ALBANY, NEW YORK

February 28, 1994

3:55 p.m.

REGULAR SESSION

SENATOR FRANK PADAVAN, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT PADAVAN: The Senate will come to order. Today's prayer will be given by Rabbi Shmuel Butman, the director of the Lubavitch Youth Organization, Brooklyn.

RABBI BUTMAN: Let us pray. Almighty God, we ask You to bestow -- bestow Your blessings upon all the members of the United -- of the New York State Senate for health and for sustenance and for good fortune in their private lives, as well as in their communal lives.

Today we are here to celebrate, Almighty God, the 92nd birthday of the revered leader of world Jewery, the Lubavitcher. The Lubavitcher tells us that you, Almighty God, are about to redeem the world and send us the righteous Messiah and You, Almighty God, have already started the messianic process.

You have let open the borders of the former Soviet Union for hundreds and thousands of Jews that should be able to emigrate from there to the holy land of Israel.

This is the beginning of the messianic process.

We ask You, Almighty God, to give us the strength to continue and to accelerate this process and in this spirit, I offer one dollar, in which it says "In God I trust", into this pushka.

This pushka reminds us that we have a responsibility as human beings, not only to each other, but to society in general. This pushka reminds us that there is a super - there's a super power that tells us to do goodness and kindness.

We hope, Almighty God, that You will bestow Your infinite blessings on all the members of this Assembly and upon the Lubavitcher upon his 91nd birthday, and in Psalm 93, which the Rebbe is going to start saying along with all Jews in two short weeks, that entire Psalm is dedicated to the coming of the messiah and to the redemption, and we hope you will give the Rebbe long life and health and strength that he should be able to lead us toward this redemp|ion immediately; that you

will bestow all your blessings upon all the members of the New York State Assembly, they should have great miracles and a lot of success in their communal lives and as well as in their private lives. And let's say Amen.

ACTING PRESIDENT PADAVAN: Join me in pledging allegiance to the Flag.

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

Reading of the Journal.

THE SECRETARY: In Senate, Friday, February 25th. The Senate met pursuant to adjournment, Senator Bruno in the chair upon designation of the Temporary President. The Journal of Tuesday, February 24th, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT PADAVAN: Hearing no objection, the Journal stands approved as read.

Presentation of petitions.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT PADAVAN: Senator Gold.

SENATOR GOLD: Yes, thank you very much.

Mr. President, before we get involved in the business of the day, I wanted to have the honor -- Senator Ohrenstein is involved right now in some business, but we have two new members of this body who were recently elected and now that we're back from the break, will be taking their seats in the chamber to join us in our deliberations today, and I wanted to introduce them.

From the 21st Senate District, in Kings County, we have with us -- and he's going to be sitting, I guess, in that second seat in the first row -- Senator Carl Kruger, and behind him, I guess, next to Senator Onorato, from the great city of Buffalo, the 57th District, Anthony Nanula. So our two new Senators and welcome.

(Applause)

ACTING PRESIDENT PADAVAN: Will the two Senators please come to the well of the Senate.

Gentlemen, raise your right hands. You will please repeat after me. I do solemnly swear...

SENATORS KRUGER AND NANULA: I do solemnly swear...

ACTING PRESIDENT PADAVAN: That I will support the Constitution of the United States...

SENATORS KRUGER AND NANULA: That I will support the Constitution of the United States...

ACTING PRESIDENT PADAVAN: The Constitution of the state of New York...

SENATORS KRUGER AND NANULA: The Constitution of the state of New York...

ACTING PRESIDENT PADAVAN: And I will faithfully discharge the duties of the office of state Senator...

SENATORS KRUGER AND NANULA: I will faithfully discharge the duties of the office of state Senator...

ACTING PRESIDENT PADAVAN: According to the best of my ability.

SENATORS KRUGER AND NANULA: According to the best of my ability.

ACTING PRESIDENT PADAVAN: Let the record show that you've already submitted such documents which are on file with the Secretary of State.

Congratulations.

(Applause).

Presentation of Petitions.

Messages from the Assembly.

Messages from the Governor.

Senator Present.

SENATOR PRESENT: Mr. President, on behalf of the Majority Leader and the Republican side of this chamber, may I welcome the two members who have joined us today and wish them good work with us, joining us for the balance of this session.

ACTING PRESIDENT PADAVAN: Reports of standing committees.

Reports of -- Mr. Gold -- Senator Gold.

SENATOR GOLD: Mr. President.

We're delighted to have two new Senators with us, but I want to point out that one of the colleagues on this side of the aisle is a bit delayed, and I'm not sure whether he's going to make it today.

They tell me that Senator Paterson and his wife, Michele, are all engrossed in Alexander Basil Paterson, a brand-new baby boy, 7 pounds 14 ounces, who was born yesterday morning, I guess it was. So I guess on behalf of everybody, the record should indicate that we're very proud of David in his fatherhood, and we wish him and his family well.

ACTING PRESIDENT PADAVAN: Thank you, Senator Gold.

SENATOR MARCHI: Mr. President, Would you offer an amendment?

SENATOR GOLD: Oh, yeah, I thought you were getting up to yield and I was going say, I'm going to do it.

SENATOR MARCHI: No. Will you also incorporate for the purposes of the record that Mrs. Paterson is a Staten Islander?

SENATOR GOLD: Yes, and as of the present time, she resides in New York City.

ACTING PRESIDENT PADAVAN: Reports of standing committees.

Senator Galiber, are you - Okay. He's standing; now he's sitting.

Select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Maltese, on page 11, I offer the following amendments to Calendar 236, Senate Print 1053-A, and I ask that that bill retain its place -

SENATOR GOLD: So ordered.

SENATOR FARLEY: -- on the Third Reading Calendar.

On behalf of Senator Nozzolio, on page 6, I offer the following amendments to Calendar 145, Senate Print 6332-B, and I ask

that that bill retain its place.

ACTING PRESIDENT PADAVAN: So ordered.

SENATOR FARLEY: Also, on behalf of Senator Nozzolio, on page 5, I offer the following amendments to Calendar 143, Senate Print 6315-A, and I ask that that bill retain its place.

ACTING PRESIDENT PADAVAN: So ordered.

SENATOR FARLEY: On behalf of Senator Kuhl, on page 4, I offer the following amendments to Calendar Number 82, Senate Print 6215-B, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT PADAVAN: So ordered.

Senator Present.

SENATOR PRESENT: Mr. President, would you recognize Senator Marchi, please.

ACTING PRESIDENT PADAVAN: Senator Marchi.

SENATOR MARCHI: Mr. President,

there is a resolution at the desk, I believe, privileged resolution.

ACTING PRESIDENT PADAVAN: Resolution is before the house and will be read.

SENATOR MARCHI: I would request that the resolution be read in its entirety.

ACTING PRESIDENT PADAVAN: Read in its entirety.

THE SECRETARY: Legislative resolution, by Senator Marchi, proclaiming March 23rd through June 22nd, 1994, as "New York State's 92 Days of Education" in tribute to the 92nd birthday of the Lubavitcher Rebbe, Rabbi Menahem M. Schneerson, Shlita, to be celebrated by the Assembly of the state of New York on February 28th, 1994;

WHEREAS the leading Rabbi of this generation, Lubavitcher Rebbe, Rabbi Menahem M. Schneerson, Shlita, whose 92nd birthday is an auspicious event worthy of worldwide recognition, will be honored by the membership of the Assembly of the State of New York at a celebration to be held in the Assembly Parlor on

Monday, February 28th, 1994;

In fitting tribute to this learned gentleman and in recognition of his humanitarian leadership around the world, this Assembly around the state of New York proclaims March 23rd through June 22nd, 1994 as "New York State's 92 Days of Education" in tribute to his educational endeavors on behalf of all mankind.

Rabbi Schneerson's educational activities throughout the globe have enriched and strengthened the religious, educational, cultural, moral and ethical fibers of all citizens of the world;

The Lubavitcher Rebbe has, over his 44 years of dedicated leadership, established over 1500 Lubavitch Centers, helping people of all walks of life throughout the world, from Australia to Africa, from Holland to Argentina, from Moscow to Jerusalem;

The Rebbe has proclaimed that the time of our redemption has arrived and Moshiach is on his way;

The Lubavitcher Rebbe has called

upon the citizens of the world to prepare for the Great Redemption with a personal commitment to increase in charity and good deeds;

The entire world is now engaged in prayers for the speedy and complete recovery of the Rebbe with an outpouring of love and affection from millions of followers, admirers and beneficiaries from all parts of the globe;.

Throughout his purposeful journey of life, Rabbi Schneerson has compiled with dignity and grace, decades of continuing years, filled with philanthropic causes, humanitarian effort and astute Judaic leadership, justly earning the admiration, love and respect of the world, whose countless followers now engage in prayer for his timely return to good health; Therefore, be it.

RESOLVED that his Legislative Body pause in its deliberations to warmly proclaim its heartfelt congratulations and extend sincere best wshes for the continued good health on the auspicious occasion of the 92nd birthday of Lubavitcher Rebbe, Rabbi

Menachem M. Schneerson, Shlita; and be it further

RESOLVED that this legislative body proclaim the period from March 23rd, 1994 corresponding to the 11th of Nissan, 5754 the Rebbe -- the Rebbe's 92nd birthday, to June 22nd, 1994, corresponding to the 13th day of Tammuz, as "New York State's 92 Days of Education", as a special tribute to a revered friend, Lubavitcher Rebbe, Rabbi Menachem M. Schneerson, Shlita; and be it further

RESOLVED that a copy of this resolution, suitably engrossed, be transmitted to Rabbi Menachem M. Schneerson.

ACTING PRESIDENT PADAVAN: Senator Marchi.

SENATOR MARCHI: Mr. President, it has been a real pleasure over the years to sponsor this resolution in honor of the observance of Rabbi Menachem Schneerson, Shlita.

I had the pleasure of meeting him many years ago. This incredibly urbane and, at

the same time, very sensitive and moral force, studied at the University of Berlin, at the Sorbonne, has a total mastery of mathematics and science, a man of tremendous accomplishments, and also, I think, of the greatest relevance of all in the tradition that he exemplifies, his spiritual leadership, his concern about detail. Most leaders perhaps deal with a larger picture. He goes beyond the larger picture and deals with the problems of individuals and plays a very vital, important and significant role in the resolution of so many personal problems of a delicate and tender nature.

This is the measure of the individual, the measure of his spirituality. He -- his mastery of the Mishnah Torah is - exemplifies and carries forward the traditions that go back over the centuries and were given added significance in the 12th Century when Maimonides, the Rambam, if I pronounce it correctly, gave -- took all of this oral law, which has been called the strong law, and gave it organization and substance and put it in good

-- good form for its perpetuation and for its understanding.

His interpretation and his bringing forward of Aristotelian philosophy played a very, very dominant role in Jewish philosophy at that time, and on Christian philosophy, the -- the doctrine that brings us all together, which is the spiritual autonomy of the individual under God, not worship of the planets or the stars or anything else, but of a spiritual force that is intimate to each and every one of us, and our own spiritual significance as enjoying that spiritual autonomy that each individual has, and this is part of our common tradition.

We all -- we all draw strength from that font. We all draw strength from the covenant that you serve so well and that the Rebbe has exemplified in such a magnificant fashion.

So we should take appropriate notice of this. There are 1500, as the resolution mentioned, centers throughout the

world, and education and learning is part of that process. The exhortation on the works of charity and compassion and kindness is implicit in that message. So we are in a spiritual framework. We are all together. All of us that are here in this chamber grow out of that tradition and we draw strength from that trunk which is basic to all of us.

So again, it is with the greatest of pleasure that we welcome you and we carry our prayers and best wishes back to the Rebbe, and I also want to say that if anyone wants to join in this resolution, certainly the -- our distinguished clerk will note your name, but I -- this is a great moment and we look forward to seeing you again, and our prayers and best wishes.

ACTING PRESIDENT PADAVAN: Senator Gold.

SENATOR GOLD: Thank you very much.

First, the -- Rabbi Butman, let me say that I know that our -- our distinguished

clerk, Mr. Cornell, has a little problem with translating some of the -- pronouncing some of the words, but I want to tell you that you cannot have a person with a better, purer heart than Mr. Cornell, and I've heard him sing religious songs and he's a good person to have read it.

As far as Senator Marchi is concerned, I hope you understand, Rabbi, that I have had to make a deal with him, because in order to get him to the point where he can talk the scholarly way he does, where I noticed you were shaking your head in agreement, I not only have to study Italian, I have to study the Italian opera to keep up with him.

Rabbi, before I even got involved in politics, one of the impressions that I've had which was very important in my life was just going to work in New York City and, from time to time, passing these beautiful bands that were doing nothing more -- and I put in quotation marks, "nothing more" -- than talking to Jews walking in the street and encouraging them, if

they wanted, to light candles, put on pefillin, learn something, and I thought that was wonderful.

There are a lot of people and a lot of religion -- religious organizations who do out-reach in ways which some of us have questioned from time to time, but the sensitivity and the -- the joy that these mitzvah wagons bring and the good work they do is something that I'nm telling you, before politics, the first time I saw them, impressed me, and I want to very proudly join with Senator Marchi as a sponsor of this resolution, wishing only good health to the Rebbe and, particularly, I'm proud of the resolution because, as you pointed out, Rabbi Butman, in Jewish life, it's not enough to say something. We do something. We put in the pushka and we do something, and to take 92 days to stress education, is certainly a wonderful honor towards the Rebbe.

So, I want to thank you for coming here today, and please extend my best wishes.

RABBI BUTMAN: Thank you very, very much.

ACTING PRESIDENT PADAVAN: All members of the Senate will be added to the resolution, unless they notify the Secretary otherwise. The resolution is adopted.

Senator Johnson, did you have a motion?

SENATOR JOHNSON: Yes, Mr. President. I move that the following bill be discharged from its respective committee and recommited with instructions to strike the enacting clause: Senate Print Number 2327.

ACTING PRESIDENT PADAVAN: So ordered.

Senator Galiber.

SENATOR GALIBER: Mr. President, on February the 15th, we had budget hearings, as you well know, which is traditional here, and I was attending the budget hearings, and I would like to, for the record, with your consent, of course, to be recorded in the negative, that if I were in the chamber, I would have voted in the

negative on Bill -- Calendar Number 153, which is Senate 2583; Calendar 180, Senate 919-A; Calendar Number 186, Senate 2990.

ACTING PRESIDENT PADAVAN: The record will so show.

SENATOR GALIBER: Thank you.

ACTING PRESIDENT PADAVAN: Thank you, Senator Galiber.

The clerk will read a substitution.

THE SECRETARY: On page 10 of today's calendar, Senator Cook moves to discharge the Committee on Education from Assembly Bill Number 8774-B and substitute it for the identical Third Reading 228.

ACTING PRESIDENT PADAVAN: So ordered.

Senator Present, should we proceed with the calendar? Oh, excuse me.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President, I would like to make a motion to star Calendar Number 199, Senate 6552, please.

ACTING PRESIDENT PADAVAN: So ordered. Calendar -

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

ACTING PRESIDENT PADAVAN: Secretary will read.

THE SECRETARY: On page 4, Calendar Number 27, by Senator Wright, Senate Bill Number 4106-A, an act to amend the State Administrative Procedure Act.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT PADAVAN: Lay it aside.

THE SECRETARY: Calendar Number 62, by Senator Velella, Senate Bill Number 6398.

SENATOR GALIBER: Lay it aside.

ACTING PRESIDENT PADAVAN: Lay it aside for the day.

THE SECRETARY: Calendar Number 88, by Senator -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT PADAVAN: Lay it

aside for the day.

THE SECRETARY: Calendar Number 103, by Senator Stafford, Senate Bill Number 6384.

SENATOR GOLD: Lay it aside for Senator Dollinger.

ACTING PRESIDENT PADAVAN: Lay it aside.

THE SECRETARY: Calendar Number 130, by Senator Stafford, Senate Bill Number 438, an act to amend the Real Property Tax Law.

SENATOR GOLD: Lay it aside.

THE SECRETARY: Calendar Number 154, by Senator LaValle, Senate Bill Number 3970-A, an act to amend the Education Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT PADAVAN: Lay it aside.

THE SECRETARY: Calendar Number 163, by Senator Stafford, Senate Bill -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT PADAVAN: Senator Gold, what was your motion?

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT PADAVAN: Lay it aside.

THE SECRETARY: Calendar Number 168, by Senator Levy, Senate Bill Number 5435-B, an act to direct the New York State Thruway Authority -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT PADAVAN: Lay it aside.

THE SECRETARY: Calendar Number 169, by Senator Holland -

SENATOR GOLD: Can we lay this one aside?

ACTING PRESIDENT PADAVAN: Lay it aside.

THE SECRETARY: Calendar Number 170, by Senator Holland, Senate Bill Number 6335-A, an act to amend the Public Authorities Law, in relation -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT PADAVAN: Lay it aside.

THE SECRETARY: Calendar Number 189, by Senator Skelos, Senate Bill Number 3612, an act to amend the Criminal Procedure Law, in relation to designating taxicab, limousine and tow car license inspectors.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PADAVAN: Results.

THE SECRETARY: Ayes 39, nays 2. Senators Galiber and Gold recorded in the negative.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 195, by Senator Johnson, Senate -

SENATOR JOHNSON: Lay it aside for the day.

ACTING PRESIDENT PADAVAN: Lay it aside for the day.

THE SECRETARY: Calendar Number 197, by Senator LaValle, Senate Bill Number 577, an act to amend the Correction Law.

SENATOR GALIBER: Lay it aside.

ACTING PRESIDENT PADAVAN: Lay it aside.

THE SECRETARY: Calendar Number 218, by Senator Johnson, Senate Bill Number 1284, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PADAVAN: Results.

THE SECRETARY: Ayes 41.

ACTING PRESIDENT PADAVAN: The

bill is passed.

THE SECRETARY: Calendar Number 219, by Senator Levy, Senate Bill Number 1306, an act to amend the Executive Law and the Estates, Powers and Trust Law.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PADAVAN: Results.

THE SECRETARY: Ayes 41.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 220, by Senator LaValle, Senate Bill Number 4017, Executive Law, in relation to population requirements for municipalities.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PADAVAN: Results.

THE SECRETARY: Ayes 41.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 221, by Senator Maltese, Senate Bill Number 4519, Executive Law, requiring certain notices.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PADAVAN: Results.

THE SECRETARY: Ayes 41.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 223, by Senator Holland, Senate Bill Number 6307-A, firefighting equipment in the possession of the Office of Mental Retardation.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PADAVAN: Results.

THE SECRETARY: Ayes 42.

ACTING PRESIDENT PADAVAN: The bill is passed.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT PADAVAN: Senator Hoffmann.

SENATOR HOFFMANN: I was out of the chamber when Calendar 189 was passed. I

would like to be recorded in the negative with unanimous consent, please.

ACTING PRESIDENT PADAVAN: Senator Hoffmann recorded in the negative.

Senator Kuhl.

SENATOR KUHL: Yes, could I be recorded in the negative on Calendar Number 223?

ACTING PRESIDENT PADAVAN: 223, Senator?

SENATOR KUHL: Yes, the clerk -

ACTING PRESIDENT PADAVAN: Senator Kuhl is in the negative.

THE SECRETARY: Calendar Number 224, by Senator Stafford -

ACTING PRESIDENT PADAVAN: Home rule message is at the desk.

THE SECRETARY: Senate Bill Number 6321, in relation to the creation of a fire district in the town of Westport.

ACTING PRESIDENT PADAVAN: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 225, by senator Volker, Senate Bill 6345, Public Authorities Law, in relation to creating the Livingston County Water and Sewer Authority.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar number 226, by Senator Stafford, Senate Bill Number

6689, State Finance Law, in relation to the manner of contracting.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 227, by Senator LaValle, Senate Bill Number 241, authorizing the approval of certain building aid for the William Floyd Union Free School District.

ACTING PRESIDENT PADAVAN: There's a local fiscal impact note at the desk.

Read the last section.

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

ACTING PRESIDENT PADAVAN: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PADAVAN: Results.

THE SECRETARY: Ayes 42.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 228, substituted earlier today by the Assembly Committee on Rules, Assembly Bill Number 8774-B, Education Law, in relation to employment preparation, educational apportionments.

ACTING PRESIDENT PADAVAN: Local fiscal impact note is at the desk.

Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PADAVAN: Results.

THE SECRETARY: Ayes 42, nays 1.

Senator Kuhl recorded in the negative.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 229, by Senator Present, Senate Bill Number 6589, authorize the apportionment of certain education aid to Portville Central School.

ACTING PRESIDENT PADAVAN: There's a local fiscal impact note at the desk.

Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 231, by Senator Daly, Senate Bill Number 1106-A, Social Services Law.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 232, by Senator Holland, Senate Bill Number 1775-A, an act to amend the Social Services Law.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 233, by Senator Holland, Senate Bill Number

20 -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT PADAVAN: Lay it aside -- the bill is withdrawn at the request of the sponsor. Are you laying it aside, Senator, for -

SENATOR HOLLAND: Star the bill.

ACTING PRESIDENT PADAVAN: The bill is starred at the request of the sponsor.

THE SECRETARY: Calendar Number 234, by Senator Holland, Senate Bill Number 5626-B, an act to amend the Social Services Law.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT PADAVAN: The bill is passed.

Senator Markowitz.

SENATOR MARKOWITZ: I want to be recorded in the negative on Calendar Number 231.

ACTING PRESIDENT PADAVAN: So ordered.

THE SECRETARY: Calendar Number 235, by Senator Maltese -

ACTING PRESIDENT PADAVAN: Read the last section. Which one are we on?

Senator Mendez.

SENATOR MENDEZ: Yes, Mr. President, I would like to be recorded in the negative on Calendar Number 231.

ACTING PRESIDENT PADAVAN: 231, recorded in the negative. So ordered.

THE SECRETARY: Calendar Number 235, by Senator Maltese, Senate Bill Number 368-A, Real Property Tax Law.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 237, by Senator Lack, Senate Bill Number 1396, Civil Service Law, definition of veteran for purposes of eligibility for additional civil service credit.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PADAVAN: Results.

THE SECRETARY: Ayes 43.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 238, by Senator Larkin, Senate Bill Number

4354-B, Education Law, in relation to expanding student aid programs for Vietnam veterans.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 239, by Senator Levy, Senate Bill Number 6370, Highway Law, in relation to designating a portion of the state highway system as the "POW-MIA Memorial Highway."

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 240, by Senator Farley, Senate Bill Number 6513, Highway Law, in relation to the Schenectady County Veterans Memorial Highway.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT PADAVAN: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, we'll take up the controversial calendar.

ACTING PRESIDENT PADAVAN: Controversial.

THE SECRETARY: On page four, Calendar Number 27, by Senator Wright, Senate Bill Number 4106-A, State Administrative Procedure Act.

SENATOR GOLD: Explanation.

ACTING PRESIDENT PADAVAN: Explanation is requested of the sponsor.

SENATOR WRIGHT: Mr. President, the bill amends the State Administrative Procedure Act in two very specific manners.

One, it prohibits state agencies from imposing standards and rules or regulations that exceed federal minimum standards.

And secondly, it provides in instances where business, local governments or other communities of interest, are trying to achieve compliance with federal standards, achieve that compliance. It also applies for purposes of state standards.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT PADAVAN: Senator Gold.

SENATOR GOLD: Mr. President,

this is a bill we've had before, and last year Senators Connor, Dollinger, Espada and myself, Markowitz, Mendez, Ohrenstein, Oppenheimer, Stachowski and Stavisky voted in the negative. And as it was pointed out, basically this abrogates the state's responsibility in favor of the federal government.

It does not take into consideration local conditions which require local action, et cetera, and there are memos in opposition from the New York State Trial Lawyers and from the Department of Environmental Conservation. There is a support memo filed last year by the Empire State Forest Products Association.

I think we basically have debated this before, and I would urge everyone to vote in the negative.

We got elected to make decisions, not to give away that authority to the federal government, and I interpret a vote for this bill as doing exactly that.

ACTING PRESIDENT PADAVAN:

Senator Stachowski.

SENATOR STACHOWSKI: Would Senator Gold yield for a question?

SENATOR GOLD: That's easy.

SENATOR STACHOWSKI: Do you mean if we had this rule -- this law passed quite a few years back, that we would have never done Senator Dunne's acid rain legislation that had been the hallmark of acid rain legislation throughout the country?

SENATOR GOLD: You know, I think you're right.

SENATOR STACHOWSKI: I'm just trying to make sure I have that right.

Thank you.

SENATOR GOLD: I would ask that my counsel put that in my notes for next year's debate.

ACTING PRESIDENT PADAVAN: Senator Dollinger.

SENATOR DOLLINGER: Would Senator Gold yield to one other question?

As I understand, Senator Gold,

this would be accepting mandates from the federal government that we wouldn't be able to overturn so we would be one of the first -- I would have to say we would be one of the first governments that allows the federal government, a higher level of government, to mandate what our regulations ought to be.

SENATOR GOLD: Well, Senator, not only correct, but I think it's fascinating, because so often I hear about the interference of the federal government with local governments and how often do I hear people, particularly on the other side of the aisle, tell me that those people down in Washington just don't understand us.

I think there's also a constitutional question involved as to whether we can legislate by referring to state law, but as a very distinguished colleague of ours -- I won't mention Senator Babbush by name -- says, what's the Constitution between friends? So I know there's no sympathy for a constitutional argument here, but but I would urge a "no" vote.

ACTING PRESIDENT PADAVAN: Would the negatives please raise their hands. Did we read the last section?

Read the last section first.

THE SECRETARY: Section 2. This act shall take effect the first day of October.

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 27 are Senators Babbush, Connor, Dollinger, Espada, Galiber, Gold, Kruger, Markowitz, Ohrenstein, Onorato, Oppenheimer, Santiago, Smith, Solomon, Stachowski and Stavisky. Ayes 38, nays 16.

ACTING PRESIDENT PADAVAN: The bill is passed.

Senator Present.

SENATOR PRESENT: Would you recognize Senator Espada, please.

ACTING PRESIDENT PADAVAN: Senator Espada.

SENATOR ESPADA: Thank you, Mr.

President.

I would like to be recorded in the negative on Calendar Number 231, please.

ACTING PRESIDENT PADAVAN: So ordered.

SENATOR ESPADA: Thank you.

ACTING PRESIDENT PADAVAN: Senator Tully.

SENATOR TULLY: Yes, Mr. President. On February 15th, there was a slow roll call on Calendar Number 164, Senate Bill 1942, by Senator Larkin. If I had been in the chamber at the time of the vote, I would have voted in the affirmative on Calendar Number 164.

ACTING PRESIDENT PADAVAN: The record will so indicate.

Next bill.

THE SECRETARY: Calendar Number 103, by Senator Stafford, Senate Bill Number 6384, an act to amend the Tax Law, in relation to sales tax imposed on the furnishing or provision of certain entertainment or information services.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT PADAVAN: Explanation has been requested.

SENATOR STAFFORD: Mr. President, this legislation, in effect, amends pursuant to the wishes of the Tax Department.

This tax legislation which -- is concerned with the 900 numbers. What happened when we passed legislation trying to make some restrictions, so to speak, on certain calls, we, in effect, as said by the Tax Department, covered many other areas that we did not mean to cover. So that's what the bill is.

ACTING PRESIDENT PADAVAN: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I believe there's an amendment at the desk.

ACTING PRESIDENT PADAVAN: The amendment is at the desk.

Senator Present.

SENATOR PRESENT: Mr. President, I would like to make a point of order again that

Senator Dollinger's amendment to Senator Stafford's bill is out of order since it violates Rule VI, Section 4(b), that it is not germane to the original object or purpose of Senator Stafford's bill.

Senator Stafford's bill only clarifies existing law by correcting an erroneous interpretation by the Tax Commissioner. The Tax Commissioner currently interprets the existing law consistent with the new language. It does not change the Tax Law and it has no fiscal impact. Therefore, I ask that you rule Senator Dollinger's amendment out of order.

ACTING PRESIDENT PADAVAN: The explanation provided by Deputy Majority Leader is correct. The Chair rules that this amendment is out of order by virtue of Rule VI, Section 4(b), in that it is not germane.

SENATOR DOLLINGER: Mr. President, may I appeal the ruling of the Chair and be heard on the issue?

ACTING PRESIDENT PADAVAN:

Senator Dollinger appeals the ruling of the Chair and is recognized.

SENATOR DOLLINGER: Mr. President, I think that this amendment is germane. This is an amendment which incorporates the provisions of a bill that I have introduced in this house that would require that a public hearing be held before the Ways and Means Committee and the Senate Finance Committee prior to the imposition of any tax that would raise more than $1 million in revenue. What it would be designed to do, Mr. President, by way of germaneness, is to attack the exact problem we ran into here.

When we passed the the budget bill under the heat of the budget debate, we didn't look at the fact that by extending it to 900 numbers, which we thought would simply extend it to all those pornographic services, that we could easily tax and no one would protest. Instead, we found out it interlinked with the communications network and threatened the superhighway -- the super information

highway that we want to foster here in the state of New York.

What this bill would do is correct the problem while we have to approve Senator Stafford's bill; that is, we would avoid the problem of doing something on a hasty basis that we later regret and have to correct.

From my point of view, Mr. President, nothing could be more germane than to cure through this bill the problem that causes us to do Senator Stafford's bill.

I don't believe the amendment is out of order. I believe it is germane. It's germane to the way we do business when we're raising people's taxes and taking money out of the pockets of the people of this state. We should at least give them a chance to have a hearing and a month's delay before the bill - before the tax takes effect. It seems to me that's a reasonable and prudent thing to do. Every taxpayer in this state should support it, and I think it is germane and should be a part of the bill.

I would ask all my colleagues to vote to overturn the ruling of the Chair so this amendment can be considered.

ACTING PRESIDENT PADAVAN: Ruling that the amendment is not germane, those wishing to sustain the ruling of the chair will so signify by saying aye.

(Response of "Aye".)

Those opposed signify by saying nay.

(Response of "Nay".)

Ruling of the Chair is sustained.

Continue the calendar.

Read the last section of the bill first.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PADAVAN: Would the negatives please put up their hands.

THE SECRETARY: Ayes 55, nays 1,

Senator Dollinger recorded in the negative.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: On page 5, Calendar Number 130, by Senator Stafford, Senate Bill Number 438, Real Property Tax Law.

ACTING PRESIDENT PADAVAN: Read the last section.

SENATOR GOLD: Explanation.

ACTING PRESIDENT PADAVAN: Explanation is requested. Senator Stafford.

SENATOR STAFFORD: Mr. President, we have discussed this bill in past years. As I think probably almost everyone realizes, we have a program or programs here in the state whereby people or corporations can own forest lands and they are able to get tax exemptions.

This makes it possible for us to have our tax -- have our wood products industry that's very, very important and it also keeps our forest lands.

This bill would provide full state reimbursement to local taxing

jurisdictions for any tax revenue losses brought about by these tax exemptions.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT PADAVAN: I think Senator Oppenheimer had the -

SENATOR GOLD: Yes, I'm sorry.

SENATOR OPPENHEIMER: The EPL strongly opposes this bill, and the reasons for it seem logical. They're not actually opposed to the concept in the bill. What they are opposed to is that this is coming prior to a study that's being done that's going to look at all lands in a comprehensive fashion in the state of New York and look to those areas that will perhaps qualify for this but they feel that it is premature for this to be here before their total evaluation of all lands in the state.

ACTING PRESIDENT PADAVAN: Senator Gold.

SENATOR GOLD: No, no. I -

ACTING PRESIDENT PADAVAN: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PADAVAN: Results.

THE SECRETARY: Ayes 54, nays 2. Senators Oppenheimer and Stachowski recorded in the negative.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 154, by Senator LaValle.

SENATOR LaVALLE: Lay it aside.

ACTING PRESIDENT PADAVAN: Lay the bill aside at the request of the sponsor.

THE SECRETARY: Calendar Number 163, by Senator Stafford, Senate Bill Number 433, an act to amend the Highway Law, in relation to abandonment of certain town highways.

SENATOR GOLD: Explanation.

ACTING PRESIDENT PADAVAN:

Explanation is requested.

SENATOR STAFFORD: From year to year, it changes. My good friend, Senator Gold, last year, you just read off the negatives.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT PADAVAN: Senator Gold.

SENATOR GOLD: Yes, with great respect for Senator Stafford and my failing memory, why don't I do that. I just -- and, Senator, next year I'll remember to do this.

I guess this is one we have debated quite a lot. It's opposed by the Adirondack Council and DEC strongly, and in the negative were Senators Dollinger and Espada and myself, the Housing's -- our Senator Halperin, Senator Jones, Leichter, Montgomery, Ohrenstein, Oppenheimer and Senator Sheffer, voted in the negative on this, and I know that, based upon that history, that we will pick up -- I know Senator Nozzolio is smiling at me with his support.

Last section.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PADAVAN: Results.

Senator Oppenheimer.

SENATOR OPPENHEIMER: I just want to -

ACTING PRESIDENT PADAVAN: You're on the roll call.

SENATOR OPPENHEIMER: -- in explaining my negative vote, I want to mention that there is a regular review process when roads are closed that has been established for -- for many years, and this is going - circumventing the rules and regulations of the department which do exist.

There's plenty of opportunity for public hearing if a road is to be closed, so I

don't want people to think that this can't occur. There just is a regular process for it to occur and, by voting against this, you are approving the process of our government.

Thank you.

ACTING PRESIDENT PADAVAN: Results.

THE SECRETARY: Those recorded in the negative on Calendar Number 163 are Senators Dollinger, Espada, Galiber, Gold, Jones, Kruger, Montgomery, Nanula, Ohrenstein, Oppenheimer and Smith. Ayes 46, nays 11.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 168, by Senator Levy -

ACTING PRESIDENT PADAVAN: Explanation.

SENATOR GOLD: Excuse me. Recognize Senator Mendez.

ACTING PRESIDENT PADAVAN: Senator Mendez.

SENATOR MENDEZ: Thank you.

Mr. President, I would like to be recorded in the negative on Calendar Number 27.

ACTING PRESIDENT PADAVAN: 27?

SENATOR MENDEZ: That's 27. Yes, 27.

ACTING PRESIDENT PADAVAN: So ordered.

THE SECRETARY: Calendar Number 169, by Senator Holland, Senate Bill Number 6312, Public Authorities Law.

ACTING PRESIDENT PADAVAN: Senator Holland, explanation has been requested.

SENATOR HOLLAND: Simply, the bill says, instead of collecting tolls in two directions at the Spring Valley toll barrier, they will just be collected in one direction, as is done in many locations already.

SENATOR GOLD: All right. Senator -- will the Senator yield to a question?

SENATOR HOLLAND: Yes.

SENATOR GOLD: Senator, I do not pretend in any way to be a traffic expert and I

rely very heavily, as you do, on Senator Daly, but, Senator, there's a memo in opposition by the State Thruway Authority, and I gather that while these one-way tolls are in effect in certain places, they oppose it here. Have you read their memo?

SENATOR HOLLAND: Yes, I have.

SENATOR GOLD: Senator, if we were to pass it in this house, I mean, is there any reality that this would occur?

SENATOR HOLLAND: I think it's going to occur anyway, Senator. The chairman called me after I introduced the bill and he said to me he thought it was a good idea. They were going to do a quick study. At that point, he did not say he would oppose the bill. I expect that they will find it will save them money and save our people time and that they will do it anyway.

The only reason that they, as you know, object to it is because of the Public Authorities Law, which says that we should - let me see if I can read it to you. "The state

will not limit or alter the rights hereby vested in the Authority to establish and collect such fees and rentals and charges as may be convenient and necessary to produce sufficient revenue -- sufficient revenue," they say here, "to meet the expenses of maintenance and operation."

The Thruway Authority makes sufficient revenue to clear their expenses and makes $162 million in net profits, so I don't think this meets their requirements.

SENATOR GOLD: Senator, would you yield to one last question?

SENATOR HOLLAND: Yes.

SENATOR GOLD: I agree with you that, in reading their memo, they say, in fact, it's something they may do, so there may be merit to it, but they're just saying, basically it's their responsibility under the statute, and they have a study going and we're acting prematurely. Is there merit to that?

SENATOR HOLLAND: I think so. I think we should do it anyway. That's why I

continued to push the bill, and if they do it in the meantime, it is done, and the bill -- I will withdraw the bill.

SENATOR GOLD: I just point out to the house that there is that opposition and, Senator Oppenheimer, you have a -

SENATOR OPPENHEIMER: Senator Holland, would you yield for a question?

SENATOR HOLLAND: Yes, ma'am.

SENATOR OPPENHEIMER: This toll would just be a one-way toll?

SENATOR HOLLAND: Yes.

SENATOR OPPENHEIMER: I mean, I was going to support this because -- I think I had a misunderstanding. You're just talking about collecting the amount that is now charged going one direction?

SENATOR HOLLAND: That's correct. That's all, Senator.

SENATOR OPPENHEIMER: Oh. Well, on the bill. I'm normally very supportive of one-way toll collections but that's because, in my county, what we have been doing is doubling

the toll and then only paying one direction to permit flow of traffic and to, you know, contain some of the exhaust fumes which you get when cars slow down.

SENATOR HOLLAND: In your question, did you mean that we weren't going to double the toll? They are going to double the toll.

SENATOR GOLD: They are going to double the toll.

SENATOR OPPENHEIMER: Then I'm supportive.

Thank you.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT PADAVAN: The bill is passed.

THE SECRETARY: Calendar Number 170, by Senator Holland, Senate Bill Number 6335-A, an act to amend the Public Authorities Law.

ACTING PRESIDENT PADAVAN: Read the last section.

SENATOR GOLD: Is this 170?

ACTING PRESIDENT PADAVAN: Calendar Number 170.

SENATOR GOLD: Explanation.

ACTING PRESIDENT PADAVAN: Explanation. Senator Holland.

SENATOR HOLLAND: Basically it says that if there are four people or more in a car crossing the Tappan Zee Bridge, that there should be no toll -- Malcolm Wilson Bridge, that's correct, the Malcolm Wilson Bridge.

SENATOR GOLD: Will the Senator yield to a question?

SENATOR HOLLAND: Yes, sir.

SENATOR GOLD: What is the loss of revenue on this one?

SENATOR HOLLAND: I think it's

very, very limited but regardless of what the loss of revenue is, this is -- will meet the clean air requirements -- help us meet the clean air requirements that are being imposed by the federal government upon us this time by reducing, hopefully, the number of cars across the bridge.

As you know, right now, if there are three passengers in a car, it only costs 50 cents to cross the bridge. I would like to encourage more people to get in cars and less cars go across the bridge, less commuters in the morning, by doing this.

SENATOR GOLD: Mr. President, would the Senator yield to a question?

ACTING PRESIDENT PADAVAN: Would the Senator yield to a question?

SENATOR HOLLAND: Yes.

SENATOR GOLD: Senator Holland, I understand your concern and you have been discussing the merits of the bill, and I don't want to cloud the argument, but in all fairness, all right -- and we are discussing a budget

these days and the major concern, I think for most of us right now, until we get through the end of the fiscal year's budget, I believe and I'll yield to Senator Present and his counsel on this, I believe we need a fiscal note.

There's no fiscal note on this bill or with the bill, Senator Holland, and I appreciate the fact that many of the fiscal notes we get are totally inaccurate and don't always help, but in all fairness, there should be something, and I would respectfully ask that maybe you want to lay the bill aside a day and just look into it because, as I said, there's none on the bill itself, and the only memo I have says fiscal implications to be determined which it certainly is not a fiscal note.

SENATOR HOLLAND: Senator, actually when 287 comes in, 287 is the new belt-way around the city of New York, that comes in to the Thruway at Suffern and brings all of that traffic up from Jersey which will divide and go north to Stewart Airfield and the Newburgh Bridge and come across the Tappan Zee

Bridge.

Our revenue -- The Thruway's revenue is going to increase greatly at that point, so there will be no loss in revenue. There actually will be a great gain in revenue.

SENATOR GOLD: Senator, if you would yield to a question. I know 287, Senator, and I'm down in that area a lot. I use those roads. That's not what I'm saying.

I really believe that the bill requires a fiscal note, and I just think it's - at this early in the session, we can do things right and -

SENATOR HOLLAND: Let me just - let me just check this. You tell me if I'm right. This is not -- no impact on state revenues, because this is an authority, so is a fiscal note required?

SENATOR GOLD: Well, Senator, I don't think that it -- I'm not going to force you to lay it over and I'm not going to raise issues and go through votes and challenge the Chair.

I think there ought to be a fiscal note. It does, in my opinion, affect the revenues of the Thruway, and I would prefer there is such a note.

At any rate, I point out that there is a memo in opposition, and here again, if you want to make a statement to the Thruway Authority, I guess you can pass it. You've got a majority and we can make the statement, but I think it's a strange way to negotiate.

ACTING PRESIDENT PADAVAN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT PADAVAN: The

bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. On behalf of Senator Levy, would you place a sponsor's star on Calendar Number 175, Senate Print 471.

ACTING PRESIDENT PADAVAN: Star placed on that calendar.

SENATOR KUHL: Thank you.

ACTING PRESIDENT PADAVAN: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would like unanimous consent to be recorded in the negative on Calendar Number 189.

ACTING PRESIDENT PADAVAN: So ordered.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT PADAVAN: Next bill.

THE SECRETARY: Calendar Number 197, by Senator LaValle, Senate Bill Number 577, Correction Law, in relation to eligible inmates for temporary release programs.

ACTING PRESIDENT PADAVAN: Read the last section.

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

SENATOR GALIBER: Explanation.

ACTING PRESIDENT PADAVAN: Explanation is requested. Senator LaValle.

SENATOR LaVALLE: Senator Galiber, currently the Corrections Law precludes individuals that have been convicted of escape and absconding offenses from participating in work release programs, and what we are doing is adding bail jumping to that list that would preclude an individual from the privilege of being in a work release program by adding this.

It seems to make logical sense where someone who has a record before they reach our corrections facilities. Actually we do not have that in the law to preclude them from being in a work release program.

As you know, Senator, I mean, we are having enormous, enormous problems with individuals who are already in our work release

programs.

I have an article here from Senator Marchi's Newspaper, the Staten Island Advance. It talks about -- I'll just read you just a little bit here to give you a flavor.

"More than a thousand inmates assigned to work release programs have fled the state prison system and remain at large, officials said yesterday. Last year, 4,930 of the more than 24,000 inmates who participated in work release programs abused the privilege by not reporting on time to correction facilities."

That means about one of six prisoners in the program was absent without leave at any given time, and then the article goes on and cites a lot of statistics about all the problems that we are having.

So I think it makes really good sense to -- to have, in statute, as one of the conditions that would preclude an individual from being involved in a work release program, if they have been involved in bail jumping.

ACTING PRESIDENT PADAVAN:

Senator Galiber.

SENATOR GALIBER: Senator, would you yield for a question or two?

SENATOR LaVALLE: Yeah.

SENATOR GALIBER: Senator, do you recall what the criteria for work release in the past to legislation from years ago? To be more specific, perhaps, what were the crimes that we were not able to include in the work release; in other words, those persons we came up with a notion, in order to get it passed politically, there were certain crimes, outside of A-1 felonies, that you would not and could not be eligible for youthful offender, and I think it was based on the seriousness of the charge. Do you recall that?

SENATOR LaVALLE: Yes.

SENATOR GALIBER: I know that certainly murder would be one, rape for sure, and a couple other serious categories.

SENATOR LaVALLE: M-m h-m-m.

SENATOR GALIBER: My trouble, Senator, with this piece of legislation is what

you are suggesting where politically we were able to get it passed only because it made sense for a very serious category. What you're saying in this piece of legislation, that if you are convicted of bail jumping prior to going into the prison, then you are excluded from being eligible for work release down the line. I don't think absconding should be put in the same category as those being put -- initially put in murder, rape, with exclusionary factors involved.

What I think is happening here, you are transferring over those persons who, with the privilege, as you put it, are now on work release, who are there in some instances because of another factor, and that is that we misuse work release by trying to empty out our institutions so that we can make room for more, but this is a situation where bail jumping, in reality, comes about as a result of sometimes a plea bargain, where they use the bail jumping as a driver to get you in a position where you will then plead to another charge. But basically, it

does not have that kind of seriousness attached to it if you take it in the context of being an exclusionary factor to preclude people from ever being eligible if they're convicted and sent to our state institutions. That's what troubles me.

SENATOR LaVALLE: Senator, I think I followed you in terms of the seriousness when the statute was put into place with the violent felonies, but what we were trying to do, both Assemblyman Feldman and myself who is the Assembly sponsor of this measure, was to carry it to some sort of -- to a rational conclusion, the premise in just the sentence before this which we are amending, that the law currently reads, "No person convicted of any escape or absconding offense," all right, and then what we're carrying to a conclusion and we're saying, "and also, for bail jumping" because we're trying to, I think, I mean, unless I'm missing something -

SENATOR GALIBER: I think you are.

SENATOR LaVALLE: Okay. Well -

SENATOR GALIBER: I think you are, Senator. What it is that you are transferring a non-transferable matter. You're taking the notion of absconding and escape from those who are on work release, to say that if you happen to be bail jumping on the charge that we have before us, that you, therefore, are excluded because you are building into the bail jumping, a pattern that if they were released then, of course, they would then abscond or what, and that is not fair, not right. That's not the essence of the bill.

SENATOR LaVALLE: Okay. That is the -- that is the -- I think you put in the premise we are basing this on, I think very accurately, and I think we just have a difference here, of whether our premise is, in your view, logical or not, or in both Assemblyman Feldman's mind and mine. We do build a connection in attitude, if a person is to bail jump then it is very possible that it can lead to other kinds of things, and I think

we just come at this in a different way.

SENATOR GALIBER: Senator, I may be wrong on this, your advisers and mine could tell me otherwise. Senator, are you aware of the fact that if I'm not -- whether the time span or not, but if you do not show up in a Supreme Court for a felony, and I think there's a time span involved, I'm not sure, but if I'm not, then you can be charged after, I think 30 days. I think that's what it is, 30 days. Then you could be charged with bail jumping. Bail jumping, from a practical standpoint by itself, is never prosecuted.

ACTING PRESIDENT PADAVAN: Senator Galiber, would you address the Chair.

SENATOR GALIBER: Yes. I'm sorry, Mr. President. It's just the awkward - it's just this new seat that I have. I have been used to -

ACTING PRESIDENT PADAVAN: It's okay. Senator LaValle, would you yield to the question?

SENATOR LaVALLE: Was it a

question or was it a statement?

SENATOR GALIBER: It was a statement. Well, let me ask you a question so you can respond to it. Senator, how long do you have to be away from the case in order for you to be charged or the people to have the responsibility of the charge of bail jumping, if you know?

SENATOR LaVALLE: Senator, I'm not absolutely sure, but I think we take care of your concerns, in the definition under Sections 215.55, .56 and .57, and I think what -- I think we deal with that in those sections of law, so as not to treat the time away as what you are inferring, as a -- as a more casual lapse and then a person who has a bail jumping, therefore, is precluded from a work release program. That's what you're saying to me, aren't you?

SENATOR GALIBER: Basically - I'll sum up on it because you and I differ on it.

Mr. President, thank you for your patience. This piece of legislation -- and I

understand where my colleague is coming from, but it's just another situation where we are adding on to the pile, if you will, something that was never intended for work release.

We passed the work release bill some years ago, and the theory behind it was a simple one, that if you work hard in the prison, and if you made certain progress, you might very well be eligible for work release after a stipulatd time or a time to be decided by the Department of Corrections.

We excluded those very serious crimes, and some of us argued at that time that even the serious crimes, once someone gets past a certain number of years, the possibility of recidivism is not there, but politically we had to make the change.

Now, we add because of your connection which you and I differ on, there's where the difference really is, and I say there's more to the distinction that there really is a difference, that you are taking those persons who have been released from -- who

were on work release, who are in our community, and because they have no jobs or they abscond or we're putting too many of them out there.

Senator, what I would like to see a piece of legislation I'll vote for -- they've got some 94-day persons who are only incarcerated for 94, 95 days, those persons who are eligible for work release and they're out there on work release, not the ones you're talking about, the ones who happen to be hooked into the situation where bail jumping has been brought forth as an indictment.

In the bail jumping, they use it simply, Mr. President, as a kind of vehicle through which they can get quality pleas for those persons who are somewhat reluctant, and in some instances they even bring an indictment. They don't even ask for an indictment at all. They hold them in their back pocket. They have won a case every five or six years since I have been up here. They've got the indictment or the possibility of an indictment in the back pocket.

So, Senator, this is not -- I know what you're trying to do, but there's so many other areas I'm disturbed about, why our corrections department, work release, why they have day reporting, because they are double bunking, and the whole slew of other things, why we can't get some to vote for alternatives to incarceration, so we can put some serious people -- serious offenders in jail, not to keep those who are indicted for absconding in our institutions, if they're eligible otherwise for work release.

That's why, Mr. President, I oppose this piece of legislation. I think I certainly know where my colleague is coming from. I just don't agree where he's going on this issue.

ACTING PRESIDENT PADAVAN: Read the last section.

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

ACTING PRESIDENT PADAVAN: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT PADAVAN: The bill is passed.

Senator Present.

SENATOR PRESENT: I believe Senator Montgomery would like to speak.

ACTING PRESIDENT PADAVAN: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would like unanimous consent to be recorded in the negative on Calendar 27, Number 27.

ACTING PRESIDENT PADAVAN: Calendar Number 27, so directed.

SENATOR MONTGOMERY: Thank you.

SENATOR PRESENT: Any other housekeeping?

ACTING PRESIDENT PADAVAN: I do not believe so, Senator.

SENATOR PRESENT: Mr. President,

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

ACTING PRESIDENT PADAVAN: The Senate is adjourned.

(Whereupon, at 5:12 p.m., the Senate adjourned.)