
11 League of Women Voters.

12 Mr. President, I vote in the
13 negative.

14 ACTING PRESIDENT MEGA: Senator
15 Leichter in the negative. Negatives please
16 raise your hands.

17 THE SECRETARY: Those recorded in
18 the negative on Calendar Number 1262 are
19 Senators Connor, Dollinger, Espada, Galiber,
20 Halperin, Hoffmann, Jones, Leichter, Levy,
21 Markowitz, Mendez, Montgomery, Ohrenstein,
22 Onorato, Oppenheimer, Smith, Solomon, Stavisky
23 and Waldon.

1 SENATOR DOLLINGER: Mr.

2 President, was my name called?

3 THE SECRETARY: Also Senator
4 Masiello. Also Senator Stachowski. Ayes 38,
5 nays 21.

6 ACTING PRESIDENT MEGA: The bill
7 is passed.

8 Secretary will read. Senator
9 Galiber, why do you rise?

10 SENATOR GALIBER: Mr. President,
11 can I have unanimous consent to be recorded in
12 the negative on a few calendar calls earlier in
13 the day, subject to your approval: 1458, 1484,
14 1492, 1503 and 261.

15 ACTING PRESIDENT MEGA: Without
16 objection. Senator Gonzalez.

17 SENATOR GONZALEZ: Mr. President,
18 may I have unanimous consent to be recorded in
19 the negative on Calendar Number 1476?

20 ACTING PRESIDENT MEGA: Without
21 objection. Senator Espada.

22 SENATOR ESPADA: Yes requesting
23 unanimous consent to be recorded in the negative

1 on Calendar Number 1476, please.

2 ACTING PRESIDENT MEGA: Without
3 objection. Senator Leichter.

4 SENATOR LEICHTER: Unanimous
5 consent to be recorded in the negative on
6 Calendar 1476.

7 ACTING PRESIDENT MEGA: Without
8 objection. Any other Senators wish to be
9 recorded in the negative on any bills?

10 Senator Daly, we're going to be
11 -- we have one other bill, and then we'll do
12 some housekeeping.

13 Secretary will read.

14 THE SECRETARY: Calendar Number
15 1495, by the Assembly Committee on Rules,
16 substituted earlier today, Assembly Bill Number
17 7875-B, an act to amend the Penal Law.

18 ACTING PRESIDENT MEGA: Read the
19 last section.

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

22 ACTING PRESIDENT MEGA: Call the
23 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes 58, nays
3 one, Senator Gold -- ayes 57, nays two, Senators
4 Gold and Leichter recorded in the negative.

5 SENATOR GALIBER: Record me in
6 the negative, Mr. President.

7 THE SECRETARY: In relation to
8 Calendar Number 1495, those recorded in the
9 negative are Senators Galiber, Gold and
10 Leichter. Ayes 56, nays 3.

11 ACTING PRESIDENT MEGA: The bill
12 is passed.

13 Can I have your attention? We
14 will do some housekeeping, and then there will
15 be a very important memo read after the
16 housekeeping, so please pay attention and listen
17 to the important memo that will be read after we
18 do the housekeeping.

19 Senator Daly.

20 SENATOR DALY: Mr. President, I
21 offer the following amendments to Calendar
22 Number 1416, Senate Print 4757-B on page 31 and
23 ask that said bill retain its place on Third

1 Reading Calendar.

2 ACTING PRESIDENT MEGA:

3 Amendments received.

4 Senator Lack.

5 SENATOR LACK: Mr. President, on
6 page 30, I offer the following amendments to
7 Calendar Number 1386, Senate Print Number 5303,
8 on behalf of Senator Velella, and ask that the
9 said bill retain its place on Third Reading
10 Calendar, and also on page 30, Mr. President, I
11 offer the following amendments to Calendar
12 Number 1391, Senate Print 5886-B.

13 ACTING PRESIDENT MEGA:

14 Amendments received.

15 Senator Maltese.

16 SENATOR MALTESE: Mr. President,
17 on behalf of Senator Mega, on page number 33, I
18 offer the following amendments to Calendar
19 Number 1444, Senate Print Number 5985, and ask
20 that said bill retain its place on the Third
21 Reading Calendar.

22 ACTING PRESIDENT MEGA:

23 Amendments received. Senator Saland.

1 SENATOR MALTESE: Mr. President,
2 might I also point out to the attention of all
3 my colleagues the memorandum from my good
4 Assembly colleague Dennis Butler, with reference
5 to religious services for tomorrow.

6 ACTING PRESIDENT MEGA: Thank
7 you, Senator.

8 Senator Saland.

9 SENATOR SALAND: Mr. President, I
10 wish to call up my bill 5270 recalled from the
11 Assembly.

12 THE SECRETARY: By Senator
13 Saland, Senate -

14 ACTING PRESIDENT MEGA: Secretary
15 will read.

16 THE SECRETARY: -- Bill 5270, an
17 acted to amend the Executive Law.

18 SENATOR SALAND: Mr. President, I
19 wish to reconsider the vote by which this bill
20 was passed.

21 ACTING PRESIDENT MEGA: Call the
22 roll on reconsideration.

23 (The Secretary called the roll on

1 reconsideration.)

2 THE SECRETARY: Ayes 59.

3 ACTING PRESIDENT MEGA: Bill is
4 before the house.

5 SENATOR SALAND: Mr. President, I
6 offer up the following amendments.

7 ACTING PRESIDENT MEGA:
8 Amendments received.

9 Senator Kuhl.

10 SENATOR KUHL: Yes, Mr.
11 President. On behalf of Senator Wright, would
12 you remove the sponsor's star on Calendar Number
13 1000, Senate Print 4277.

14 ACTING PRESIDENT MEGA: Star
15 removed.

16 Senator Nozzolio.

17 SENATOR KUHL: Thank you.

18 ACTING PRESIDENT MEGA: Senator
19 Nozzolio.

20 SENATOR NOZZOLIO: Mr. President,
21 I move to to recommit Calendar Number 583 and
22 Calendar Number 586.

23 ACTING PRESIDENT MEGA: Bill is

1 recommitted.

2 SENATOR CONNOR: Mr. President.

3 ACTING PRESIDENT MEGA: Senator
4 Connors.

5 SENATOR CONNOR: Thank you, Mr.
6 President. May I have unanimous consent to be
7 recorded in the negative on Calendar Number
8 1476?

9 ACTING PRESIDENT MEGA: Without
10 objection.

11 Senator Montgomery.

12 SENATOR MONTGOMERY: Yes, Mr.
13 President, I wish to call up my bill, Senate
14 Print Number 1588, which is now at the desk.

15 ACTING PRESIDENT MEGA: Secretary
16 will read.

17 THE SECRETARY: By Senator
18 Montgomery, Senate Bill Number 1588, authorizing
19 the city of New York to reconvey its interest in
20 certain real property.

21 SENATOR MONTGOMERY: I now move
22 to reconsider the vote by which the bill was
23 passed, and ask that it be restored to third

1 reading.

2 ACTING PRESIDENT MEGA: Call the
3 roll on reconsideration.

4 (The Secretary called the roll on
5 reconsideration.)

6 THE SECRETARY: Ayes 59.

7 ACTING PRESIDENT MEGA: The bill
8 is before the house.

9 SENATOR MONTGOMERY: I now move
10 to discharge from the Committee on Rules
11 Assembly Print Number 2673 and substitute it for
12 my identical bill.

13 ACTING PRESIDENT MEGA:
14 Substitution ordered. Read the last section.

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

17 ACTING PRESIDENT MEGA: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Unanimous.

21 THE PRESIDENT: There was a home
22 rule message on that bill. The bill is passed.

23 Senator Volker.

1 SENATOR VOLKER: Mr. President, I
2 wish to call up my bill, Senate Print Number
3 1539-A which is now at the desk.

4 ACTING PRESIDENT MEGA: Secretary
5 will read.

6 THE SECRETARY: Calendar Number
7 1539 -- Senate Bill Number 1539-A, by Senator
8 Volker, an act to amend the Executive Law.

9 SENATOR VOLKER: Mr. President, I
10 now move to reconsider the vote by which this
11 bill was passed and ask that the bill be
12 restored to the order of third reading.

13 ACTING PRESIDENT MEGA: Call the
14 roll on reconsideration.

15 (The Secretary called the roll on
16 reconsideration.)

17 THE SECRETARY: Ayes 59.

18 ACTING PRESIDENT MEGA: The bill
19 is before the house.

20 SENATOR VOLKER: Mr. President, I
21 now move to discharge from the Committee on
22 Rules Assembly Print Number 2598-A and
23 substitute it for my identical bill.

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ACTING PRESIDENT MEGA:

Substitution ordered. The last section.

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

ACTING PRESIDENT MEGA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Unanimous.

ACTING PRESIDENT MEGA: The bill is passed.

Senator Galiber.

SENATOR GALIBER: Mr. President.

ACTING PRESIDENT MEGA: Excuse me, Senator Galiber. Senator Volker, did you have something else?

SENATOR VOLKER: No, that's O.K. We did it, thank you. I'm sorry.

ACTING PRESIDENT MEGA: Senator Galiber.

SENATOR GALIBER: Mr. President, could you tell me how I was recorded on the clean air bill?

ACTING PRESIDENT MEGA: On

1 Senator Johnson's clean air bill?

2 SENATOR GALIBER: That's correct,
3 sir. Thank you.

4 Any further housekeeping?

5 SENATOR PRESENT: May I make an
6 announcement.

7 ACTING PRESIDENT MEGA: Senator
8 Present for the purpose of an announcement.

9 SENATOR PRESENT: Before
10 everybody runs off, I'd like to announce there
11 will be an immediate meeting of the Republican
12 Conference immediately following the adjournment
13 of this session today.

14 ACTING PRESIDENT MEGA: Meeting
15 of the Republican Conference.

16 SENATOR PRESENT: Immediate short
17 conference.

18 ACTING PRESIDENT MEGA: Short
19 conference immediately after session of the
20 Republican Majority.

21 The Chair hands down a message
22 from the Assembly.

23 THE SECRETARY: The Assembly

1 returned Senator Spano's bill, Senate Bill
2 Number 2026, an act to amend the Mental Hygiene
3 Law, with amendments.

4 ACTING PRESIDENT MEGA: Concur in
5 the amendments; restore to third reading.

6 Secretary will read some
7 substitutions.

8 THE SECRETARY: On page 9 of
9 today's calendar, Senator Hannon moves to
10 discharge the Committee on Rules from Assembly
11 Bill Number 1829-B and substitute it for the
12 identical Third Reading 470.

13 On page 15, Senator LaValle moves
14 to discharge the Committee on Rules from
15 Assembly Bill Number 6521-A and substitute it
16 for the identical Third Reading 725.

17 On page 25, Senator Masiello
18 moves to discharge the Committee on Rules from
19 Assembly Bill Number 7838-A and substitute it
20 for the identical Third Reading 1185.

21 On page 26, Senator Mega moves to
22 discharge the Committee on Rules from Assembly
23 Bill Number 6677-B and substitute it for the

1 identical Third Reading 1211.

2 On page 29, Senator Marino moves
3 to discharge the Committee on Rules from
4 Assembly Bill Number 8464-A and substitute it
5 for the identical Third Reading 1348.

6 On page 40, Senator Spano moves
7 to discharge the Committee on Rules from
8 Assembly Bill Number 8219-A and substitute it
9 for the identical Third Reading 1502.

10 Now, in relation to the
11 supplemental calendar, Senator Spano moves to
12 discharge the Committee on Rules from Assembly
13 Bill Number 3276 and substitute it for the
14 identical Third Reading 1509.

15 Senator Johnson moves to
16 discharge the Committee on Rules from Assembly
17 Bill Number 6135 and substitute it for the
18 identical Third Reading 1512.

19 Senator Sheffer moves to
20 discharge the Committee on Corporations,
21 Authorities and Commissions from Assembly Bill
22 Number 6381 and substitute it for the identical
23 Third Reading 1513.

1 Senator Goodman moves to
2 discharge the Committee on Rules from Assembly
3 Bill Number 8248-A and substitute it for the
4 identical Third Reading 1517.

5 Senator Velella moves to
6 discharge the Committee on Rules from Assembly
7 Bill Number 7910-A and substitute it for the
8 identical Third Reading 1518.

9 Senator Trunzo moves to discharge
10 the Committee on Rules from Assembly Bill Number
11 8044 and substitute it for the identical Third
12 Reading 1521.

13 Senator Goodman moves to
14 discharge the Committee on Rules from Assembly
15 Bill Number 8582 and substitute it for the
16 identical Third Reading 1524.

17 ACTING PRESIDENT MEGA:
18 Substitutions ordered.

19 Memorandum dated July 3rd, 1993
20 to all Senators and staff, from Steve Sloan.
21 Subject: Logistics for Sunday, July 4th, 1993.
22 Secretary will read.

23 THE SECRETARY: The following

1 arrangements have been coordinated with the
2 Office of General Services and the Capital
3 Police regarding the logistics for Sunday, July
4 4th, 1993, assuming that the Legislature will be
5 in session.

6 General: Number 1. State Street
7 will be closed from South Swan Street to Eagle
8 Street all day Sunday. Any cars parked on the
9 street will be towed.

10 Number 2. Capital Police will be
11 patrolling the Empire State Plaza at all times
12 and are available for emergencies. Dial 111.

13 Number 3. Tunnel from the
14 Capitol to the Alfred E. Smith Office Building
15 will be closed all day Sunday.

16 Building access: Number 1.
17 Capitol: The building will be open to members,
18 staff and the public. Capital Police will
19 patrol the third and fourth floor, Senate and
20 Assembly chamber and gallery areas.

21 Number 2. Legislative Office
22 Building. Building will be open to members,
23 staff and public. The Plaza level door east end

1 of building on the second floor will be locked.
2 Please use the Concourse level entrance for
3 access to the building.

4 Number 3. Agency Building 4:
5 Senate and Assembly staff with access cards will
6 be granted entry. If the access card system is
7 operating, an OGS security person will approve
8 access for staff presenting an access card.

9 Parking: Number one. P-3 member
10 parking area. The access gate will be open, but
11 pylon cones will be blocking the access road
12 way. Members should go around the pylon cones
13 and park in assigned spots.

14 Number 2. P-2. Employee parking
15 area. Access will be available and no shortage
16 of parking spots is expected prior to 4:00 p.m.
17 After 4:00 p.m., there is no guarantee of
18 parking; so plan accordingly.

19 Number 3. Closing of roads: All
20 roads leading into the Empire State Plaza garage
21 will be closed at approximately 7:00 p.m. and
22 will not reopen until after the fireworks have
23 concluded, and the bulk of those parking in the

1 garage have left.

2 ACTING PRESIDENT MEGA: Senator
3 Present.

4 SENATOR PRESENT: Mr. President,
5 there being no further business, I'd remind
6 again that there's an immediate conference of
7 the Majority following the adjournment of this
8 session tonight.

9 I now move that we adjourn until
10 tomorrow at 1:30 and would announce that we're
11 going to continue to work tomorrow until we
12 finish this session.

13 ACTING PRESIDENT MEGA:
14 Adjournment as indicated.

15 SENATOR DOLLINGER: Is there a
16 vote on the motion to adjourn? Please record me
17 in the negative on the motion to adjourn.

18 ACTING PRESIDENT MEGA: You're in
19 the record.

20 We're adjourned until tomorrow at
21 1:30. Immediate meeting of the Majority.

22 (Whereupon at 8:05 p.m., the
23 Senate adjourned.)