ALBANY, NEW YORK

May 3, 1994

3:46 p.m.

REGULAR SESSION

SENATOR NICHOLAS A. SPANO, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT SPANO: The Senate will come to order.

All please rise for the Pledge of Allegiance.

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

For the prayer today like to introduce Bishop Muriel Grant, the Mount Olive Discipleship in Christ, in Brooklyn.

BISHOP MURIEL GRANT: Let us pray. May the infinite power of the Almighty God abide with us. Have mercy upon this whole land and all the hearts of Thy servants, the President of these United States, the Governor of the state and all others in authority, to affirm our covenant with You so given at a time of the birth of the Republic for which it stands, and so being strengthened by Your might as one nation under God, for it is in quietness and confidence that our strength shall be. Most gracious God, I humbly beseech Thee as for the people of these United States in general, so

especially for this Senate here assembled, Republicans and Democrats, as well as any representatives in Congress here assembled. Bless, O Lord, this, their counseling session, and heal their infirmities. Direct and prosper all Senate consultations. Give them wisdom of laws needed for effective leadership to the advancement of Thy glory, the good of Thy church, the safety, honor and welfare of Thy people that things ordered and settled by the leaders of this Senate body will rest upon the best and surest foundation, that peace, happiness, truth, justice, religion and parity may be established amongst us for all generations, we being truly indivisible as a nation. These and all other necessities for us, the whole church, I humbly beg in the name and supplication of Jesus Christ, my most blessed Lord and Savior. Amen.

ACTING PRESIDENT SPANO: Thank you, Bishop Grant.

Reading of the Journal.

THE SECRETARY: In Senate,

Monday, May 2nd. The Senate met pursuant to adjournment, Senator Spano in the Chair upon designation of the Temporary President. The Journal of Sunday, May 1st, was read and approved. On motion, Senate adjourned.

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

Order of business: Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Communications and reports.

Motions and resolutions. Senator Farley.

SENATOR FARLEY: Mr. President, I have two motions here.

On behalf of Senator Daly, page 17, Calendar Number 596, Senate Print 6899-A, I offer the following amendments and ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT SPANO: So

ordered.

SENATOR FARLEY: On behalf of Senator Hannon, on page 20, I offer the following amendments to Calendar Number 654, Senate Print Number 277, and I ask that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT SPANO: So ordered.

Any other motions, resolutions?

Senator Present.

SENATOR PRESENT: Mr. President, I move that we adopt the Resolution Calendar with the exceptions of Number 3377 and 3380.

ACTING PRESIDENT SPANO: The question is on the adoption of the resolutions on the Resolution Calendar with the exception of 3377, 3380. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolutions are adopted.

Senator Present.

SENATOR PRESENT: Mr. President, will you recognize Senator Farley, please.

ACTING PRESIDENT SPANO: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

There's a privileged resolution at the desk on behalf of the State University of New York at Albany, and I'd ask the Secretary to read it in its entirety.

ACTING PRESIDENT SPANO: Secretary will read the resolution.

THE SECRETARY: Legislative Resolution Number 3377, by Senators Farley, Nolan, Bruno and other members of the Senate.

Legislative Resolution, honoring the University at Albany, State University of New York, upon the occasion of its 150th Anniversary and memorializing Governor Mario M. Cuomo to proclaim May 9th, 1994, University at Albany Day.

WHEREAS, the state of New York notes with great pride the 150th Anniversary in

1994 of the founding of the University at Albany, State University of New York, originally established as the Albany Normal School, its predecessor institution;

Established on May 7, 1844 by the New York State Legislature, the Albany Normal School opened its doors on December 18, 1844 as New York's first state-chartered public institution of higher learning, adopting as its goal the preparation and training of teachers "in the science of education and the art of teaching;"

Since its establishment, the institution at Albany has fulfilled with distinction the tripartite mission of public higher education: Teaching, research and public service. This has been accomplished through the education of teachers for the common schools of the 19th Century, the continuing preparation of secondary school teachers in the early 20th Century, and the comprehensive education and research programs of the modern university today;

Throughout the past 150 years, the members of the faculty of the University of Albany have set a national standard for excel lence in providing an outstanding education for teachers and, more recently, in preparing the students for their Baccalaureate, Master's and Doctoral degrees in a wide array of disciplines; at the same time the research and scholarship being pursued and developed at the University have been recognized nationally as well as internationally;

The history of the University at Albany has been one of dramatic and progressive changes not limited to the curriculum and scope of the scholarly services provided; the facility itself has undergone extensive renovation and important new construction as it moved first in 1909 to a campus befitting its expanded goals as a college for teachers and in 1965 to its present location characterized by the striking architectural landmark by architect Edward Durell Stone, designed to match in its modern grandeur the aspirations of a major research

university;

The University at Albany has demonstrated a long-standing commitment to providing access to an education of excellence for all citizens of New York State and today enrolls nearly 17,000 of diverse backgrounds and origins, both graduate and undergraduate, serving a community which appreciates and cele brates the institution's rich diversity;

With the graduation of the Class of 1994, Albany alumni and alumnae will number more than 100,000 individuals living and working and contributing to their communities across New York State and the nation;

Many citizens of New York State have served as advisers and overseers of the programs at Albany from the members of the first Executive Committee to the modern University Council and have demonstrated through their voluntary stewardship their commitment to the public higher education;

The University at Albany has established and maintained strong mutually

beneficial relations with the people, organizations and municipalities of the Capital Region of the state of New York and has contributed substantially to the quality of life and economic vitality of the region and the state;

1994 has been designated as the University at Albany Sesquicentennial year and will be observed through academic and community events, publications and other activities designed to celebrate the achievements and rich history of the institution and its people, and to consider the responsibilities of a public institution in the future;

NOW, THEREFORE BE IT RESOLVED that this legislative body pause in its deliberations to honor the 150th Anniversary of the University at Albany, State University of New York, and to recognize this historic occasion for all public higher education in New York State; and

BE IT FURTHER RESOLVED that May 9th, 1994 be proclaimed University at Albany

Day as a reflection and acknowledgement of the continued commitment to public higher education in the state of New York, and

BE IT FURTHER RESOLVED that a copy of this resolution, suitably engrossed, be transmitted to H. Patrick Swygert, president of the University at Albany, State University of New York.

ACTING PRESIDENT SPANO: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

It's a great pleasure for me to come up here and wish my college, my university, its 150th birthday. Not only am I a graduate of that school, I taught there for 29 years or close to it. My son is a graduate and my -- two of my brothers, and it's truly one of the treasures of New York State. It's our neighbor, and this entire Senate and this entire Capitol is filled with its graduates, people who have gone on to distinction.

But the University at Albany has

a tradition. It's for academic excellence. It's been known all over the world for a school of outstanding scholarship, and our gallery is filled today with members of the University family, and we're very honored and pleased to have with us seated in the place of honor, H. Patrick Swygert, the president of the SUNY at Albany.

I've served there for a number of years. I've seen a lot of presidents. When Pat Swygert hit this town, he brought a breeze of fresh air as one of the most dynamic, exciting presidents that SUNY-Albany has ever seen.

Let me just tell you a little bit about this president. This is a young man who grew up in Philadelphia, graduate of Howard University and Howard University Law School in Washington, D.C. He was with a New York City law firm, an assistant district attorney in Philadelphia, administrative aide to Congressman Rangel, a law clerk to the chief judge of the United States Court of Appeals, Third Circuit. He was also counsel to the United States Civil

Service Commission and he received the Commissioner's Award for Distinguished Federal Service, General Counsel. He was a professor of law at Temple, executive vice-president at Temple University.

He's had a distinguished career since he's come to New York State. The Governor has appointed him to the Moreland -- I believe chairman of the Moreland Commission. He's served on all kinds of educational, higher education and education commissions and committees.

President Swygert has been an absolute thrilling president for the University. The students, the faculty, everybody are excited about his tenure there.

It is with a great deal of pleasure that I move this resolution on behalf of the sesquicentennial -- and I've been practicing that -- for the University at Albany.

Mr. President?

ACTING PRESIDENT SPANO: Thank

you.

Senator LaValle.

SENATOR LAVALLE: Mr. President, I rise to join Senator Farley in acknowledging a great State University within the SUNY system. We, the people of New York State and certainly we as members of this Legislature, should be very, very proud of the investment that we have made in our State University, an investment that we have made in the State University at Albany, and the very fact that they have distinguished themselves in fulfilling their mission and, indeed, people have been enriched by their education, have gone out to become leaders in New York State.

I had the opportunity of having a daughter who attended SUNY-Albany and graduated from SUNY-Albany, so certainly I can speak first hand of the quality of education and the fact that one of its graduates has gone on to distinguish herself as an attorney here in the state of New York.

But I want to also echo the

comments that Senator Farley made about President Swygert, who has had the good fortune on his watch to be at a point in time to take the University and move it forward in times that we haven't had necessarily all the fiscal resources, to keep the ship pointed straight and to maintain programs of excellence during this time.

All of the faculty, administration, students, alumni should be very, very proud of the State University at Albany and, Senator Farley, it really gives me great pleasure as chairman to join you in speaking on behalf of this resolution today.

ACTING PRESIDENT SPANO: The question is on the resolution. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

(Applause)

ACTING PRESIDENT SPANO: On

behalf of Senator Farley, Senator Marino, all the members of the Senate, we would like to welcome particularly President Swygert here and to join with you in acknowledging the 150th Anniversary of the University at Albany and also welcome the members of the University family who are also seated with us in the gallery.

Certainly a pleasure to have you all with us, and we continue to be proud of the work that you and so many others do on behalf of the young people in our community.

Congratulations.

(Applause)

Senator Present? Senator Johnson.

SENATOR JOHNSON: Yes, Mr. President.

I'd like everyone here to be aware that among those resolutions adopted a short time ago was Resolution Number 3458 introduced by Senator Bruno, which celebrates Small Business Week. We would like every member here to be on that resolution if they care to.

If they don't care to, of course, they could indicate so, and we'd like that to be brought to your attention.

Thank you.

ACTING PRESIDENT SPANO: The resolution will remain open at the desk.

Senator Farley.

SENATOR FARLEY: If I may. Thank you, Mr. President. Incidentally the SUNY - the University at Albany -- it's gone through several name changes. I keep slipping into some of the old names of it, but the University at Albany resolution is open to the entire Senate. Almost everyone is on it, but anyone that's not on it, please notify the desk. You're welcome to sponsor it.

ACTING PRESIDENT SPANO: Senator Present.

SENATOR PRESENT: On both those resolutions, the one suggested by Senator Johnson and Senator Farley, all members' names will be included unless they decline the opportunity.

ACTING PRESIDENT SPANO: So noted.

SENATOR PRESENT: Mr. President, on behalf of Senator Libous, I believe he has a privileged resolution there.

ACTING PRESIDENT SPANO: Secretary will read the title of the resolution.

THE SECRETARY: By Senator Libous, Legislative Resolution, commending Jane Darling upon the occasion of her designation as recipient of the Small Business Advocate of the Year Award.

ACTING PRESIDENT SPANO: Question is on the passage of the resolution. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Present.

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

ACTING PRESIDENT SPANO: Secretary will read the non-controversial calendar.

THE SECRETARY: On page 12 of today's calendar, Calendar Number 432, by Senator Levy.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT SPANO: Lay it aside for the day.

THE SECRETARY: Calendar Number 586, by Senator Trunzo, Senate Bill Number 70...

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Laid aside.

THE SECRETARY: Calendar Number 607, by Senator Levy.

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

ACTING PRESIDENT SPANO: Lay it aside for the day.

THE SECRETARY: Calendar Number 641, by Senator Libous, Senate Bill Number 4449,

an act to amend the Penal Law, in relation to the authorizing an additional term of imprisonment.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes -

SENATOR GOLD: Mr. President.

ACTING PRESIDENT SPANO: Senator Gold.

SENATOR GOLD: Yeah, I'll just explain my vote.

ACTING PRESIDENT SPANO: Senator Gold to explain his vote.

SENATOR GOLD: This morning in New York, I held a hearing on the "three strikes you're in, three strikes you're out," whatever you want to call it, bill and the testimony was very interesting, and then I bought a newspaper

to read on the plane coming up, and I read about a proposed agreement between Republicans and Democrats to let all of these elderly people out of jail, and then we have this piece of legislation and the only thought I want to throw out to everybody is, it would be very refreshing if both houses of the Legislature decided to, once and for all, take a look at sentencing, for our whole justice system and do something that fits together and makes some sense.

I mean we've had sentencing commissions. I saw a report today. I was on the Morgenthau Commission back in, I think it was '79; I was on other commissions, but what we do is piecemeal, take all these proposals. So we put in legislation, "three strikes you're in" and we're going to have people, elderly people, in jail in the same year that we're going to brag we're putting elderly people out of jail because they're not -- they're not hazardous, and I certainly support this. I've supported it in the past, but I think it just highlights the shot gun approach we take to legislation which

winds up in a situation where we get contradict ory pieces of legislation, and I think we ought to start doing it a little differently.

But I certainly -- I voted for this in the past, and I'll vote aye again.

ACTING PRESIDENT SPANO: Senator Gold in the affirmative.

THE SECRETARY: Ayes 47, nays one, Senator Galiber recorded in the negative.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 650, by Senator LaValle, Senate Bill Number 7297, an act to amend the Criminal Procedure Law, in relation to providing peace officer status.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes forty... ayes 47, nays 3, Senators Galiber, Gold and Leichter recorded in the negative.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 651, by Senator Volker, Senate Bill Number 7422, an act to amend the Penal Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 659, by Senator Seward, Senate Bill Number 7410, authorizing the State University of New York to lease certain lands.

SENATOR GOLD: Lay it aside,

please.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 669, by Senator Cook.

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

ACTING PRESIDENT SPANO: Lay it aside for the day.

THE SECRETARY: Calendar Number 670, by Senator DiCarlo, Senate Bill Number 6378, General Obligations Law, in relation to exoneration of certain police officers.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT SPANO: Laid aside.

THE SECRETARY: Calendar Number 671, by Senator Lack, Senate Bill Number 6963-A, an act to amend the Estates, Powers and Trusts Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 672, by Senator Lack, Senate Bill Number 7165, an act to amend the Surrogate's Court Procedure Act.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number

673, by Senator Stafford, Senate Bill Number 7467, an act to amend the General Construction Law, the Public Officers Law and the Tax Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 674, by Senator Stafford, Senate Bill Number 7538, proposing amendment to the Constitution, in relation to exchange of certain forest -

SENATOR GOLD: Lay it aside, please.

ACTING PRESIDENT SPANO: Laid aside.

THE SECRETARY: Calendar Number 676, by Senator Stafford, Senate Bill Number

6319, to repeal certain provisions of the Highway Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 677, by Senator Bruno.

SENATOR GOLD: Lay it aside, please.

ACTING PRESIDENT SPANO: Laid aside.

THE SECRETARY: Calendar Number 678, by Senator Kuhl, Senate Bill Number 6824, an act to amend the Vehicle and Traffic Law, in relation to appropriate reduced speeds for motor vehicles.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT SPANO: The bill's passed.

THE SECRETARY: Calendar Number 686, by Senator Volker, Senate Bill Number 4209, Criminal Procedure Law, in relation to serving a supporting deposition.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT SPANO: The bill

is passed.

THE SECRETARY: Calendar Number 703, by Senator Nozzolio, Senate Bill Number 4154, Social Services Law, in relation to false statements.

SENATOR SMITH: Lay it aside, please.

ACTING PRESIDENT SPANO: Laid aside.

THE SECRETARY: Calendar Number 710, by Senator Goodman, Senate Bill Number 4081-A, Alcoholic Beverage Control Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number

711, by Senator Padavan, Senate Bill Number 6784, authorizing the Commissioner of General Services to sell or lease certain land in Queens County.

SENATOR GOLD: Lay it aside.

SENATOR PADAVAN: Lay aside.

ACTING PRESIDENT SPANO: Laid aside.

THE SECRETARY: Calendar Number 714, by Senator Daly, Senate Bill Number 7280, Public Officers Law, eligibility for the office of court clerk.

ACTING PRESIDENT SPANO: Read the last section.

THE SECRETARY: Section 2. This -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Laid aside.

THE SECRETARY: Calendar Number 7 -

SENATOR PRESENT: Lay aside, please.

ACTING PRESIDENT SPANO: Laid aside.

SENATOR PRESENT: For the day.

ACTING PRESIDENT SPANO: Laid aside for the day.

THE SECRETARY: Calendar Number 717, by Senator Daly.

SENATOR SMITH: Lay it aside.

ACTING PRESIDENT SPANO: Laid aside.

THE SECRETARY: Calendar Number 718, by Senator Johnson, Senate Bill Number 7172, Environmental Conservation Law, in relation to small business stationary source technical and environmental compliance.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 721, by Senator Johnson, Senate Bill Number 7383.

SENATOR JOHNSON: Lay it aside for the day; also Calendar 722.

ACTING PRESIDENT SPANO: Lay aside 721 and 722 for the day.

THE SECRETARY: Calendar Number 724, by Senator Johnson, Senate Bill Number 7479, Environmental Conservation Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT SPANO: The bill is passed.

Senator Present, that completes

the non-controversial calendar.

SENATOR PRESENT: Mr. President, let's take up the controversial calendar.

ACTING PRESIDENT SPANO: Secretary will read the controversial calendar.

THE SECRETARY: On page 16, Calendar Number 586, by Senator Trunzo, Senate Bill Number 7057-A, an act to amend the Administrative Code of the city of New York.

SENATOR GOLD: Hold on a minute. Mr. President.

ACTING PRESIDENT SPANO: Senator Gold.

SENATOR GOLD: I just wanted to point out that there is a memo from the city of New York in opposition claiming that it breaches some agreements between the City, the Transit Authority, the Transit PBA and anybody who's interested in reading the memo, I have a copy here.

ACTING PRESIDENT SPANO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52, nays one, Senator Johnson recorded in the negative.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 659, by Senator Seward, Senate Bill Number 7410, authorizing -

SENATOR PRESENT: Lay aside, please.

SENATOR GOLD: Lay it aside.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT SPANO: Lay it aside temporarily.

THE SECRETARY: Calendar Number 670, by Senator DiCarlo.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT SPANO: Lay it

aside temporarily.

THE SECRETARY: Calendar Number 674, by Senator Stafford, Senate Bill Number 7538, proposing an amendment to the Constitu tion, in relation to exchange of certain forest preserve lands.

ACTING PRESIDENT SPANO: Senator Gold.

SENATOR GOLD: Yeah, Mr. President. If Senator Stafford would be kind enough, we've had a communication from a group that wants to put a memo in. Would you mind laying it aside a day, sir? Thank you.

ACTING PRESIDENT SPANO: Lay the bill aside.

THE SECRETARY: Calendar Number 677, by Senator Bruno, Senate Bill Number 6727, Vehicle and Traffic Law, relation to permitting the village of Round Lake to reduce the speed limit on its highways.

ACTING PRESIDENT SPANO: Home rule message is at the desk. Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 703 by Senator Nozzolio, Senate Bill Number 5104, Social Services Law, in relation to false statements.

SENATOR WALDON: Explanation.

SENATOR GOLD: Explanation.

ACTING PRESIDENT SPANO: Senator Nozzolio, explanation has been asked for on Calendar Number 703.

SENATOR NOZZOLIO: Yes. Mr. President, my colleagues, this measure which passed the Senate last year is an act to amend the Social Services Law making it a -- a violation for someone to make a knowingly false statement to obtain public funds or social

services monies.

The right to recover the state shall have under this bill a right to recover civil damages equal three times the amount by which the figure is falsely overstated, or $5,000, whichever is the greater sum.

SENATOR WALDON: Mr. President.

ACTING PRESIDENT SPANO: Senator Waldon.

SENATOR WALDON: Would the Senator yield to a question or two?

ACTING PRESIDENT SPANO: Senator Nozzolio yields.

SENATOR NOZZOLIO: Certainly.

SENATOR WALDON: Senator Nozzolio, is it $5,000 or $10,000?

SENATOR NOZZOLIO: It's $5,000.

SENATOR WALDON: The original is 5-; you want to amend it to make it 10-, is that correct?

SENATOR NOZZOLIO: That's correct. My mistake, Mr. Waldon -- Senator. You're correct, it's $10,000, whichever is

greater.

SENATOR WALDON: If I may, Mr. President?

ACTING PRESIDENT SPANO: Senator Waldon.

SENATOR WALDON: Senator, the people who are caught in this situation making application and who falsify records, we recognize that -- falsify statements, I should say, we recognize that what they're doing is wrong, but for the most part is it your under standing that the people who do this are not necessarily financially well off and will be able to repay or pay to the state the fine of $10,000?

SENATOR NOZZOLIO: That is probably so.

SENATOR WALDON: Would it serve the interests of the state of New York to seek retribution in this form or would it serve the best interests of the state to find another way to "skin this cat", to seek penalty but not something that is absolutely or perhaps

relatively unrecoverable?

SENATOR NOZZOLIO: Senator, it is our hope that, by increasing the amount of recoverable damages, that there will be a chilling effect, that enforcing a larger amount of money potentially could be subject here for culpability; therefore, increasing the fine would basically allow more staff within Social Services to investigate the claim.

But I think from even a greater perspective, the larger sum would make it more difficult, would have a greater chilling effect on those who might otherwise be disposed to make fraudulent statements.

SENATOR WALDON: Thank you, Senator.

If I may, Mr. President?

ACTING PRESIDENT SPANO: Senator Waldon.

SENATOR WALDON: On the bill.

I don't see the need to increase the penalty from 5,000 to 10,000. If the person is unable to pay the state for his or her

wrongdoing $5,000, how can they possibly pay 10,000?

Also, Senator Nozzolio and my colleagues, what chilling effect is there going to be on someone who has nothing? The fact that they're falsifying their statements to obtain largesse from the state is not going to be diminished by the fact that they have a penalty at the other end for such falsification that is increased here two times.

I think it's rather foolhardy for us to implement this. I think what we should do is stick with the current law and make every effort to recover what may be more recoverable, 5,000.

I think what we're creating here is a possibility of more of nothing from nothing leaves nothing.

ACTING PRESIDENT SPANO: Senator Espada.

SENATOR ESPADA: Yes, Mr. President.

Would the sponsor yield to a

question, please?

SENATOR NOZZOLIO: Certainly.

SENATOR ESPADA: With respect to the existing $5,000 fine, what kind of judgments in numbers do we have on record statewide with respect to this fraudulent violation?

SENATOR NOZZOLIO: I don't have those numbers with me, Senator, but I would be glad to provide them for you at some future date.

SENATOR ESPADA: Could we possibly lay the bill -- may I, Mr. President? Can we possibly lay the bill aside? It would seem to me this is a fundamental question that's -- that supports your basic contention. Would you lay the bill aside until such information is available?

SENATOR NOZZOLIO: Senator, I think that the question of prosecuting fraudulent claim and whether or not it is the wisdom of this body to increase the penalties for fraudulently making statements to the Social Services Department is the issue here. The

Legislature, this house, the other house, Governor, have gone on record in allowing a $5,000 penalty to be part of the code.

What we're suggesting through this legislation is that not an honest person be punished, and we're saying that with social services costs now eclipsing 42 percent of our state budget that we must do all we can to prevent those who are fraudulently obtaining social services funds in order for those who are entitled to social services funds to get them, and, Senator, I think your request is reasonable.

However, I am not going to ask this house to lay the bill aside. It's properly before the house, and I'm suggesting that it is time that the Legislature continue its efforts to fight fraud and abuse at every step and to support increased penalties for those who are fraudulently trying to gain benefit contrary and hurting those who are entitled to benefit because those who are entitled to benefit may be in jeopardy of getting those benefits because of

the escalating costs and the increased budget demands.

Senator, I respect your request. However, I will not suggest the bill be laid aside at this time.

SENATOR ESPADA: Mr. President, on the bill.

ACTING PRESIDENT SPANO: Senator Espada on the bill.

SENATOR ESPADA: Regrettably, it doesn't surprise me that in this body we can reasonably ask for some time for some reasoned minds to deliberate on a fundamental question of is there a need for a bill in the first place.

In respect to the issue that Senator Gold raised earlier with respect to another bill, that is that we have come to take potshots and continue to snipe away and bite away at problems and not deal with them in a comprehensive and holistic way, we have a lot to say. This Senator has a lot to say.

After two public hearings on welfare reform, one in the City, one up here in

Albany, well attended by recipients, by advocates, by people who know the system, know about fraud, know about true need, know about the fact that the state is currently in violation of not coming to terms with our own Constitution that says that we will provide a standard of need for the people in this state, specifically issues of rent, shelter rent allowances, and basic grants that are 40 percent below the poverty level at this point, and all of this, we do find time to introduce a bill that snipes away at poor people once again because the fundamental conclusion here is that we don't know if fraud exists, but we do know that poor people are out there in need and, therefore, levy a $10,000 fine on them because we have nothing better to do with respect to welfare reform and helping poor people.

I really am continuing to voice this because there are poor people out there that count on each of us to help them with true opportunity, real jobs, real job opportunities. You know, there are people that are being laid

off in the Department of Social Services in the city of New York.

This bill, in its justification clause says by increasing the fines on poor people, essentially taxing poor people, that we're going to find money for more social services staff in the city of New York and throughout this state.

Again, on the basis of the lack of evidence, its unsound justification and reasoning, I would hope that the members on this side of the aisle and members of this Legislature would vote to deny the sponsor the ability to pass this in this house.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Leichter.

SENATOR WALDON: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Waldon, why do you wish to be recognized?

SENATOR WALDON: I didn't realize that the learned Senator wishes to speak first.

ACTING PRESIDENT LIBOUS: We have

a list, Senator; Senator Leichter had asked to be recognized. I'll be glad to put you next on the list, sir.

SENATOR LEICHTER: Would Senator Nozzolio be good enough to yield, please.

ACTING PRESIDENT LIBOUS: Senator Nozzolio. Yes, he will, sir.

SENATOR LEICHTER: Senator Nozzolio, I thought that Senator Espada had made a reasonable request, which is to determine if there is a need for this bill, and I want to tell you, if you have evidence, social services commissioners who would say, "Gee, I could have collected $10,000 for fraud, but you, the Legislature, limited me to 5,000," I'd be inclined to vote for your bill. But can you tell us whether there exists one such case?

SENATOR NOZZOLIO: Senator, as much as I would like you to vote for my bill based on the foundation from which you ask the question, I think you should decide this bill based on whether or not you support welfare fraud and abuse or whether you don't.

If you support providing false information as a way that people, rich or poor, should give false statements to social services directors, if that's how you believe, then vote against the bill. If you believe that people should be honest, should be forthcoming and should apply for social services giving proper information, correct information, non-fraudulent information, Senator, then vote for the bill.

SENATOR LEICHTER: Senator, if you would be good enough to yield.

SENATOR NOZZOLIO: Certainly.

SENATOR LEICHTER: I want to say, Senator, I happen to agree with you that we should act against fraud. Let me tell you what else I think is important, that we should pass intelligent legislation, and that we shouldn't get up here posturing, that we shouldn't pass bills that may end up costing the taxpayers more money. It's costing the taxpayers money by putting in bills that may not make sense.

Now, I'm not saying your bill doesn't make sense. I just ask you, Senator,

you get up here and you say we need to increase the civil penalty from 5- to $10,000. Do you have any basis for showing us that that would indeed help to deter fraud, that that would allow for the collection of monies that were ill-gotten and compensate the Social Services Department for having to go through the process of collection?

If -- if, indeed, you can show that to us, I think there's reasons to vote for the bill, but I think you have the obligation, Senator, to come and tell us that this will indeed have some effect on fraud, and I'm asking you, do you know of a single case?

SENATOR NOZZOLIO: Senator, I know of many cases throughout the Social Services system where fraudulent claims were made.

SENATOR LEICHTER: Senator, if you know of one case where the Social Service Department could have collected or Social Service Commissioner could have collected more than $5,000 but he was limited in collecting

that amount because the statute presently does not allow it. The statute presently says that you can collect three times the amount by which any figure is falsely overstated or $5,000, whichever is greater.

Now, can you -- can you give me a case where the Social Service Commissioner said, "I was not able to collect the full amount because you people limited me?" That's the question. Can you give us one case?

SENATOR NOZZOLIO: I'm sure I could, Senator. However -

SENATOR LEICHTER: Well, Senator, Senator -

SENATOR NOZZOLIO: However, Senator, with all due respect, I do not have cases, individual cases, in front of me at this time.

SENATOR LEICHTER: One case, I'm asking, one case. Can you give us one case so that we know that we're going to save the state of New York more money than we're going to cost the state of New York by you putting in a bill

of this sort that may not make any sense?

SENATOR NOZZOLIO: Senator, this bill -- this law was changed in 1992. You were in the Senate at that time. Did you vote for this bill or against this bill when the original $5,000 was placed as a threshold number?

SENATOR LEICHTER: I would -- I would suspect that I voted for it.

SENATOR NOZZOLIO: Well, Senator, at that time, did you have evidence when you voted for this bill that it would be effective?

SENATOR LEICHTER: Senator, at that time, it was the collective judgment of the Senate and the Assembly that to say that you could collect three times the amount of the - that had been overstated or $5,000, whichever was greater, made sense.

Now, what is it, two years later, you come and say 10,000 is the right figure and you can't give us one case, one case, where this would benefit the state of New York. You talk about -- you talk about waste. I'm suggesting, Senator, that you're wasting the taxpayers'

money by this sort of a bill, if you don't have the evidence.

SENATOR NOZZOLIO: Senator, I believe that your suggestion that by not presenting individual cases here before you today of frauds who came before the Social Services Department and tried to defraud money from the taxpayers by making incorrect - knowingly incorrect and inaccurate statements, begs the question.

The question is whether or not you believe that those who try to chisel the system and to cheat the system should be subject to severe fine, and the question also is whether you believe that $5,000 was sufficient. How can you quarrel that $10,000 wouldn't do a better job?

SENATOR LEICHTER: Well, let me ask you, Senator, why don't you have $100,000 here? Wouldn't -- under your theory, wouldn't that chill people even more -- I'm using your expression -- and deter people?

Where did the figure come from,

Senator? What is the basis? That's all we're asking you for. It's your bill. You want to take our time in putting forward this legislation. Don't you think you have an obligation, don't you have an obligation to have some factual basis for a bill that you present?

SENATOR NOZZOLIO: Franz - Senator, yes, I do.

SENATOR LEICHTER: Call me Franz.

SENATOR NOZZOLIO: Yes, I do, Senator. That basis is that welfare fraud should be stopped and that we should take every step possible to make it more difficult for those to cheat the system and punish those who do, in a way commensurate with their actions.

As I said -- spoke to Senator Waldon, that his question was a question of the amount as your question is. It duplicates Senator Waldon's question.

My answer to him is the same answer to you. $10,000 was chosen as a way to substantially increase the penalty to have more

of a chilling effect on those who may come into the system to try to defraud it.

Now, Senator, you're correct, $100,000 would have a greater chilling effect, but I also believe that it would have a chilling effect on the ability of the bill to be passed. We want the penalties to be increased. We want it to be a successful demonstration that welfare fraud will not be tolerated in this state, and I chose to double the penalty after this law has been in effect now for over two years and double that penalty to make it more difficult for those to cheat the system.

SENATOR LEICHTER: Senator, when the law was enacted in 1992, which set the penalty at $5,000 -- by the way, it's not, you know -- the 5,000 is not a limit. It's three times the amount. Right now, if somebody cheated the system out of, let's say $20,000, you could collect $60,000 from that person, right?

SENATOR NOZZOLIO: That's correct.

SENATOR LEICHTER: O.K. And that was passed in 1992, is that correct?

SENATOR NOZZOLIO: As I understand it, Senator, yes.

SENATOR LEICHTER: And I believe you were in the Assembly at that time?

SENATOR NOZZOLIO: Yes, I was, Senator.

SENATOR LEICHTER: And did you vote for the bill?

SENATOR NOZZOLIO: I believe I did, Senator.

SENATOR LEICHTER: Did you decide that 5,000 was an adequate and proper number then?

SENATOR NOZZOLIO: No, that's why, when I came to the Senate, I put in the bill that would make it 10,000.

SENATOR LEICHTER: Did you at that time vote against the bill?

SENATOR NOZZOLIO: No, sir.

SENATOR LEICHTER: Did you offer an amendment trying to raise the amount to

$10,000?

SENATOR NOZZOLIO: I probably was so shocked, Senator, that the Assembly would even entertain $5,000, and so pleased that they would or that they would take any step at all regarding welfare fraud and abuse that I was probably too shocked at that time to make an amendment, and I do know supported the bill.

SENATOR LEICHTER: Is it fair to say that two years later you're out of shock, Senator?

SENATOR NOZZOLIO: I guess I'm shocked, Senator, that you would oppose increasing to 10,000....

ACTING PRESIDENT LIBOUS: Gentlemen, if you would address your questions to the Chair, please, and through the Chair, it would be greatly appreciated, and continue.

SENATOR LEICHTER: Senator, let me, if I may, ask you some other questions.

The over... am I correct that making a false statement in order to get monies from the Social Services Department is a crime,

is it not?

ACTING PRESIDENT LIBOUS: Senator Nozzolio, do you wish to continue to yield?

SENATOR NOZZOLIO: Yes, I'll continue to yield. I did not hear the Senator's question.

SENATOR LEICHTER: If you make a -- let me just repeat the question. If you make a false statement in order to get a benefit from the Social Service Department that you're not entitled to, is that a crime?

SENATOR NOZZOLIO: I believe it's a crime, yes, sir.

SENATOR LEICHTER: Right. So what we're talking about is people who commit a criminal act and they're subject to criminal penalties, is that not correct?

SENATOR NOZZOLIO: As I understand it, yes, sir.

SENATOR LEICHTER: Right. And all that we're talking about now is to enable the Department of Social Services as a civil penalty to collect monies that have been lost

through the criminal act of somebody who made a false statement, is that correct?

SENATOR NOZZOLIO: As I understand it, Senator, yes.

SENATOR LEICHTER: Right. And the law now provides as a penalty you can get three times the amount of -- that was falsely acquired, is that correct?

SENATOR NOZZOLIO: Yes, sir.

SENATOR LEICHTER: Right. When -- with a minimum of 5,000. What you're doing, in effect, is raising that minimum to $10,000. And you're telling us that that's going to make all the difference in welfare fraud, that where the person is already subject to a criminal penalty, the person has to pay three times the amount of monies that he illegally got, but with a minimum of 5,000, that raising that minimum to 10,000, forgetting for a moment the rather, I thought, valid point that Senator Waldon made that amounts probably aren't collectable, but you're saying that raising that to 10,000, assuming it were collectable, that that's going

to make all the difference in fighting welfare fraud?

SENATOR NOZZOLIO: I never - those are not my words, Senator. I believe I said that this is another step to help prevent welfare fraud and abuse. It could act as a chilling effect, my words were, not the words that you chose for me, but my words were that this would be a chilling effect, serve as a chilling effect and may increase the prevention, help increase the prevention of welfare fraud and abuse.

I never intended it to be a panacea, Senator. I don't think that it's going to be the be-all and end-all, but I think it is another arrow in the quiver of those who wish to stop welfare fraud and abuse.

SENATOR LEICHTER: Senator Nozzolio, and I appreciate your patience, if you would just yield to -- Senator Nozzolio, if you'd be patient, just yield maybe to one or two further questions. I appreciate that you never said it was a panacea, but do you think it's a

significant step?

SENATOR NOZZOLIO: Yes, Senator, I do.

SENATOR LEICHTER: Senator, let me ask you, if you know, and I don't know the answer, so I'm not trying to trick you, but I'm just interested in the comparison, in other instances where people make false statements to get money from the state of New York or make false statements which enables them to pay less money to the state of New York than they're required to, for instance, in a tax return, if you file a false tax return, knowingly false, it's a crime, is it not?

SENATOR NOZZOLIO: I'm not sure the amount, Senator.

SENATOR LEICHTER: My -- my question is, I hadn't really asked you the question yet, but what -- what are the amounts of civil penalties that the state can collect under those instances?

SENATOR NOZZOLIO: Senator, I'm not prepared to discuss the civil/criminal

penalties of tax violations with you today.

SENATOR LEICHTER: Are you - O.K. Are you equally concerned with monies that the state of New York is cheated out of by people who file fraudulent, false tax returns?

SENATOR NOZZOLIO: Of course, Senator.

SENATOR LEICHTER: Is that equally as reprehensible as people who get money from the state of New York falsely claiming they're entitled to welfare benefits?

SENATOR NOZZOLIO: I would believe wholeheartedly that it is.

SENATOR LEICHTER: All right. And is there any reason, Senator, that if we're going to fight fraud across the board, and I'm sure that you're concerned, as you just said you are, with any fraud against the state of New York, why wouldn't your bill also address the instance of fraud by somebody filing false tax returns?

SENATOR NOZZOLIO: I think there's a simple answer to that, Senator, is

that simply is the question of codification of our laws, that I'm putting in a bill to amend the Social Services Law. You're suggesting a bill that will alter the Tax Law. I think you've got a good idea, and I would suggest going to the bill drafter and getting it cooked up, certainly a bill that, to me, makes sense but I couldn't put both of those in the same porridge because they're two different sections of law.

SENATOR LEICHTER: Senator, I don't know how long you've served here, I'm sure not as long as I, because I've been here forever it seems like, but I can assure you that there are any number of bills and they're probably on our calendar, where Section 1 amends the environmental law, Section 2 amends the Navigation Law, Section 3 amends the General Obligations Law, whatever it is. I think you'll agree with me that there's nothing in our rules that prohibits that; in fact it happens all the time. So I don't think there was anything that prevented you from, by Section 1 amending the

Social Services Law and Section 2 amending the Tax Law.

SENATOR NOZZOLIO: In a technical sense, probably not, Senator, but I think when you're dealing with one subject, it's appropriate to deal with one subject. We're not dealing with two subjects here; we're dealing with one subject, and I think the germaneness of whether or not -- what is not in the bill addressing the comments, Senator, but I think to continue this dialogue is -- it doesn't do us or our colleagues any service.

ACTING PRESIDENT LIBOUS: Senator Leichter, if you -

SENATOR LEICHTER: Yes, if Senator Nozzolio would yield.

ACTING PRESIDENT LIBOUS: If you would please direct your questions through the Chair and try to eliminate the back and forth discussion, it's like you're having a private discussion and then Senator Nozzolio can direct his answers through the Chair, please.

Senator Leichter.

SENATOR LEICHTER: Mr. President, if Senator Nozzolio would yield to maybe one final question. Let me just preface it by saying, Senator, that while you try to deal with one subject, I thought your subject was fraud and I was just suggesting that fraud covers more than just welfare, but my -- but my issue or my question is, do you know, under this Chapter 41 of the Laws of 1992, how much money has been collected by the Department of Social Services?

SENATOR NOZZOLIO: No, I do not, sir.

SENATOR LEICHTER: Did you inquire?

SENATOR NOZZOLIO: No, I did not, sir.

SENATOR LEICHTER: Thank you very much, and let me thank you, Senator, for your patience, being willing to answer questions.

Mr. President, my colleagues, I mean I think of it's pretty clear that we're presented with a bill. Senator Nozzolio has no idea whatsoever what the current status of the

law is, how it's worked, what the benefits would be by making -- by making this change.

I -- and as I've stated before, and I'm sorry to put it so directly, Senator, but if we're talking about waste, not fraud at the moment, but waste, the biggest waste may be this bill and to come up with a bill and to have no factual basis, no substantiation whatsoever other than to get up and make some very general statements about "I want to fight welfare fraud."

I haven't seen the Department requesting it. I haven't seen that this has been requested by the Inspector General. I've seen no factual foundation for it whatsoever. So I would suggest that what we're doing here is some bashing of people on welfare, some posturing -- I'm sorry to say this, but I think, Senator, to get up as you did and say, If you're interested in stopping fraud you're going to vote for this bill increasing the penalty from 5-, or the minimum from 5- to 10,000, and not give us one shred of evidence for it, I think

really makes no sense whatsoever.

I think it does no credit to this body to pass this sort of a bill, doesn't accomplish what you say it's going to and if you want to engage in a wholesale attack on fraud and waste and enable the state of New York to get back money that people have taken from it wrongly, whether they're on welfare, whether they're taxpayers who cheated or whether they're industrialists who file false statements for IDA's monies, and so on, then let's have a comprehensive, well thought out approach.

ACTING PRESIDENT LIBOUS: Senator Smith.

SENATOR SMITH: Thank you, Mr. President.

Would the sponsor yield for a few questions?

SENATOR NOZZOLIO: Senator, reluctantly because it's you, I have to.

SENATOR SMITH: Thank you, sir.

Could you please tell me what you would consider to be a false statement under

this particular legislation?

SENATOR NOZZOLIO: Yes, would be a material false statement dealing with information relevant to an applicant's status for a particular benefit.

SENATOR SMITH: Name, address, serial number, those kinds of things?

SENATOR NOZZOLIO: No, Senator. I think it would be more appropriate, the level of benefit. A material false statement is one that, I think, gets to the essence of the application for the type of process, type of benefit asked for.

SENATOR SMITH: Would you agree that it possibly could be the number of dependents or something of that nature?

SENATOR NOZZOLIO: Senator, if it was a material statement relevant to the type of benefit, I think, yes, it could be the number of dependents.

SENATOR SMITH: Could you possibly tell me how many people who apply for services that would be rendered under the social

services are technically incapable of reading and writing?

SENATOR NOZZOLIO: Senator, I'm not sure, but I know this: I have a bill in to require those who are receiving social services benefits to be the recipient of a high school diploma or equivalency. I certainly would welcome your support of that legislation as an effort to help those who are receiving social services benefits to receive education or to be given at least a modicum of education. But I would -- I would bet that many who apply don't have basic reading or writing skills.

SENATOR SMITH: Senator, if the person is not capable of reading or writing, who then makes the statement or writes the statements on their behalf?

SENATOR PRESENT: Senator Smith, may I interrupt a moment?

ACTING PRESIDENT SPANO: Senator Present.

SENATOR PRESENT: Mr. President, can I have the last section of this bill read

and allow Senator LaValle to vote?

ACTING PRESIDENT SPANO: Secretary will read the last section.

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

(The Secretary called the roll.)

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Aye.

ACTING PRESIDENT SPANO: Withdraw the roll call.

SENATOR PRESENT: Not yet. Call Senator Farley's name; Senator Farley.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Yes. I vote aye.

SENATOR PRESENT: Withdraw the roll call and continue the debate.

ACTING PRESIDENT SPANO: Withdraw the roll call.

Senator Smith.

SENATOR SMITH: I believe, Mr. President, there is a question on the floor.

SENATOR NOZZOLIO: Mr. President,

would Senator Smith please repeat the question?

SENATOR SMITH: The question was, if the person is not capable of writing or reading, who then formulates the information or puts the information in the report that is then given to the Department of Social Services?

SENATOR NOZZOLIO: Well, that's what, Mr. President, we have Social Services case workers doing every day, taking statements, information, from those who are providing it as to benefits.

SENATOR SMITH: So we would then have a Social Service employee who documents this information or puts the information in writing, and the person who can not read or write is now responsible for the statement?

SENATOR NOZZOLIO: That's correct, Senator. They're attesting to the validity of that information.

SENATOR SMITH: They're attesting to something that they can't read or write?

SENATOR NOZZOLIO: Well, Senator, I think that the application is a product of the

interchange between interviewee and interviewer, that the application is based on evidence that is provided by the applicant. I believe that the applicant has the responsibility to attest to whether that information is true or not.

SENATOR SMITH: Senator, are there any penalties for the person who -- the Social Services director who writes the information incorrectly? Are there any fines for that individual who is fully employed?

SENATOR NOZZOLIO: Senator, I'm not aware of the laws relevant to the officers who -- of the state who are acting on behalf of the state to take information from interviewers or interviewees. I must indicate, though, Senator, this law that you are concerned with also applies to those who are participating in Medicaid fraud and abuse, those doctors, those Medicaid mills that many of you on that side of the aisle have been so self-righteous in protesting.

It's fine when you're talking about a segment of society that must attest its

validity. We're saying this law is as concerned with those who are committing Medicaid fraud, those doctors who are committing Medicaid fraud.

SENATOR SMITH: Mr. President, I don't believe that that was the question.

ACTING PRESIDENT SPANO: Senator Smith.

SENATOR SMITH: I think we're getting a statement rather than an answer to a question.

SENATOR NOZZOLIO: Mr. President, I believe I've been being responsive to the Senator's question, as I've been responsive to all questions relevant to this bill, that if they're asking a question I believe I have the right to answer it. If they want to ask another question, I'll answer it.

ACTING PRESIDENT SPANO: Senator Smith, would you like Senator Nozzolio to continue to yield?

SENATOR SMITH: I think that I'm finished with Senator Nozzolio.

ACTING PRESIDENT SPANO: Senator Smith on the bill.

SENATOR SMITH: I will be called self-righteous any time when I stand on the side of right, and I believe that taxing poor people for things that they're not -- that are not within their control is certainly not the right way to go, and I don't believe that you can get blood from a turnip or from a stone and certainly you can not get $10,000 from someone that is on public assistance if you can't get $5,000.

This is just another act of folly, another act for the newspapers which is going no place. Therefore, I will definitely be voting in the negative.

ACTING PRESIDENT SPANO: Senator Waldon.

SENATOR WALDON: Thank you very much, Mr. President.

If I may, would the Senator yield to another question?

ACTING PRESIDENT SPANO: Senator

Nozzolio, will you yield?

SENATOR NOZZOLIO: Yes, Senator.

SENATOR WALDON: Prior to posing my first question, Senator, I want you to know that, in committee, I voted yes to report this bill to the floor. At that time, I did not realize certain things, so I want to confirm in my mind's eye so that my heart will act responsibly when I'm required to vote on this bill momentarily.

Did I understand you to say that you have no evidence regarding cases where people have falsified information regarding DSS inquiries to their benefit, and have been prosecuted or words to that effect?

SENATOR NOZZOLIO: No, Senator. I did not say that. I said that I had no evidence about an amount, a dollar amount that Senator Leichter questioned me about.

To answer your question, Senator, there are at least 350 cases now ongoing of Medicaid fraud and abuse, investigating physicians, that this law applies to them as

well as applicants for social services.

SENATOR WALDON: O.K. If I may, Mr. President.

ACTING PRESIDENT SPANO: Senator Nozzolio continues to yield.

SENATOR WALDON: Thank you, sir. Senator Nozzolio, I'm not interested as much for the physicians who, for the most part, are able to pay fines, I would think. I'm interested in the mothers, single parent head of household, two children -- waifs, if you will, clinging at her skirt as she goes into the welfare center on Sutphin Boulevard in Senator Smith's district, which is not too far from where my district is, and she makes an application and she makes a mistake or she intentionally deceives and is unable to pay 5,000, 10,000, 2,000, $1,000. She didn't ask to be in those circumstances.

Do you have any evidence of those people who have been prosecuted and, if so, how many are currently being prosecuted in the state of New York, and how many have been successfully prosecuted in the last year?

SENATOR NOZZOLIO: Senator, that is a question of the entire scope of welfare fraud and abuse in this state. I don't have at my disposal the number of cases for welfare fraud being investigated today.

I remember Commissioner -- former Commissioner Perales saying that he believed the error rate in this state was no more than ten percent. He said this before a Social Services Committee that I served on in the Assembly. However, I don't have, to answer your question specifically, the current numbers of those cases being prosecuted in this state.

SENATOR WALDON: If I may, Mr. President.

Senator, do you have any concrete evidence -- by that, I mean numbers, 50 cases, 100 cases, 200 cases, of recent vintage where people have been prosecuted for this type of fraud, addressed by what you're proposing we vote upon?

SENATOR NOZZOLIO: There are currently, just to give you a figure of those

cases handled by Medicaid special prosecutor, currently I'm told by staff that there are 350 cases ongoing at this time.

SENATOR WALDON: Mr. President, if I may continue?

SENATOR NOZZOLIO: For physicians. Excuse me, Senator. Those are Medicaid fraud cases primarily dealing with providers.

SENATOR WALDON: Mr. President.

ACTING PRESIDENT SPANO: Senator Waldon.

SENATOR WALDON: Thank you, sir.

Senator, are you able to tell us the profile of the majority of people who qualify to apply for welfare in this state? Now, let me explain what I mean by "profile." Are they male or female? Are they parents with husband or with wife? Are they single parent heads of household? Are they parents of one child, two children, three children, four children? Are they African-American, Caribbean American, Latino-American or other? Do you have

a profile of the people who most qualify for welfare in this state?

SENATOR NOZZOLIO: I have just been counseled by the distinguished chairman of the Senate Social Services Committee, who indicates to me it's within that entire mosaic that all the groups that you mentioned are groups represented receiving social services benefit.

SENATOR WALDON: And that would include our brothers and sisters from Puerto Rico, I would assume?

SENATOR NOZZOLIO: Yes.

SENATOR WALDON: If I may continue, Mr. President. I'm getting close to the end. I won't belabor this too much longer. Was the nod yes?

ACTING PRESIDENT SPANO: Go ahead.

SENATOR WALDON: Thank you, Senator Spano.

Senator, saying that it encompasses that mosaic doesn't give me much

information. It doesn't give me any more information than that you gave, than that that you gave earlier regarding the reason that you went from 5,000 to 10,000. I didn't under stand that.

When I asked about the number of people who qualify, other than physicians, to be prosecuted under this proposed legislation, you could not give me a number, and I didn't understand that. You're asking us to take a big step to vote on a bill and you came with in sufficient information.

I'm trying to get a sense of how many people -- we have eighteen and a half million people in the state of New York. We have seven and a half to eight and a half million people in the city of New York according to whose information you listen to. Can you tell us how many are on welfare? For example, let me ask a more specific question.

Can you tell me how many are on welfare who are African-American, females, head of household?

SENATOR NOZZOLIO: Senator, let me give you the answer to that question that most concerns my constituents, that the costs of welfare and Medicaid are 42 percent of our state budget today, 42 percent; that the numbers have grown since the early 1990s, have been enormous, from 26 percent of the state budget four years ago to 42 percent today.

Those numbers, Senator, are the numbers that motivated me to pursue anything we can to stop costs from escalating beyond reason.

SENATOR WALDON: Thank you very much, Mr. President. One last question.

ACTING PRESIDENT SPANO: Senator Noz...

SENATOR WALDON: Senator -

ACTING PRESIDENT SPANO: Senator Waldon.

SENATOR WALDON: Senator Nozzolio, I thought I heard you say, and I want you to clarify for me, that you are proposing legislation which will require a high school

equivalency diploma for someone to qualify for welfare; was that correct?

SENATOR NOZZOLIO: Partially correct, Senator, that it was a idea generated not by me, but by the United States Senator from New York, not Senator D'Amato, Senator Moynihan, who suggested -- a member of your party who suggested that a high school equivalency or diploma itself should be an objective of those who are receiving welfare benefits, and that that diploma is one that should not be a threshold predicated to welfare but one that should be part of a person's responsibility while on welfare to pursue.

SENATOR WALDON: Thank you very much, Senator Nozzolio.

Mr. President, I don't know if I'm in proper order to re-explain my position now and speak on the bill, if I may.

ACTING PRESIDENT SPANO: Senator Waldon, on the bill.

SENATOR WALDON: Thank you.

One, I request that we put this

on the table. I think the rules apply here and that is a proper course of action and, after I finish what I have to say, we can take the necessary action of the body and vote upon that request that we table this. Let me tell you why I think we ought to table it.

Talking about a chilling effect. I feel icy when someone can suggest that, without proper rationale, we pick a figure out of the air and jump from 5,000 to 10,000. I feel like I'm at Turning Stone at the crap table and someone has just hit 11 three times in a row and I feel happy and I want to put my money out there, the state's money out there, wasting the resources of the state to chase something that we can not obtain, and the reason that we can not obtain it is that Senator Nozzolio could not give me one instance of someone who is not a physician making much more money than I as a lawyer makes per year, who has properly and successfully been prosecuted by this type of legislation.

Secondly, another chilling

effect, which makes me feel rather icy, is that to think that, despite what Pat Moynihan may have said, if he said it, he is not the Pied Piper and we are not following him into the water like so many mice following someone going nowhere, and that's where this bill should be going, nowhere.

That statement that someone ought to be required to have a high school diploma to qualify for an existence that is deplorable just boggles my imagination. Where are we in regard to "sending me your tired, your poor, your huddled masses yearning to breathe free?"

These people who are applying for welfare can't do better. I've been to the welfare centers. The mothers with the children aren't happy to come there under such circumstances. Those children aren't happy to be singled out in their schools as kids who are dirtier than, with less clothes than, with less opportunity than.

I wonder if the bottom line motivation here is not mean-spiritedness, and

the reason that I have pursue the questioning about the Afrocentricity of those who may qualify for welfare or the Latino expression meaning from a history of Puerto Rico or South America or Cuba or wherever, or other poor and disenfranchised people in this state is that there may be a bias that someone doesn't even realize he has, and that bias may be the motivator to be so persecutorial in regard to people who are somewhat defenseless, somewhat helpless, and certainly hapless when they go into a welfare center and have to apply.

I think it's a mistake to waste the resources, and I am party to it because I'm speaking now, to waste the resources of the state of New York and spend so much time on something that's going to do nothing positive for the state of New York, for the people of New York, and it ain't goin' to help us get one more dime out of anybody to reduce the budget regarding welfare.

I encourage all of my colleagues to be kind and sensitive, to be aware that there

are those of us who can't do better, not that they don't want to do better. They just can't do better, and they end up on welfare, and we shouldn't punish them because of their poverty.

I encourage all of us to vote no on this proposal.

SENATOR GOLD: Senator -

ACTING PRESIDENT SPANO: We do have a list, Senator Gold, but -

SENATOR GOLD: I'll yield.

ACTING PRESIDENT SPANO: Senator Galiber.

SENATOR GALIBER: Yes. Thank you, Mr. President.

SENATOR WALDON: Oh, wait a minute, Sorry, Senator. I'm sorry.

ACTING PRESIDENT SPANO: Senator Waldon.

SENATOR WALDON: I made a move to put it on the table. I apologize, Senator Galiber.

SENATOR GALIBER: It's O.K.

SENATOR WALDON: I just -- I

apologize, Senator. I apologize. I move that we place this on the table. Requires a vote.

SENATOR GALIBER: Can we have a slow roll call, see if I can get my vote in that way?

SENATOR GOLD: Slow roll call on the vote to lay it on the table.

ACTING PRESIDENT SPANO: Question is on Senator Waldon's motion to lay the bill on the table. All those in favor signify by saying aye.

SENATOR GOLD: Slow roll call. Five Senators stood. Please.

ACTING PRESIDENT SPANO: Secretary will call the roll. Secretary will call the roll. Sergeant-at-arms, please try to get the members into the chamber. An "Aye" vote is to lay the bill on the table. Secretary will call the roll.

THE SECRETARY: Senator Babbush excused.

Senator Bruno.

SENATOR BRUNO: No.

THE SECRETARY: Senator -

ACTING PRESIDENT SPANO: Excuse me. Can we please -- can we please have some order in the chamber. Continue the roll call.

THE SECRETARY: Senator Connor.

ACTING PRESIDENT SPANO: Senator Connor to explain his vote.

SENATOR CONNOR: Thank you, Mr. President.

I think the debate has made it adequately clear that this bill, while we all share the concern of saving money, avoiding people from ripping off the system, that that concern applies across the board. It applies to contractors with the state as well as the poorest people in the state. If applies to the rich, the middle class, anyone who would cheat by filing false instruments, whether it's a false work order or voucher on a contract or a highway or whatever, or whether it's somebody who is applying for some sort of benefit including welfare.

To single out one category and

not across the board do it is simply nothing more than some sort of scapegoating and press agentry stuff.

Furthermore, Mr. President, I want to thank Senator Waldon for giving me a unique opportunity. I can't remember the last time I got to vote "yes" on a slow roll call. So I vote yes.

ACTING PRESIDENT SPANO: Senator Connor in the affirmative.

Continue the roll call.

THE SECRETARY: Senator Cook.

SENATOR COOK: No.

THE SECRETARY: Senator Daly.

SENATOR DALY: No.

THE SECRETARY: Senator DeFrancisco.

(There was no response.)

Senator DiCarlo.

SENATOR DiCARLO: No.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Mr.

President, to explain my vote.

ACTING PRESIDENT SPANO: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I think that the point made by Senator Espada and echoed by my colleagues on this side of the aisle is the reason why this ought to be put on the table, and I learned a long time ago we shouldn't buy a pig in a poke, and we shouldn't build a system of deterring welfare on increasing penalties when we don't know whether the current penalties have worked.

We don't have any reasonable projection for whether the new penalties will work, and it seems to me what we have is a continuing attempt to resolve the mythology of welfare fraud, the view that somewhere out there there's someone driving around with a huge castle and a fleet of vehicles who happens to be deceiving and fraudulently getting public assistance benefits.

I think we need real evidence, real facts, real cases. We ought to have

evidence. We ought to be able to show by the preponderance of the evidence that this will work and that it will have some chilling effect or some deterrent effect on fraud which I don't think anybody on this side of the aisle supports.

Until we get that evidence, the best thing to do is just put this on the table, bring in the evidence, then we can fight about facts and not myths.

I'm voting in favor of laying on the table.

ACTING PRESIDENT SPANO: Senator Dollinger in the affirmative. Continue the roll call.

THE SECRETARY: Senator Espada.

ACTING PRESIDENT SPANO: Senator Espada, two minutes to explain his vote.

SENATOR ESPADA: Yes, Mr. President. This is open season; indeed it is open season on poor people. You don't need facts; all you need to do is scream, scream fraud. Fraud is prevalent, and this legislative

act, this is a moral and legislative outrage, Mr. President.

I am quite surprised that we don't have some kind of a caning provision here because, to pass this bill today is the moral and legislative equivalent of slapping people on the backside and up the side of their heads for being nothing more than poor.

I vote, Mr. President, for tabling of this motion.

ACTING PRESIDENT SPANO: Senator Espada in the affirmative.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: I vote no.

THE SECRETARY: Senator Galiber.

ACTING PRESIDENT SPANO: Senator Galiber to explain his vote.

SENATOR GALIBER: Yes, let me take this opportunity. Unfortunately, the Senator who introduced this bill that obviously had a little bit of knowledge in terms of what this is all about, has left the chamber.

Let me -- let me just vote yes

now, and maybe I can catch him when he comes back in after this thing goes the regular route.

ACTING PRESIDENT SPANO: Senator Galiber in the affirmative.

THE SECRETARY: Senator Gold.

ACTING PRESIDENT SPANO: Senator Gold to explain his vote.

SENATOR GOLD: Senator Galiber, maybe we'll get more information if this motion fails, but I know you had one very one serious question, and I'll answer it for you, Senator. If this becomes the law, Senator, every single welfare recipient who gets fined 10,000 will, in fact, have a lien on their yachts and their airplanes and estates.

What is being asked here is just so simple. I mean let's know what we're doing here. We don't have any of the numbers and, if Senator Nozzolio can stand on this floor and say that 42 percent of the budget is welfare and we're wasting tht money, then I would be ashamed, Senator Nozzolio, to go home without doing something about it instead of wasting

everybody's time with in nonsense.

You talk about this bill applying to physicians. My God, the law as it stands today, says you can get treble damages. If you can get a physician on this, under existing law, you don't have to worry about 5- or $10,000, you may be talking about 50- or 75- or 100,000, and your 10,000 means nothing.

On the other hand, Senator Nozzolio, if you do get a $10,000 fine under your bill and the person goes to prison for doing this fraudulent act, I want you to know then we have a chance because, as a starting out prisoner at seven and a half cents a hour, 45 cents a day, it will only take 22,000 days or 60 years in jail, but we'll get that 10,000 from the guy.

The bottom line is that you have no right, Senator -- you have a right to fight frauds, and we're all with you. You have no right to insult everybody and when you stand up and say to someone, Well, you're either for or against the welfare fraud, that is insulting,

insulting. That's saying that, if Senator Jones had her way and put in a bill for $20,000, then she's twice as much against welfare cheating as you and, if she offers that amendment and you vote no on it, it's because you're for welfare cheats.

Senator, this is absurd. It is absurd. I vote to table it. I vote yes.

ACTING PRESIDENT SPANO: Senator Gold in the affirmative.

THE SECRETARY: Senator Gonzalez.

SENATOR GONZALEZ: Yes.

THE SECRETARY: Senator Goodman.

(There was no response.)

Senator Hannon.

SENATOR HANNON: Mr. President.

ACTING PRESIDENT SPANO: Senator Hannon to explain his vote.

SENATOR HANNON: Yeah. I was very intrigued to find out that the Minority Leader Pro Tem or whatever the title is, Senator Gold distinguished, holds, was talking about the

treble damages. Unfortunately, he hasn't read the bill before him.

The treble damages are capped by the $5,000, and this bill would raise the cap.

SENATOR GOLD: Or greater. Or greater, sir. You better read the bill.

SENATOR HANNON: You mean the treble damages could be even further if it's deserved. Well, I don't read it that way, but my point is that the arguments are disingenuous. The treble -- the damages would be levied -- levied against those who are evil doers, those who have defrauded the state, those who have defrauded the local social services districts.

That's what ought to be done, because every time there's a fraud, the people who are justly deserving of welfare don't get that money and, if you -- every month I look at the reports of the special Medicaid fraud investigator, and there are hundreds of thousands of dollars that are being taken out of the stream and put into people's pockets where

they ought not to be and, if you can't be serious, you don't have to be vindictive, but if you can't be serious about the penalties, then I don't know what the purpose of government is.

On one hand, it's to help the people who are truly needy. On the other hand, it's to punish those people who are defrauding and I think all of these arguments are totally misleading.

I vote no.

ACTING PRESIDENT SPANO: Senator Hannon in the negative.

Continue the roll.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: Yes.

THE SECRETARY: Senator Holland.

SENATOR HOLLAND: No.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: No.

THE SECRETARY: Senator Jones.

SENATOR JONES: Yes.

THE SECRETARY: Senator Kruger.

SENATOR KRUGER: Yes.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: No.

THE SECRETARY: Senator Lack.

SENATOR LACK: No.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: No.

THE SECRETARY: Senator LaValle.

(There was no response.)

Senator Leichter.

ACTING PRESIDENT SPANO: Senator Leichter to explain his vote.

SENATOR LEICHTER: Mr. President, there's two issues involved here. One is the issue of how we deal with the whole problem of welfare, how we deal with fraud and so on, which is is a legitimate issue. I don't get to that issue at this point because my issue is the in tegrity of our legislative process and of having somebody come before us with a bill where that person clearly has not done the work, and I'm sorry to say that, Senator Nozzolio. Or you have done the work, you didn't have the figures

with you, and a request was made to you very early on by Senator Espada, would you put the bill aside for a day and let's take a look at the facts.

That certainly is a reasonable request. You decided instead to get up and say if you're against welfare fraud you've got to go for this bill, Senator, and we've been trying to show that you're not in a position to support your own bill, and Senator Hannon, who is one of the smartest lawyers that we have in this body, obviously didn't read the bill because the bill makes it very clear that we're obviously talking of three times the amount by which the state has been defrauded or, as the law says, $5,000, whichever is greater. There's no way you can misread that bill, but we have so much mis information, Senator.

You get up and you say 42 percent of the state budget is spent on social services. It is 26 percent of the general fund, but that's what concerns me. We're dealing with myths. There's no reality. Give us facts; give

us figures. If you have it, put the bill aside for a day. If you can show social service commissioners who will say, We could have collected more money, we need this. Maybe we'll support it because we're as much against fraud as you are, but if you can't do that then, sir, it's grandstanding and posturing and the only waste, as I said before, is in putting forward this bill because that costs the taxpayers money.

Mr. President, I vote yes.

ACTING PRESIDENT SPANO: Senator Leichter in the affirmative.

THE SECRETARY: Senator Levy.

SENATOR LEVY: No.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: No.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Nay.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: No.

THE SECRETARY: Senator Marino, no.

Senator Markowitz.

SENATOR MARKOWITZ: Yes.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: Yes.

THE SECRETARY: Senator Montgomery.

ACTING PRESIDENT SPANO: Before Senator Montgomery, just like to please remind the members they have two minutes to explain their vote. Thank you.

Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President. I will be less than two minutes.

I just want to say that I'm - the bill does not seem to cover, and I'm not aware of Senator Nozzolio bringing legislation which would also cover fraud in other areas like income taxes and in Medicaid fraud and even Medicaid fraud and other forms of fraud as it relates to people who are involved with public funding, and so this one seems to be clearly aimed at a very -

ACTING PRESIDENT SPANO: Senator Montgomery, can we please suffer an interruption while the stenographer changes the tape.

Thank you. Senator Montgomery.

SENATOR MONTGOMERY: I thank you.

Mr. President, this bill seems to be clearly aimed at a very particular group of people, and those are people who I would assume have some association with the welfare system.

I don't imagine that people, middle income people or people who don't need welfare, are going to be involved with this legislation. So my question to Senator Nozzolio would be, how, in fact, we would ever retrieve the monies based on this legislation, and I'm not sure we've ever collected $5,000 or more or even less based on the legislation as it exists as per our 1992 version. And so I think that this particular bill is not in any way going to address the real issue as it relates to the possibility of welfare fraud which, of course, Senator Nozzolio has not proven that he has

evidence of.

So I would vote certainly to lay it on the table and, Senator Nozzolio, I certainly would invite you to join some of us who really do want to see a different kind of welfare system, a system that leads to independence, a system that really respects people and their aspirations to be productive citizens, as any of us in this room and a system that really supports that.

So this kind of welfare bashing, I think, is inappropriate. It is not necessary, and certainly it sends a kind of message that we want to be mean to people, we want to punish people and, even if they're not doing anything wrong, we want to say to them, we're going to punish you even if you're not doing something wrong.

ACTING PRESIDENT SPANO: Senator Montgomery how do you vote?

SENATOR MONTGOMERY: My two minutes are up. I vote yes to table the bill. Let's move on to something that's productive.

ACTING PRESIDENT SPANO: Senator Montgomery in the affirmative.

We'll have a 30-second delay for a technical problem.

SENATOR GALIBER: Mr. President, just to add to the uneasiness this afternoon, a point of information. Am I correct that there must be a request by somebody to invoke the two-minute rule -

ACTING PRESIDENT SPANO: Senator Galiber, one minute.

Senator Galiber, why do you rise?

SENATOR GALIBER: Yeah. Since we're in this foolishness today, my point of in formation is, is it not so that, in order for you to enforce the two-minute rule that there need be an objection from the body as opposed to the prerogative of the Chair to say yes, your two minutes is up?

ACTING PRESIDENT SPANO: Absolutely. Your point is well taken, Senator Galiber. It was the impression of the Chair

that Senator Montgomery was completing.

Secretary the continue the roll call.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: Yes.

THE SECRETARY: Senator Nolan.

(There was no response.)

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, to explain my vote.

ACTING PRESIDENT SPANO: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, my colleagues, this lengthy debate has, in my view, gotten off track and in many cases has been a smoke screen for those who do not want to stand for welfare reform.

This is not a question of literacy; this is a question of honesty. This is a question of penalizing those who make material false statements on applications for welfare and Medicaid and those providers who defraud the system by making dishonest

statements. That's what the law does.

We're trying to change the law to make it a stronger law with stronger penalty. There is at least $2 billion worth of welfare and Medicaid fraud and abuse in this state every year. The smoke screen that you put up has tried to obfuscate that fraud and abuse.

Now, with all due respect to those who are trying to characterize this as something that it isn't, it is a measure to try to bring a handle and stop the scandal of growing fraud and abuse in the system. That's the simple fact of what this measure is.

I vote no on the motion.

ACTING PRESIDENT SPANO: Senator Nozzolio in the negative.

THE SECRETARY: Senator Ohrenstein, aye.

Senator Onorato.

SENATOR ONORATO: Aye.

THE SECRETARY: Senator Oppenheimer.

ACTING PRESIDENT SPANO: Senator

Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: To explain my vote.

As I think I understand it, if this were to be utilized to apply to those Medicaid mill doctors, this would make sense increasing the fine, because there is a possibility of the fine being paid, but I hope that this -- well, we won't probably have the opportunity to table this but, if we had, I would have been very interested to find out if there had ever been a single case where a fine of $5,000 had been paid by one of the poorer residents of this state. That would be interesting to find out.

I hope we get that opportunity. I vote aye.

ACTING PRESIDENT SPANO: Senator Oppenheimer in the affirmative.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: No.

THE SECRETARY: Senator Pataki.

SENATOR PATAKI: No.

SENATOR GOLD: Say no.
THE SECRETARY: Senator Paterson.
(There was no response.)
Senator Present.
SENATOR PRESENT: No.
THE SECRETARY: Senator Rath.
SENATOR RATH: No.
THE SECRETARY: Senator Saland.
SENATOR SALAND: No.
THE SECRETARY: Senator Santiago.
SENATOR SANTIAGO: Yes.
THE SECRETARY: Senator Sears.
SENATOR SEARS: No.
THE SECRETARY: Senator Seward.
SENATOR SEWARD: No.
THE SECRETARY: Senator Skelos.
SENATOR SKELOS: No.
THE SECRETARY: Senator Smith.
SENATOR SMITH: Yes.
THE SECRETARY: Senator Solomon.
(There was no response.)

Senator Spano.

SENATOR SPANO: No.

THE SECRETARY: Senator Stachowski.

ACTING PRESIDENT SPANO: Senator Stachowski to explain his vote.

SENATOR STACHOWSKI: To explain my vote.

Normally, I don't like to do this but I think in this case I will, because I think the interesting thing that has us here isn't whether anybody wants to stop fraud or make the penalty stiffer or make the law stronger. It's a matter, and the reason why I'm going to vote yes is that a couple Senators on this side asked legitimately a couple questions just for some documentation to show that this will bring in more money to the state if poor people are cheating the system and they're caught, and will they, in fact, be paying those fines and is that happening now, and I didn't think that was such an unreasonable request. I didn't think it was a horrible smoke screen.

Quite to the contrary, I thought it was a self-righteous, no-offense-meant attitude to say if you're not for this and you have questions, then you're for welfare fraud and there's something wrong with you. I think the fact is that, if you have a population that is mixed and you represent that and you're going to maybe consider voting for something because you know the people that are legitimately collecting benefits don't want to see money going to people that don't deserve it or people that don't collect it don't want to see people collecting benefits that don't deserve them, well, then, you want to at least arm yourself with that information. But if the real reason for this bill, and if it turns out to be another one-house bill, is just for a local headline in your paper, wouldn't it be a better story if you at least furnished that information to put in under that headline: Senator So and So passes sterner penalties to welfare cheats, and the reason we need this is this, rather than the reason if you don't vote for this you're for

welfare fraud.

I think you'd have a much better story if you go with the headline if you said we have so many cases that are successfully prosecuted for five thou' and that the people in enforcement tell us that if the fine is 10,000 we would have collected that much more money, and I didn't think it was unreasonable and for that reason, I vote for the tabling.

ACTING PRESIDENT SPANO: Senator Stachowski in the affirmative.

Senator Stafford.

SENATOR STAFFORD: No.

THE SECRETARY: Senator Stavisky.

(There was no response.)

Senator Trunzo.

SENATOR TRUNZO: No.

THE SECRETARY: Senator Tully.

SENATOR TULLY: No.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: No.

THE SECRETARY: Senator Volker

excused.

Senator Waldon.

ACTING PRESIDENT SPANO: Senator Waldon to explain his vote.

SENATOR WALDON: Thank you very much, Mr. President.

Though this is a legislative body, what we do here is political and in politics perception is often much more important and has a greater impact than reality, and I sat here and I listened to Senator Espada earlier and he triggered certain thoughts in my mind's eye which caused me to ask certain questions of Senator Nozzolio, and the responses from Senator Nozzolio led me to believe that there was another agenda in this bill, not just the words that were on the paper, and I ask not only Senator Nozzolio but all of the Senators who are here, don't disrespect me and the people I serve. Don't disrespect Senator Espada and the people he serves. Our people are just as concerned about ripoff artists and welfare cheats and thieves and people who break into

their homes and people who maim and murder as you are. So don't even subconsciously couch us all in a bed that says we're for something that we're not.

We want honesty. We want our children to have choice, to be whoever they can be. We want the city of New York where I'm from in this great state of New York to work for all of us. We all find welfare cheats despicable, but this piece of legislation and its chilling effect, I think, says certain people ought to be punished, and I question why should these certain little people who have nothing and no one to defend them except those of us like Senator Espada and myself and others to defend them in this body.

As a result of all of that, the fact that there was no documentation to show me that there should be some real consideration of this, I must vote aye.

Thank you, Mr. President.

ACTING PRESIDENT SPANO: Senator Waldon in the affirmative.

THE SECRETARY: Senator Wright.
SENATOR WRIGHT: No.
ACTING PRESIDENT SPANO: Absentees.
THE SECRETARY: Senator DeFrancisco.
(There was no response.)
Senator Goodman.
(There was no response.)
Senator LaValle.
(There was no response.)
Senator Nolan.
(There was no response.)
Senator Paterson.
(There was no response.)
Senator Solomon.
(There was no response.)
Senator Stavisky.
(There was no response.)
ACTING PRESIDENT SPANO: Results.
THE SECRETARY: Ayes 21, nays 31.
ACTING PRESIDENT SPANO: The

motion is defeated.

Senator Galiber, you're next on the list for debate on the bill.

SENATOR GALIBER: Yes, thank you, Mr. President.

I only wish, if I had an opportunity for three wishes or a dream, one, I would wish that we had passed a budget already and, of course, that means this would not happen and that didn't happen until later on, I would wish that this was not an election year but it is just like back -- this is not my day.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT SPANO: Senator Gold.

SENATOR GOLD: With the deepest respect for one of the great Americans of our time, Senator Galiber, if I could just -- just interrupt, if we could just have the last section read for the purpose of allowing Senator Santiago to cast her vote on the bill, yeah, and also Senator Stafford. He's never done it before.

ACTING PRESIDENT SPANO: Read the last section.

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

(The Secretary called the roll.)

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: I request unanimous consent to be recorded in the negative on Calendar Number 703.

SENATOR GOLD: In the negative. Senator Stafford.

SENATOR STAFFORD: Aye.

ACTING PRESIDENT SPANO: Withdraw the roll call.

Senator Galiber, you complete?

SENATOR GALIBER: I probably would be better off if I did.

ACTING PRESIDENT SPANO: Senator Galiber, you have the floor.

SENATOR GALIBER: Yes, and I was in the process of being somewhat facetious, but on the other hand somewhat sagacious when I said

we should not be here because what is happening today with this piece of legislation, Senator, just borders on ludicrous, and I'm not meaning anything personal. I don't get personal, been here too long, because it has no impact.

This piece of legislation came up in 1992. Interesting, it had to do with Medicaid cost containment. That's where you pulled it from in 1992, and 1992 was an election year, but to get on this floor and suggest to us that this is $42 million or 42 percent of the overall budget which included Medicaid isn't quite fair.

It isn't because you know where the big bucks are as well as we do, and it's been said over and over and over again on this side of the aisle that this is not the approach and no one is trying to convince -- it's just a question that we're utilizing.

ACTING PRESIDENT SPANO: Excuse me, Senator Galiber. Could we please try to get you some order. Could we please have some order in the chamber.

SENATOR GALIBER: I think this is a conspiracy. All right.

ACTING PRESIDENT SPANO: Senator Galiber.

SENATOR GALIBER: The fact of the matter is that we've spent an inordinate amount of time on this piece of legislation. I think what is more damaging, Senator, is that you have had collectively on your side of the aisle, you have pulled in a number of disciplined and committed colleagues of yours to vote yes on this crazy piece of legislation which does absolutely nothing, and we fell into a trap, very frankly. We fell into a trap, my colleagues, myself included here, because what this is is an election year bill and it's going to be in headlines like it was in '92, and I don't mind headlines. All of us that are involved in politics love to hear and see the headlines and read what we have said here in this body. But let me give you a real life experience on what happens here not at the people that you are directed at as far as the

legislation is concerned.

When someone is caught in this very small category of people, the larger portion of what you're referring to as far as fraud and we're concerned with, whether it's a small person or provider or someone who is cheating in Medicaid, we are all concerned with that. I find myself in a new position as ranking on Finance, shocked at some of the things that come up from time to time. I haven't got over the impact, very frankly, of the bills that we pass every two weeks where there's 200, $300 million, two-week cost factor, shocking, I could never have in my wildest imagination, figured it would cost that much.

Let me tell you what happens. Bronx County 1994, next week, welfare fraud. Investigation by the district attorney's office, bring 'em into court. They plead guilty, they sign a confession of judgment. They're given a pay-out plan for six, seven, eight, nine, ten years at the rate of -- minimum rate per week and then they go back on welfare and that's

subtracted from what they receive.

You're targeting the wrong people. It's been said here over and over again and what this piece of legislation really does is just waste our time and you know it too. Instead of Senators saying, which has always been a courtesy all the years I've been here, member after member, either side of the aisle, and we're losing some of that respect that we had, someone respectfully suggests or asks, will you kindly lay this bill aside until we get the facts. I can count on my one hand, on my one hand, and probably this year three of those fingers there's been an objection by someone on your side of the aisle to say, No, I will not lay that bill aside. And this is 27 years I've been here.

Only two or three occasions there's been someone, a colleague, another Senator, asked to lay it aside to bring in the facts. Never refuse, and then you have some very honorable colleagues who, in their heart's heart know that you're wrong because you can at

least extend courtesy especially if you're right.

But you are not prepared to say, Yes, I've made a mistake. I've since seen the light. I'll lay it aside, because you turned off a minute in our society and encourage but no, you take the arrogant position because you're in the majority and because you have the votes and because you have the loyal group of friends who are going to say yes and leave us in a position to say, Well, you're against welfare fraud.

That's not so, and it's been said over and over and over again. Senator Moynihan, whom you mentioned, is a very good friend of mine. We graduated some 50 years ago Benjamin Franklin High School. Know him. Got a bad rap years ago on something someone else wrote, but he's been someone who has been basically concerned about welfare reform, and so are we and so are you.

We are merely saying let's go about it the right way, and this is not the

right way. Whether you take the approach that we should educate, train and then get a job or have a job and then train. Welfare reform is what's needed. We want to go about it together, make those changes, but no, you choose to take this opportunity on a very small portion of the overall fraud that exists and pick on just a small segment which in the real world has never happened.

Senator, I have respect for all Senators, all of us, and the other side also. Just an aside, I wish I could put a piece of legislation in to say if you ran in the other house, you're prohibited from coming over to the Senate, because you come with a different spirit because they treated you so badly over there, but the fact remains that you want to see it, but you're using just brute force to get this piece of legislation through and it was never intended so.

Back in 1992, I believe you were in the other house, wherever, but you're familiar with it because you had the necessity

to go to 1992 to pull this segment out of the '92 cost containment Medicaid bill. You pulled if out. It was long-term care and that's where the costs really are -- is, long-term care which deals with middle class America. Has nothing to do with that small group of persons that you have implied are responsible for cheating and all the fraud that exists, and we know this and we fell into a trap and we should not dignify this piece of legislation by talking about it and debating it to this degree.

It's a one-house bill, it's ten minutes to six, and it's a piece of garbage and you're pickin' on the wrong people, and you know it in your heart's heart. You can't give one example because you're a decent, reasonable person and, if you had the facts you wouldn't hesitate to lay this bill aside and bring it back tomorrow. You're not laying it aside because you have no incidents where this has happened, where there's been a fraud of 5,000 to increase it, so we've wasted a lot of time, and I apologize for getting involved in this trap,

and that's what it is.

This is a horrible, horrible piece of legislation. You don't even believe it yourself, and we are in favor of reform. We are more in favor of reform than you are because, as the tax rolls in our community, people -- put people to work, put them back on the tax rolls. We want that more so than you do, but you're barking up the wrong tree, picking on the wrong people.

This is just a bad piece of legislation. It's only going to be a one-house bill. But don't come in here telling us that 42 percent of our budget is responsible for the people that you've alluded to. Pure nonsense, and you know better; pure unadulterated nonsense.

Any time, and I tell you this for the future, if I have a piece of legislation and you want me to answer some questions on it, just merely ask me to lay the bill aside. Out of respect for this entire body you've got that motion granted as far as I'm concerned. I'm

prepared like most of the colleagues in this house on both sides of the aisle to extend the courtesy and lay it aside.

You got the facts, bring 'em in, if you haven't got the facts don't play-act with us, which is called hypocrisy in another way.

ACTING PRESIDENT SPANO: Senator Gold.

SENATOR GOLD: I'd like to rest on the summation by Senator Galiber.

ACTING PRESIDENT SPANO: Senator Galiber -- one minute. Senator Nozzolio to close.

SENATOR NOZZOLIO: Mr. President, my colleagues, in spite of what was said by my colleague, Senator Galiber, regarding respect, I do respect the men and women of this house. I stood before you and answered every question I was asked, never refusing to yield.

Senator Espada, I respected in his request. I told him upon his request that I would supply him with that information. If he had come to me prior to the debate, I may have

decided another course, but we were in the debate. The bill was before this house properly and I believed welfare fraud is an important enough issue that we do everything we can to fight.

And no, Senator, this bill is not a garbage bill. This bill is a bill that presents a good faith attempt to fight fraud and abuse and send a clear signal to those who are providing materially false statements to obtain Medicaid or welfare benefits that that will not be tolerated in this state. Pure and simple.

That's all this bill does, and I hope you will get beyond the rhetoric and will support it.

ACTING PRESIDENT SPANO: Read the last section.

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

SENATOR GOLD: Slow roll call.

ACTING PRESIDENT SPANO: Slow roll call has been asked for. A sufficient number of Senators have requested a slow roll

call. Please get the members into the chamber. Secretary will call the roll.

THE SECRETARY: Senator Babbush excused.

Senator Bruno.

(There was no response.)

Senator Connor.

(There was no response.)

Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator Daly.

SENATOR DALY: Yes.

THE SECRETARY: Senator DeFrancisco.

(There was no response.)

Senator DiCarlo.

SENATOR DiCARLO: Yes.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Yes.

THE SECRETARY: Aye.

Senator Espada.

SENATOR ESPADA: Aye.

THE SECRETARY: Aye. Senator Farley voting in the affirmative earlier today.

ACTING PRESIDENT SPANO: Senator Espada.

SENATOR ESPADA: That vote was in the negative. I'm sorry.

ACTING PRESIDENT SPANO: Senator Espada in the negative.

THE SECRETARY: Senator Galiber.

ACTING PRESIDENT SPANO: Senator Galiber to explain his vote.

SENATOR GALIBER: I won't use - Senator, I said earlier in due respect, I said this is a piece of junk, and I still think it's a piece of junk and I think in your heart's heart you know it's a piece of junk, and this is not the right direction to go and all of us opposed to Medicaid and any fraud in any form or fashion and you know it as well as we know it and what you suggested borders on -- I can't find a descriptive adjective for it. If someone had come to you before the debate, therefore, you would extend respect, but now the debate is

on, no respect is afforded us. I think that's a horrible attitude, horrible, horrible altitude.

I vote no.

ACTING PRESIDENT SPANO: Senator Galiber in the negative.

THE SECRETARY: Senator Gold.

ACTING PRESIDENT SPANO: Senator Gold to explain his vote.

SENATOR GOLD: Mr. President, I want to make these remarks because there are people on the other side of the aisle who I respect who have asked a number of the members on this side why some of the heat, and I want those reasonable people on the other side of the aisle to understand that many of us are counter punchers. We don't start the fights. We try to do what we can do in a proper legislative way and I understand the loyalty that you have. Every once in a while there's a bad ruling from the Chair, and you guys are stuck with it and have to vote some silly way. We understand loyalty. I forget the last time that happened but I'm remembering.

But there's no time problem with this bill. It's not going to pass the other house, not going anywhere. It could have been laid aside. But the main thing is that there's a hypocrisy here. This bill says that it is wrong to commit fraud. The bill says it is wrong to make a statement of a material fact that's wrong, and the hypocrisy is you're asking me to vote for the bill and then represent to my constituents that I'm going to get some money for them. That would be a fraud, Senator Nozzolio.

So in other words, it's O.K. to commit a fraud upon your constituents with a vote on a bill that promises money, that promises it's going to do something about fraud but it's wrong to do fraud in the bill. That's just an absurdity it, Senator Maltese. Senator Lack, that's an absurdity.

SENATOR LEICHTER: Mr. President, may we have order, please.

ACTING PRESIDENT SPANO: Did you object to two minutes, Senator Leichter?

SENATOR LEICHTER: No, Senator, I objected to what I thought was a rather raucous noise.

ACTING PRESIDENT SPANO: I'm sorry, Senator, I didn't hear you. May we please have some order in the chamber.

Senator Gold.

SENATOR GOLD: Thank you. I want you to know I'm timing the two minutes and at the end of my other minute and a half, I'll shut up. The bottom line is there is no money. That's the tragedy; that's the fraud of this bill, that when all is said and done there is no money, and people are going to be asking where that money is, and I'll be able to look them in the eye and say on the day I voted no, I voted no because there is no money.

I vote no.

ACTING PRESIDENT SPANO: Senator Gold in the negative.

THE SECRETARY: Senator Gonzalez.

SENATOR GONZALEZ: No.

THE SECRETARY: Senator Goodman.
(There was no response.)
Senator Hannon.
SENATOR HANNON: Yes.
THE SECRETARY: Senator Hoffmann.
SENATOR HOFFMANN: Yes.
THE SECRETARY: Senator Holland.
SENATOR HOLLAND: Yes.
THE SECRETARY: Senator Johnson.
SENATOR JOHNSON: Aye.
THE SECRETARY: Senator Jones.
SENATOR JONES: Yes.
THE SECRETARY: Senator Kruger.
SENATOR KRUGER: Yes.
THE SECRETARY: Senator Kuhl.
SENATOR KUHL: Aye.
THE SECRETARY: Senator Lack.
SENATOR LACK: Aye.
THE SECRETARY: Senator Larkin.
SENATOR LARKIN: Aye.
THE SECRETARY: Senator LaValle voting in the affirmative earlier today.

Senator Leichter.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT SPANO: Senator Leichter.

SENATOR LEICHTER: To explain my vote.

Mr. President, I previously explained my unhappiness with the way this bill was presented, but let's just take a look at the bill now.

This great weapon in fighting welfare fraud, which we're told welfare fraud in this state is $2 billion, Senator Nozzolio, I suggest that it's exactly as much validity to that figure as your figure that 42 percent of the budget goes for social welfare when, in fact, it's 26.

Right now, if somebody commits a welfare fraud, they commit a felony, they go to jail. In addition, under the law passed in 1992, which we're amending today, they could be charged three times the amount that they received fraudulently and, if that amount is

less than $5,000, they could be fined up to $5,000.

Senator Nozzolio now says, well, if the amount that they receive triple is less than $10,000, then he's going to see that they pay a fine of $10,000. That's all that this bill does, clearly insignificant when compared to the fact that people who commit this fraud are sent to jail, which is the real sanction and as has been pointed out here that by and large you're talking of people who don't have money and when we ask, well, show us that there are cases, maybe there are cases. Maybe we're wrong, we're told that you'll look it up one of these days and, in any event, if you're against welfare fraud, you're going to be for this bill.

That's -- that's why those of us on this side of the aisle who try to point out that this bill really dishonors us, because it is a bill that's been characterized, I think very correctly, by Senator Galiber and Senator Gold, I'm not going to use their words. I guess

a great American said, "I'd rather be right than be President." I think the motto here seems to be that we'd rather show our might and be wrong than make you think that we don't have the might to pass any bill we want to, no matter how foolish.

Mr. President, I vote in the negative.

ACTING PRESIDENT SPANO: Senator Leichter in the negative.

THE SECRETARY: Senator Levy.

(There was no response.)

Senator Libous.

SENATOR LIBOUS: Aye.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Marino, aye.

Senator Markowitz.

SENATOR MARKOWITZ: Yes.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: No.
THE SECRETARY: Senator Montgomery.
(There was no response.)
Senator Nanula.
SENATOR NANULA: Yes.
THE SECRETARY: Yes.
Senator Nolan.
(There was no response.)
Senator Nozzolio.
SENATOR NOZZOLIO: Aye.
THE SECRETARY: Senator Ohrenstein, no.
Senator Onorato.
SENATOR ONORATO: Aye.
THE SECRETARY: Senator Oppenheimer.
SENATOR OPPENHEIMER: Aye.
THE SECRETARY: Senator Padavan.
SENATOR PADAVAN: Aye.
THE SECRETARY: Senator Pataki.
SENATOR PATAKI: Aye.
THE SECRETARY: Senator

Paterson.

(There was no response.)

Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Santiago voting in the negative earlier today.

Senator Sears.

SENATOR SEARS: Aye.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Aye.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Yes.

THE SECRETARY: Senator Smith.

SENATOR SMITH: No.

THE SECRETARY: Senator Solomon.

(There was no response.)

Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator

Stachowski.

SENATOR STACHOWSKI: Yes.

THE SECRETARY: Senator Stafford voting in the affirmative earlier today.

Senator Stavisky.

(There was no response.)

Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Aye.

THE SECRETARY: Senator Volker excused.

Senator Waldon.

(Negative indication.)

THE SECRETARY: No.

Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT SPANO: Call the absentees.

THE SECRETARY: Senator Bruno.

SENATOR BRUNO: Yes.

THE SECRETARY: Senator Connor.
SENATOR CONNOR: No.
THE SECRETARY: Senator DeFrancisco.
SENATOR DeFRANCISCO: Yes.
THE SECRETARY: Senator Goodman.
(There was no response.)
Senator Levy.
SENATOR LEVY: Aye.
THE SECRETARY: Senator Montgomery.
SENATOR MONTGOMERY: No.
THE SECRETARY: Senator Nolan.
(There was no response.)
Senator Paterson.
(There was no response.)
Senator Solomon.
(There was no response.)
Senator Stavisky.
(There was no response.)
ACTING PRESIDENT SPANO: Results.
THE SECRETARY: Ayes 42, nays

12.

ACTING PRESIDENT SPANO: The bill is passed.

SENATOR PRESENT: Regular order.

THE SECRETARY: Calendar Number 711, by Senator Padavan, Senate Bill Number 6784, authorize the Commissioner of General Services to sell or lease certain lands in Queens County.

SENATOR GOLD: Can I have a day?

SENATOR PADAVAN: I was requested to lay it aside for the day and I agreed to that.

ACTING PRESIDENT SPANO: Lay it aside for the day.

THE SECRETARY: Calendar Number 714, by Senator Daly, Senate Bill Number 7280, Public Officers Law, in relation to the eligibility for the office of court clerk in the town of Hamlin.

ACTING PRESIDENT SPANO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 717, by Senator Daly, Senate Bill Number 5200-C, Environmental Conservation Law.

ACTING PRESIDENT SPANO: Read the last section.

SENATOR GOLD: Give me, just -

ACTING PRESIDENT SPANO: Senator Gold.

SENATOR GOLD: Yeah. I think Senator Smith laid that aside too. Just check on it.

SENATOR DALY: Mr. President, would the Minority like some time on this bill? Would you like extra time on this bill?

SENATOR GOLD: Senator, I didn't lay it aside. I'm just checking with Senator

Smith and, if you give me just half a second.

SENATOR DALY: Mr. President.

ACTING PRESIDENT SPANO: Senator Daly.

SENATOR DALY: I can put the bill over for a day.

SENATOR GOLD: Senator, if you'd like to do that for Senator Smith, it's very kind.

SENATOR DALY: Lay the bill aside.

ACTING PRESIDENT SPANO: Lay the bill aside.

SENATOR GOLD: Thank you.

ACTING PRESIDENT SPANO: Senator Present, that completes the controversial calendar.

SENATOR PRESENT: Mr. President, I hand up a notice from the Majority Leader. I ask that it be read and then filed with the Journal.

ACTING PRESIDENT SPANO: The Secretary will read.

THE SECRETARY: By Senator Marino: Please take notice that, in accordance with the New York State Legislative Session Calendar, and pursuant to Rule VII, Section 5, all bills reported by Senate standing committees on and after Thursday, May 12th, 1994 shall be reported to the Committee on Rules.

All bills introduced on and after May 12th, 1994 shall be referred to the Committee on Rules except those referred to the Committee on Finance pursuant to Section 23 of the Legislative Law.

All bills received from the Assembly on and after May 12th, 1994 shall be referred to the Committee on Rules except those referred to the Committee on Finance pursuant to Section 23 of the Legislative Law, and all bills in all Senate standing committees shall be considered eligible for discharge to and report by the Committee on Rules.

Please take further notice that, in accordance with the New York State Legislative Session Calendar and pursuant to

Rule VI, Section 5, the last day for unlimited introduction of bills in the Senate shall be Wednesday, May 4th, 1994. Thereafter, each member may introduce no more than 10 bills.

ACTING PRESIDENT SPANO: That will be filed in the Journal.

Senator Present.

SENATOR PRESENT: Any housekeeping?

ACTING PRESIDENT SPANO: Any housekeeping?

SENATOR PRESENT: None?

Mr. President, there being no further business, I move we adjourn until tomorrow at 11:00 a.m.

ACTING PRESIDENT SPANO: Senate will stand adjourned until tomorrow at 11:00 a.m.

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