ALBANY, NEW YORK

May 31, 1994

12:31 p.m.

REGULAR SESSION

SENATOR HUGH T. FARLEY, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT FARLEY: The Senate will come to order.

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

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

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

Secretary will begin by reading the Journal.

THE SECRETARY: In Senate, Monday, May 30. The Senate met pursuant to adjournment. Senator Bruno in the chair upon designation of the Temporary President. The Journal of Sunday, May 29, was read and approved. On motion, Senate adjourned.

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

The order of business:

Senator Present.

SENATOR PRESENT: Mr. President. On behalf of Senator Stafford, I would like to announce an immediate meeting of the Finance Committee in Room 332.

ACTING PRESIDENT FARLEY: There will being an immediate meeting of the Finance Committee in Room 332.

SENATOR PRESENT: Mr. President. I ask that the Senate stand at ease.

ACTING PRESIDENT FARLEY: The Senate will stand at ease pending the report of the Finance Committee.

(Whereupon, at 12:15 p.m., the Senate was at ease.)

(Whereupon, at 12:30 p.m., the Senate reconvened.)

SENATOR PRESENT: I would like to request all members of the Senate to report to the Senate chamber. We have some urgent business we would like to take care of as soon as possible. Please, all members of the Senate report to the Senate chamber.

(Whereupon, the Senate continued

at ease.)

(Whereupon, at 1:07 p.m., the Senate reconvened.)

ACTING PRESIDENT FARLEY: Senate will come to order.

The order of business:

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

We have a report of a standing committee. Secretary will read it.

THE SECRETARY: Senator Stafford from the Committee on Finance reports the following two bills directly for third reading:

Senate Bill Number 8532, by the Committee on Rules, an act on provide for payments to municipalities.

Senate Bill Number 8533, by the Committee on Rules, an act making appropriations for the support of government.

Both bills reported directly for third reading.

ACTING PRESIDENT FARLEY: Both bills reported directly to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Present.

SENATOR PRESENT: Mr. President. I move to recommit Senate 8502, Calendar 1080.

ACTING PRESIDENT FARLEY: The bill is recommitted.

SENATOR PRESENT: And, Mr. President, I move to recommit Senate 8504, Calendar 1081.

ACTING PRESIDENT FARLEY: The bill is recommitted.

SENATOR PRESENT: And strike the enacting clauses on both.

ACTING PRESIDENT FARLEY: The enacting clauses will be struck on both bills.

Senator Cook.

SENATOR COOK: Mr. President. Will you please star Calendar Number 922, Senate

Bill 3034A.

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

Senator DiCarlo.

SENATOR DiCARLO: Mr. President. On behalf of Senator Sears, on page 20, I offer the following amendments to Calendar Number 797, Print Number 7495, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT FARLEY: Without objection.

SENATOR DiCARLO: Mr. President. On behalf of Senator Volker, on page 28, I offer the following amendments to Calendar 929, Print Number 6672, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT FARLEY: Amendments received. The bill will retain its place.

SENATOR DiCARLO: On page 27, on behalf of Senator Cook, I offer the following amendments to Calendar 922, Print 3034A, ask that said bill retain its place on Third Reading

Calendar.

ACTING PRESIDENT FARLEY: Without objection, the bill will retain its place.

SENATOR DiCARLO: On page 38, I offer the following amendments to Calendar Number 199, Print 6552, for Senator Skelos, and ask that the bill retain its place on third reading on the calendar.

ACTING PRESIDENT FARLEY: Without objection, the bill will retain its place.

Senator Cook, then Senator Wright. Senator Cook, do you have a motion?

SENATOR COOK: No.

ACTING PRESIDENT FARLEY: Senator Wright.

SENATOR WRIGHT: Mr. President. On behalf of Senator Trunzo, I wish to call up bill Print Number 7057A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT FARLEY: Secretary will read the bill.

THE SECRETARY: By Senator Trunzo, Senate Bill 7057A, an act to amend the

Administrative Code of the City of New York.

ACTING PRESIDENT FARLEY: Senator Wright.

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

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT FARLEY: The bill is before the house.

Senator Wright.

SENATOR WRIGHT: Mr. President. I now offer the following amendments.

ACTING PRESIDENT FARLEY: Amendments received, and the bill will retain its place.

SENATOR WRIGHT: Mr. President. On behalf of Senator Hannon, I wish to call up bill Print Number 281A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT FARLEY: Secretary will read it.

THE SECRETARY: By Senator Hannon, Senate Bill Number 281A, an act authorizing the County of Nassau to accept an application for real property tax exemption.

SENATOR WRIGHT: I now move to reconsider the vote by which this bill was passed.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT FARLEY: The bill is before the house.

Senator Wright.

SENATOR WRIGHT: Mr. President. I now offer the following amendments.

ACTING PRESIDENT FARLEY: Amendments received. The bill will retain its place.

Are there any other motions on

the floor.

(There was no response.)

Seeing none, Senator Present.

SENATOR PRESENT: Call up Calendar 1089 at this time.

ACTING PRESIDENT FARLEY: Secretary will call up 1089.

Senator Present, they are going to check with the Assembly. We don't want it to cross. It's all set.

THE SECRETARY: Calendar Number 1089, by the Senate Committee on Rules, Senate Bill Number 8532, an act to provide for payment to municipalities and to providers of medical services.

SENATOR PRESENT: Mr. President. Is there a message of necessity and a message of appropriation at the desk?

ACTING PRESIDENT FARLEY: The messages are here at the desk.

SENATOR PRESENT: Mr. President. I move we accept the messages.

ACTING PRESIDENT FARLEY: All in

favor of accepting the messages, please say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The messages are accepted. You can read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

SENATOR PRESENT: Mr. President. Can we take up Calendar 1090.

ACTING PRESIDENT FARLEY: 1090. The Secretary will call it up.

THE SECRETARY: Calendar Number 1090, by the Senate Committee on Rules, Senate Bill Number 8533, an act making an appropriation for the support of government.

ACTING PRESIDENT FARLEY: Senator

Present.

SENATOR PRESENT: Mr. President. Is there a message of necessity and a message of appropriation at the desk for this bill.

ACTING PRESIDENT FARLEY: Both messages are here, Senator Present.

SENATOR PRESENT: I move we accept the messages.

ACTING PRESIDENT FARLEY: All in favor of accepting the messages, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The messages are accepted.

You can read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 33. Nays 2. Senators Dollinger and Jones recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

SENATOR PRESENT: Mr. President. Let's take up the noncontroversial calendar, please.

ACTING PRESIDENT FARLEY: Secretary will read noncontroversial.

THE SECRETARY: On page 5, Calendar Number 301, by Senator Holland, Senate Bill Number 6309C.

SENATOR PRESENT: Lay it aside for the day please.

ACTING PRESIDENT FARLEY: Lay it aside for today.

THE SECRETARY: Calendar Number 302, by Senator Saland, Senate Bill Number 6338A, an act to amend the Penal Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 307, by Senator Saland, Senate Bill Number 2244, an act to amend the Social Services Law, in

relation to severely and repeatedly abused children.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 333, by Senator Libous, Senate Bill Number 6666, an act to amend the Tax Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 334, by Senator Libous, Senate Bill Number 6667, an act to amend the Tax Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 474, by the Assembly Committee on Rules, Assembly Bill Number 8570A, with a Senate reprint number of 21007A, an act to amend the Public Authorities Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 478, by Senator Saland, Senate Bill Number 5881B.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside for today.

THE SECRETARY: Calendar Number 485, by Senator Levy, Senate Bill Number 193C, an act to amend the Public Authorities Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 502, by Senator Volker.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 587, by Senator Trunzo, Senate Bill Number 7429, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 597, by Senator Larkin, Senate Bill Number 7042A, an act to amend the Insurance Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 602, by Senator Sears, Senate Bill Number 3836A, an act to amend the General Business Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32. Nays 3. Senators DeFrancisco, DiCarlo and Rath recorded in the negative, also Senator Farley recorded in the negative.

SENATOR PRESENT: Lay it aside.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is before the house. 602 is laid aside.

THE SECRETARY: Calendar Number 719, by Senator Johnson, Senate Bill Number 7248A, to establish the mercury task force.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 730, by Member of the Assembly Pordum, Assembly Bill Number 10684, an act to amend the Banking Law, in relation to receipts of deposits.

ACTING PRESIDENT FARLEY: Read

the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 734, by Senator Spano, Senate Bill Number 5622C.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 747, by Senator Pataki, Senate Bill Number 6611, an act to amend Chapter 672 of the Laws of 993, amending the Public Authorities Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 749, by Member of the Assembly Rivera, Assembly Bill Number 10631A, an act to amend Chapter 383 of the Laws of 1991.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 751, by Senator Volker.

SENATOR PRESENT: Lay it aside

for the day.

ACTING PRESIDENT FARLEY: Lay it aside for today.

THE SECRETARY: Calendar Number 768, by Senator Goodman, Senate Bill Number 2403, an act to amend the General Business Law, in relation to the civil penalty for certain unlawful acts.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34. Nays 1. Senator DeFrancisco recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 770, by Senator Skelos, Senate Bill Number 7204A, an act to amend the Executive Law, in

relation to volunteer programs for the aging.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 798, by Senator Holland, Senate Bill Number 461A, an act to amend the Social Services Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The

bill is passed.

THE SECRETARY: Calendar number 800, by Senator Holland.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 811, by Member of the Assembly Keane, Assembly Bill Number 6710, General Municipal Law, in relation to the operation of games of bingo.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 812, by Senator Larkin.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay that bill aside for today.

THE SECRETARY: Calendar Number 814, by the Assembly Committee on Rules, Assembly Bill Number 7984A, an act to amend the General Municipal Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 31. Nays 4. Senators DiCarlo, Hannon, Pataki and Tully, recorded in the negative.

SENATOR PADAVAN: Lay it aside.

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

THE SECRETARY: Calendar Number 817, by the Assembly Committee on Rules, Assembly Bill Number 8460A, an act to amend the Public Health Law, in relation to requiring the presence of certified lifeguards on ocean beaches.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

SENATOR HANNON: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 829, by Senator Johnson.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 839, by Senator Maltese, Senate Bill Number 5149, Correction Law, in relation to appointment of correction officers.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 841, by Senator Maltese, Senate Bill Number 7566, an act to amend the Correction Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 846, by Senator Kuhl.

SENATOR MARKOWITZ: Explanation.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 849, by Senator Libous, Senate Bill Number 6930B, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 873, by Senator Trunzo, Senate Bill Number 7528, an act to amend the Education Law, in relation to payments by the New York State Teachers Retirement System.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 875, by Senator Trunzo, Senate Bill Number 7726A, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 883, by Senator DeFrancisco, Senate Bill Number 7865, Insurance Law, in relation to life insurance contracts.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 917, by Senator Wright, Senate Bill Number 7960, an act to amend the Alcoholic Beverage Control Law.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 925, by Senator Cook, Senate Bill Number 5169B, create a temporary state coordinating council on geographic information.

ACTING PRESIDENT FARLEY: Read

the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 945, by Senator Daly.

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

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

SENATOR DALY: Yes.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 956, by Senator Skelos, Senate Bill 1240A, an act to amend the General Obligations Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it

aside.

THE SECRETARY: Calendar Number 963, by the Assembly Committee on Rules, Assembly Bill Number 11673, an act to amend Chapter 342 of the Laws of 1992, amending the Uniform Justice Court Act.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 969, by Senator Tully, Senate Bill Number 7794, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 971, by Senator Maltese, Senate Bill Number 3284A, an act to amend the Executive Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 972, by Senator Maltese.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay the bill aside.

THE SECRETARY: Calendar Number 977, by Senator Maltese, Senate Bill Number 7447, an act to amend the Correction Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 978, by Senator Maltese, Senate Bill Number 7567, Correction Law, in relation to inmates' possession of unauthorized money.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 982, by member of the Assembly Tocci, Assembly Bill Number 9826, an act to amend the Highway Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

SENATOR SPANO: Mr. President. What calendar are we on?

ACTING PRESIDENT FARLEY: 982.

SENATOR SPANO: Lay it aside.

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

THE SECRETARY: Calendar Number 983, by Senator Libous, Senate Bill Number 7182A, an act to amend the Highway Law, in relation to designating a portion of the state highway system as the 27th Division Memorial Highway.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 984, by Senator Wright, Senate Bill Number 7418, an act to amend the Highway Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 989, by Senator Libous, Senate Bill Number 7723, amends Chapter 113 of the Laws of 1992.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1004, by Senator Maltese.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it

aside.

THE SECRETARY: Calendar Number 1014, by Senator Skelos, Senate Bill Number 6401C, an act to amend the Public Authorities Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1034, by Senator Farley, Senate Bill 8209, an act to amend the Banking Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1044, by Senator Cook.

SENATOR GOLD: Can we get one day on this?

ACTING PRESIDENT FARLEY: Senator Cook, do you want to lay it aside for the day.

SENATOR COOK: For the day.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: For the day.

THE SECRETARY: Calendar Number 1052, by Senator Saland, Senate Bill Number 2885A, an act to amend the Education Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1053.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

Senator Present, that's the first time through.

SENATOR PRESENT: Mr. President. I would ask that the Senate stand at ease for a few moments.

ACTING PRESIDENT FARLEY: The Senate will stand at ease for a few moments.

(Whereupon, at 1:34 p.m., the Senate was at ease.)

(Whereupon, at 2:10 p.m., the Senate reconvened.)

ACTING PRESIDENT FARLEY: Senator Present.

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

ACTING PRESIDENT FARLEY: Secretary will read the controversial calendar.

THE SECRETARY: On page 5, Calendar Number 302, by Senator Saland, Senate Bill Number 6338A, an act to amend the Penal Law, in relation to authorized sentences and to repeal certain provisions thereof.

SENATOR GOLD: Explanation.

ACTING PRESIDENT FARLEY: Explanation has been asked for.

Senator Saland.

SENATOR SALAND: Mr. President. This is the bill which would be known to most people as the so-called "Three strikes you're out" bill or if the Governor -- as he would prefer, "Three strikes and you're in" bill.

This bill basically says if you've committed two prior violent felonies and are unwise enough to commit a third, you're going to be sentenced to life without parole. It creates a life without parole mechanism in

the State of New York for people who, in effect, are if not habitual violent felons then people who are given to committing violent felonies. Basically, data will show you that probably somewhere in the area of 70 percent of violent crimes, according to national statistics, are committed by as few as 6 percent of people. And I have seen figures -- I don't know if they are reflective of New York or not but attributed to the Governor saying that some 80 percent of crimes of violent crimes are committed by 20 percent of the felons, and this bill basically is an endeavor to take those people out of the mainstream, to take those people and place them behind bars, where their violent ways can no longer harm people in the streets, people in their homes.

ACTING PRESIDENT FARLEY: Read the last section. Hold on.

SENATOR GALIBER: If Senator would yield for a question?

SENATOR SALAND: Certainly, Senator Galiber.

SENATOR GALIBER: Senator, do you have any guesstimate as to how many persons are involved in this. There are some -- let me preface the question by saying there are some who believe that this is the kind of a bill that we, you know, hang out on election day, you know, when things are pretty bad in some instances; that the present law as we have it between the predicate and the persistent, which came into effect in 1967, I believe, when we reorganized the whole sentencing structure, is adequate; that by the time someone in this category reaches three strikes and you're "in" or "out," depending on which jurisdiction you're in, Washington or Albany, but amounts to the same thing, that we're talking about 200 people maybe, a few hundred people that are involved, if that many.

SENATOR SALAND: The numbers available, the ones that I have seen for the most recent year, which would be 1992, would say that there were some 286 persistent violent felons who were incarcerated in that year. The

Governor has used a number, and to be perfectly honest with you, I don't know where he gets it from, of some 30 to 50. I'm not quite sure how we get down from 286 to 30 to 50.

SENATOR GALIBER: You had indicated in your explanation how this would work. Now, we have a person who, one, has a first felony violent offense. He is sent to jail. And the second one, same category; third one, he now goes 25 to life.

As I said before, by the time that person reaches that category, isn't he off the streets in the first instance or the last instance?

SENATOR SALAND: I would beg to differ with you to the extent that you would categorize it as 25 to life, because, as you are aware, we're talking an indeterminant sentencing scheme, which basically says the Court shall fix the minimum which will be anywhere from 15 to 25 to life.

What this bill basically says is that amount of discretion is being taken out of

your hands because these people have engaged in a course of conduct or, perhaps more appropriately, such grossly heinous conduct or persistent conduct as to single them out for special treatment, particularly onerous treatment by reason of the nature of their past deeds and their then current deed. And they're saying, "No 15 to 25. Straight out life, and life without parole."

SENATOR GALIBER: Senator, will you yield for another question?

SENATOR SALAND: Certainly, Senator Galiber.

SENATOR GALIBER: There are some of us who have taken a position just relatively recently. You may or may not have heard it. We had a press conference on the POP's, which means Project Older Persons.

SENATOR SALAND: I'm sorry, would you -

SENATOR GALIBER: Project Older Persons. It's a concept from another jurisdiction which we're trying to engulf here

in Albany. And what it really amounted to, the foundation for it was, one, we have some older folks there in jail, some 64, 65, 66, some who can't even jump over -- walk over barbed wire fence, as I use the expression.

This piece of legislation by the time the person has gone through the prerequisite of "1, 2, 3, and you're out," wouldn't we in fact be in a category of age and we -- when I say that, just one other point - age, and at the same time when you consider the fact of age, the basis for this POP program as we have mentioned, is that the cost of keeping the older prisoners is a lot more than the $24,000. Some have suggested it's $68,000 because after you reach a certain age, and I'm almost at that age, a number of things happen to you which calls for serious medical care.

In fact in that category, we have suggested that there be some alternatives to incarceration. So if we're moving in that direction, I guess I go back to my basic premise that this is a piece of legislation that comes

about as a result of an election year. Regardless of where we come from, we both use those tactics from time to time. But it just sounds good; but, in reality, we're going to overburden our prison system again. We're going to be dealing with persons who are in an age category who create no harm to society, and we're punishing them for past conduct. And, statistically, we have found out with some at the age of 35 or 40 a recidivism. People who then participate -- goes back to another question I asked -- won't commit that last felony.

So aren't we really building up, if we pass this piece of legislation, a group of prisoners who are going to be just old folks who are sitting there, and we're caring for them, creating no problem to society except that we have a piece of legislation because we can't solve some other problems, saying this is the way we should go? Long question, but it's a -

SENATOR SALAND: Yes. Let me again take issue with you. If, in fact, it has

the effect of saying that people in their 30s or 40s will not commit another felony, then I think you have helped me make my argument because this is supposed to serve not only as a deterrent by removing people from the mainstream, people who are into hard core crime, but also sending a message to people that we're not going to tolerate it any more.

And I also would take issue - also would take issue with you on your characterization that this is somehow or other being electioneering.

I'm sure you are familiar with the history. This movement came out of -- out of the State of Washington where it was accomplished by way of a referendum, if I remember correctly. There will probably be similar referendums in other states, including the State of California.

Right now, were this bill to be enacted tomorrow, there would be no appreciable affect for a number of years on the cost of operating prisons in the State of New York.

People serving life sentences in the State of New York average out, for some strange reason, to nine years. That's the numbers that the Governor's office has used. I don't know how they get to the number. That number supposedly has been given to them by DCJS, and I would think that it would be, at the least, fifteen years.

SENATOR GALIBER: All right. Thank you, Senator.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Will Senator Saland yield to a question?

SENATOR SALAND: Certainly, Senator Gold.

SENATOR GOLD: Senator, I know how seriously you take legislation, and I admire your intellect. Something very strange, and maybe you can give me some reasoning for it.

We had a bill earlier this session which dealt with this so-called three

strikes you're in you're out or whatever; and at that point, I had asked the sponsor whether or not there had been any hearings, public hearings on this issue, and I was told no.

And at that time, I voted against the bill, and I said I thought it was premature and if nobody else would hold hearings, I would hold hearings. Pursuant to that, I did in fact schedule a hearing down in the City of New York, and I sent notices around, invited people from district attorneys, et cetera, et cetera.

And a strange, strange thing happened. Not one district attorney, not one person for an organization involved with the criminal justice system from a prosecutorial point of view, wanted to come to the hearing. Not only that, I pressured one particular district attorney, and I won't mention my own by name, to at least submit something; and I was promised I would have written testimony, and that never came.

Now, at the hearing, the testimony that was actually given, and I would

be glad to make it available to you, I thought was really pretty scholarly, and it come from some defender organizations and those types, but their basic argument was to shrug their shoulders and say, "What are we doing?" We basically have that kind of a law today. And aside from the politics -- and I'm not accusing you, believe me, Senator, of politics -- but aside from the politics of this session, passing something that people say, "Three strikes, you're in" "Three strikes, you're out," you got people shrugging their shoulders.

Now, my question -- having said all this, my question is am I missing something? Are there prosecutorial groups that have affirmatively come out and filed anything on either your bill or any of these bills, or is it a situation where apparently none of them want to be out in public because for some reason they don't see the merit of this whole concept?

SENATOR SALAND: I have received no memos either in favor or in opposition.

SENATOR GOLD: Senator, I have a

memo in opposition. Is this on your bill or another one? I want to make sure.

Is this on this bill?

I have one from the New York State Defenders Association which recommends disapproval, and it does in fact -- it is on your bill. And let me say this to you, Senator. The gist, I think, of what they are saying -- I will read the you last sentence, "New York already has a workable 'three strikes and you're out' law. In time the current rush to appeal established predicate felony offender sentencing laws will be recognized as the disaster it surely is."

They basically are saying we've got these laws in place.

SENATOR SALAND: I'm sorry, did they say that the persistent violent felony law was disaster?

SENATOR GALIBER: No. They said that this one could become a disaster if given an opportunity.

In other words, what I'm

concerned about is the same thing you are, and I think that, you know, the vote on these issues, certainly from a political point of view, is to vote yes. It sounds terrific. Put away the bums.

But I don't understand why with the Governor coming forward with this idea, with the New York State Senate having your bill and other bills, we find nobody in the prosecutorial community who jumps on this wagon and says, "That's exactly right. We're prosecuting these people, and they get before these darn judges and the next thing you know they are let loose on the street, and nothing's happened."

None of that rhetoric is has come out, Senator.

SENATOR SALAND: Let me suggest to you that nobody likes to have their ability to control the way in which they dispose of cases, whether it's a district attorney or a judge, imposed upon; and I would suggest to you that the position, in effect, reflects one of territoriality.

The people on the streets, the people who have been victimized, those people have basically had their fill. They are tired of plea bargains. They are tired of judges providing sentences which they consider to be inadequate.

And I can speak first-hand from personal experience where I had to listen to a prosecutor suggest that due to the fact that the victim of a rather heinous crime who happened to be a child of mine was going to be subjected to a withering cross-examination and in effect be put on trial recommended that we, in effect, not go to trial, something which stuck in my craw, something which stuck in the craw of my family, and which we rejected.

Now, that's why prosecutors like to have that kind of prosecutorial discretion. I think when you've done it three times, when you've terrorized, when you've brutalized, when you've maimed, when you've victimized with carte blanche total abandon, that society has the right to say, "Enough is enough."

We're not going to inundate our prisons. We're not going to overwhelm them. In in response to Senator Galiber's comments, 280-some-odd persistent violent felons. And are we to assume that each and every one of them is somehow or other a geriatric case? You and I know that that's far from the truth.

Take a trip up to Coxsackie some time. Lots of young people who are violent felons. Go to some of our other facilities. Lots of young people who are violent young felons.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: I'm sorry. Senator Gold.

SENATOR GOLD: Will the Senator yield to just one more question?

SENATOR SALAND: Always, Senator Gold.

SENATOR GOLD: Senator, at the hearing I held, somebody came up with the copy

of the Morganthau Commission Report. I think it was '79. I forget the exact date, but I served on that commission. And our report, as was another commission report that I served on for sentencing, recommended that New York in fact go to some kind of a grid system.

Don't you think, Senator, that if there is a problem with the sentencing structure that we should deal with it starting with the first arrest?

In other words, we had a situation -- it was a couple weeks ago, and it was not an exact analogy, but it was a situation where somebody drunk driving had their license revoked 80 times or whatever, this kind of business. We've seen the drunk driving situation a number of times recently in the papers.

But that's the same argument, Senator, that you've heard and I've heard over and over again. And I do some court work from time to time, and you sit in the courtroom and you hear a judge give out a sentence and you

scratch your head and say, "That's not what we authorized."

I mean maybe, Senator, it's time now. Maybe the Morganthau Commission was ahead of its time. Maybe some of the other commissions were ahead of the times. Maybe what we ought to be doing now is take another look. The federal government has now gone to a grid system, and I don't think the federal courts have fallen apart. Maybe it's time to look at that first structure.

Because if we're saying, Senator, that's something is wrong, you got a 20- or 21 year-old, and you are waiting now for three violent felonies, by the time the third, if they to go jail properly the first time -- now, Senator you do the addition. If they're doing a violent felony and he goes away for a year and he does another one and he goes away for a year, and we're talking now about putting 22-year-olds for a third violent felony, I think something is wrong with that. I want to know why the first time there wasn't a real sentence.

Maybe the answer, Senator, is to take a look at the structure from the beginning so that maybe when they do the first one, we don't get to the second one and the third one.

SENATOR SALAND: Let me suggest to you, Senator Gold, a couple of things. Number 1, this is a rather targeted measure. We're not talking about being particularly arbitrary or indiscriminate here we're talking a very narrow range of folks, and I use the term loosely, some very, very bad, bad people who have not committed one violent felony, not two, but have now committed a third violent felony.

And I, too, can recall -- I'm assuming it was the product of the Morganthau Commission -- the sentencing commission proposal that came up in both houses of this Legislature. I was in the Assembly at the time, and I can recall a bill which -- as originally drafted, which to me, in part, reflected perhaps some of the criminal justice ethos of our state. Because that bill, as you may recall, in its initial form basically said that the charge

of the sentencing commission was to set up a grid that provided for the least restrictive sentence something which was galling to a goodly number of us, something which was being debated on the floor of the Assembly I recall rather well, because I was the ranking member of the Codes Committee at the time, when Assemblyman Miller, then chairman of the Codes Committee, pulled the bill. It was subsequently amended to remove that least restrictive language and just to talk about imposing an appropriate sentence.

Now, if you want to get back into the sentencing commission, that's fine. That's an entirely separate issue. We're dealing with people here who have very little redeeming value. We're dealing with people here who have committed the most outrageous and heinous of crimes and done it on multiple occasions. We're dealing with people here who, in all likelihood, have committed for each crime for which they have been tried and convicted probably numerous other felonies, as well.

I can find little or no reason

other than some sense of knee-jerk reaction to this type of bill for opposing it. I think it makes sense. I think it will continue to make sense and I think it's an appropriate vehicle to do away with a small number of people committing the most violent and heinous of crimes, disproportionate in numbers in the victimization that they're causing. It's a relatively simple piece. We ought to do it, and we ought to do it unanimously.

SENATOR GALIBER: Senator, just a bit longer.

ACTING PRESIDENT FARLEY: Senator Galiber.

SENATOR GALIBER: Senator, will you yield to another question or two.

SENATOR SALAND: Yes.

SENATOR GALIBER: Senator, you know, as you related your personal tragedy, I just found out for the first time this year. I can understand that. I've had some personal things happen in my life, and kind of stick with those things. They never really leave us.

But those of us who are concerned about it, we were not talking about the rape categories and the real serious categories which you talk about. They should. Somewhere along the line, I think they are done away with with the persistent category where the judge has no flexibility.

But what some of us are talking about is -- I don't practice too often. I'm not sure about you.

SENATOR SALAND: I've forgotten more than I remember, Senator Galiber.

SENATOR GALIBER: Okay. But in the City of New York, it's a lot different, I guess, than in your jurisdiction. You know, if someone bumps into someone, a pick pocket, which has happened in the City of New York on three occasions, pick pocketing, this person is going to be eligible for this piece of legislation.

If someone breaks in, in the category if I remember my law school days in a certain burglary category, where you're in that category, you are also eligible, small minor

things. Police officers who, unfortunately, in the City of New York who are in uniform, if you bump them the wrong way, it's a felony instead of a misdemeanor. And all of those three categories come into this situation.

So there is a flip side to it, and those of us who are concerned about the flip side voice our opinion here with a vote but not enough votes.

Very frankly, Senator, if that bill under a different system had come on this side of the aisle, as it used to from time to time -- we used to swap program bills -- it would be over here. And there are quite a few folks here on this side of the aisle who would have carried that bill with some amendments, and I might have carried it myself, as harsh as I feel about it.

But there is a category of persons, those of us who are trying to get rid of a persistent felony category for the reasons I set forth that any felony that you commit, and the second one could be policy -- you know,

number games in the City of New York, which was illegal in our state. We made it legal you could find yourself in the persistent category for collecting numbers, or being a banker as far as the number are concerned.

So it's not the emotional part that we hear about the rapes and the crimes that I think we could come together on and agree that some of us should be incarcerated never, never to return to society.

And there is a bill coming up today on a jury, wanting to give the jury some additional information. I think Senator Maltese has a bill, and I have an amendment which is called jury nullification. That's what it really amounts to.

Juries are not going to convict -- I'm only mentioning this for the record. They are not going to convict in those categories where someone has bumped up against someone in the city on a subway, picked a pocket on two or three occasions, stole a bicycle as one of the memos indicates at night and being a

burglary two category which would make them eligible under this violent felony category.

So, Senator, I want the record to reflect that there are those of us who are not in disagreement on the violent ones. We're saying there should be another way of doing it, and there is another way of doing it.

And when you measure out the cost of this, I think there is a projected cost in one of our local newspapers. I believe it was the New York Times. California has this, and they have estimated $21 million in costs -- or billion, was it? $21 million or $21 billion, a humongous amount of money.

So if we take the age factor, which you play down a bit but you recognize that it's a category and, secondly, if we take into consideration that there are minor felonies that would fit into this category, if in addition we take into consideration the cost factor, then those of us who are opposed in the spirit of the bill -- not in the spirit, but opposed because of these other possibilities mentioned, and

those are the reasons why we object. Not for the rape cases, not for the serious felon. Those persons should be taken out of society never to return.

SENATOR SALAND: Thank you, Senator. I certainly have nothing but high regard for you. I appreciate your comments and the only thing I would not want to leave as a final impression with regard to my comments is that this bill deals with anything but violent felonies. Each of the predicates would have to be a violent felony and not merely a felony.

Thank you.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

PRESIDENT FARLEY: Senator Galiber to explain his vote.

SENATOR GALIBER: No, no. I've

explained it.

ACTING PRESIDENT FARLEY: And he's voting in the negative.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Leichter to explain his vote.

SENATOR LEICHTER: If I may explain my vote. Mr. President. I'm sorry I was delayed and couldn't hear all of the debate. There were some points I wanted to make, so I will just limit myself to explaining my vote.

It seems to me that the large increase of the inmates that we've seen in the prison system, tripling in the last fifteen years, reflecting more severe and even harsher penalties that we have imposed have not only not made a dent in the high rate of crime, but we've actually seen crime increase, and I think there comes a point where you've got to ask yourself, "Well, is punishment as we now apply it and more lengthier sentences the way to go?" It would seem to me that somebody would say, "Well,

wait a second. This isn't working. Maybe we ought to try something else."

Instead, we not only keep repeating the same thing, but we go even further. We make it harsher and harsher. And you also have to ask yourself how much of that is really just pandoring to the public. We've seen the charts. We show how few people under this law would actually be sentenced to life imprisonment without parole.

We also know that, right now, somebody who commits a third violent felony can be put away whether it's 20 years or sometimes even longer. So what are we really trying to achieve? Are we satisfying the public's desire for punishment. I don't think that's what the public wants. I think the public wants us to deal effectively with the lack of security that exists in our society, the high rate of violence.

I submit that this doesn't do anything to make any citizen of the state safer. Maybe we'll fool the public for a little

while into thinking we have done something, but I submit that we haven't. I don't think this is the way to go.

I vote in the negative.

ACTING PRESIDENT FARLEY: Results.

THE SECRETARY: Ayes 41. Nays 2. Senators Galiber and Leichter recorded in the negative.

ACTING PRESIDENT FARLEY: Bill is passed.

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: Can we return to report of standing committees.

ACTING PRESIDENT FARLEY: Secretary will read a report of a standing committee.

THE SECRETARY: Senator Stafford from the Committee on Finance reports the following bill directly for third reading:

Senate Bill Number 8534, by the

Senate Committee on Rules, an act to provide for payments to school districts and Boards of Cooperative Educational Services.

ACTING PRESIDENT FARLEY: Without objection, right to third reading.

Senator Present.

SENATOR PRESENT: Mr. President. I offer the following amendments to Calendar 1091, Senate Print 8534, and ask that the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: Without objection, the bill will retain its place.

Regular order, Senator.

SENATOR PRESENT: Regular order, Mr. President.

ACTING PRESIDENT FARLEY: Regular order.

THE SECRETARY: Calendar Number 502, on page 10, by Senator Volker.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 602, by Senator Sears, Senate Bill Number 3836A, an act to amend the General Business Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40. Nays 3. Senators DiCarlo, Farley and Rath recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 719, by Senator Johnson, Senate Bill Number 7248A, establish the mercury task force.

SENATOR GOLD: Can we get one day on this?

SENATOR JOHNSON: Lay it aside.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: Lay

that bill aside for today.

THE SECRETARY: Calendar Number 811, by Member of the Assembly Keane, Assembly Bill Number 6710, General Municipal Law, in relation to the operation of games of bingo.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 814, by the Assembly Committee on Rules, Assembly Bill Number 7984A, an act to amend the General Municipal Law.

SENATOR PADAVAN: Explanation.

ACTING PRESIDENT FARLEY: Explanation has been asked for.

ACTING PRESIDENT FARLEY: Senator

Nozzolio -- just a moment.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT FARLEY: Lay it aside temporarily.

THE SECRETARY: Calendar Number 817, by the Assembly Committee on Rules, Assembly Bill Number 8460A, an act to amend the Public Health Law.

SENATOR DOLLINGER: May I have an explanation on this bill.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: Lay this bill aside, temporarily.

THE SECRETARY: Calendar Number 829, by Senator Johnson, Senate Bill Number 4084A, an act to amend the Environmental Conservation Law, establishing an environmental audit record search program.

SENATOR GOLD: Can we have a day on this one?

SENATOR JOHNSON: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it

aside for the day.

THE SECRETARY: Calendar Number 956, by Senator Skelos, Senate Bill Number 1240A an act to amend the General Obligations Law.

SENATOR PRESENT: Lay it aside, temporarily.

ACTING PRESIDENT FARLEY: Lay it aside, temporarily.

THE SECRETARY: Calendar Number 972, by Senator Maltese, Senate Bill Number 4403, Executive Law, in relation to eligibility for crime victim compensation.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number

982, by Member of the Assembly Tocci, Assembly Bill Number 9826, an act to amend the Highway Law, designating a portion of the state highway system as the Westchester County Veterans Memorial Highway.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT FARLEY: That bill is passed.

Senator Sears.

SENATOR SEARS: Yes, Mr. President. I'd like unanimous consent to reconsider the vote on Calendar 602.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT FARLEY: The bill is before the house.

SENATOR SEARS: Star the bill.

ACTING PRESIDENT FARLEY: Star the bill.

THE SECRETARY: Calendar Number 1004, by Senator Maltese, Senate Bill Number 3302A, an act to amend the Vehicle and Traffic Law.

SENATOR PRESENT: Lay it aside, temporarily.

ACTING PRESIDENT FARLEY: Lay it aside, temporarily.

THE SECRETARY: Calendar Number 1053, by Senator Daly.

SENATOR DALY: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay that aside for the day.

Senator Present, we have a little housekeeping.

SENATOR PRESENT: Let's do it.

ACTING PRESIDENT FARLEY: Senator Galiber, before the housekeeping, what would you like?

SENATOR GALIBER: Mr. President. May I have unanimous consent to be recorded in the negative on 972.

ACTING PRESIDENT FARLEY: 972, Senator Galiber will be in the negative, without objection.

Senator Rath.

SENATOR RATH: Mr. Chairman, I would like to star my bill, 1064.

Thank you.

ACTING PRESIDENT FARLEY: 1064 is starred at the request of the sponsor.

Senator Libous.

SENATOR LIBOUS: Mr. President. On behalf of Senator Holland, Mr. President, I would like to call up his bill, Print Number 6633A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT FARLEY: Secretary will read it.

THE SECRETARY: By Senator Holland, Senate Bill Number 6633A, an act to amend the Public Health Law.

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

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT FARLEY: The bill is before the house.

SENATOR LIBOUS: Mr. President. I now offer up the following amendments.

ACTING PRESIDENT FARLEY: Amendments received. The bill will retain its place.

Secretary will read some substitutions.

THE SECRETARY: On page 9 of today's calendar, Senator Volker moves to discharge the Committee on Rules from Assembly

Bill Number 9074A and substitute it for the identical Third Reading 475.

On page 13, Senator Volker moves to discharge the Committee on Rules from Assembly Bill Number 6438B and substitute it for the identical Third Reading 635.

On page 37, Senator Bruno moves to discharge the Committee on Rules from Assembly Bill Number 10201 and substitute it for the identical Third Reading 1069.

ACTING PRESIDENT FARLEY: The substitutions are ordered without objection.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. On page 23, Calendar Number 846, Senate 3410A, would you place a sponsor star on that bill, please.

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

SENATOR KUHL: Thank you.

ACTING PRESIDENT FARLEY: Senator Present, that concludes the housekeeping.

SENATOR PRESENT: At this time, I

ask the Senate to stand at ease.

ACTING PRESIDENT FARLEY: Senate will stand at ease.

(Whereupon, the Senate was at ease.

SENATOR PRESENT: Mr. President. Would you recognize Senator Mendez.

ACTING PRESIDENT FARLEY: Senator Mendez.

SENATOR MENDEZ: Thank you. May I please have unanimous consent to be recorded in the negative on Calendar 972.

ACTING PRESIDENT FARLEY: 972, Senator Mendez will be in the negative, without objection.

SENATOR MENDEZ: Thank you.

(Whereupon, at 2:50 p.m., Senate was at ease.)

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: Mr. President. I would like to call an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT FARLEY: There will be an immediate meeting of the Rules Committee in Room 332.

SENATOR PRESENT: The Senate will stand at ease.

(Whereupon, at 3:35 p.m., the Senate continued at ease.)

ACTING PRESIDENT FARLEY: Senate will come to order.

Senator Present.

SENATOR PRESENT: Mr. President. Can we return to report of standing committee.

ACTING PRESIDENT FARLEY: Yes, we may. The Secretary will read the report of a standing committee.

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

Senate Bill Number 1651, by Senator Cook and others, creating an interagency council to facilitate services for at-risk children and families.

2547, by Senator Cook, Labor Law,

in relation to safety and health standards.

2845, by Senator Cook, Real Property Tax Law.

6699, by Senator Skelos, General Municipal Law, in relation to bingo.

6937, by Senator Bruno, Racing, Pari-Mutuel Wagering and Breeding Law.

6991, by Senator Libous, Executive Law, Office of Advocate for Persons with Disabilities.

7133, by Senator Bruno, Executive Law.

7157B, by Senator Rath, an act to amend the Tax Law.

7170A, by Senator Seward, an act to amend the Tax Law.

7398A, by Senator Cook, Commissioner of General Services to sell and convey to the Greene County Community Action Agency.

7407, by Senator Nozzolio, Real Property Tax Law.

7638, by Senator Present,

authorize the city of Jamestown use of certain lands reported with amendments.

7837A, by Senator Johnson, Executive Law.

7970, by Senator Stafford, approaching an amendment to the Constitution.

8030, by Senator Stafford, proposing an amendment to the Constitution.

8031, by Senator Stafford, proposing an amendment to the Constitution.

8035, by Senator Bruno, apportionment of state aid for certain capital expenditures.

8058, by Senator Lack, Uniform Justice Court Act.

8084, by Senator Lack, amends Chapter 502 of the Laws of 1992.

8104, by Senator Padavan, amends Chapter 890 of the Laws of 1982.

8262, by Senator Daly, Education Law.

8471A, by Senator DeFrancisco, Parks, Recreation and Historic Preservation Law.

And Senate Bill Number 8497, by Senator Seward, an act to amend the Military Law.

All bills reported directly for third reading.

ACTING PRESIDENT FARLEY: All bills are reported directly to third reading.

Senator Present.

SENATOR PRESENT: Senator Rath.

SENATOR RATH: Yes, Mr. President. I would like to amend a bill on the Third Reading Calendar, on page number 27, an amendment to Calendar Number 900, Print 8005, and ask that it retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: The bill is amended, and it will retain its place.

SENATOR PRESENT: Mr. President. Can we call up Calendar 1091.

THE SECRETARY: Calendar Number 1091, by the Senate Committee on Rules, Senate Bill Number 8534A, an act to provide for payments to school districts and Board of

Cooperative Educational Services.

SENATOR PRESENT: Mr. President. Is there a message of necessity, a message of appropriation at the desk?

ACTING PRESIDENT FARLEY: Yes, they are.

SENATOR PRESENT: Mr. President. I move that we accept the messages.

ACTING PRESIDENT FARLEY: In all favor of accepting the messages, please say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The messages are accepted.

Senator Present, the substitution will be here momentarily.

SENATOR PRESENT: Right. Let's stand at ease, await the substitution.

ACTING PRESIDENT FARLEY: We will read the title of the bill, and then wait for the substitution.

THE SECRETARY: Senator Stafford moves to discharge the Committee on Finance from

Assembly Bill Number 11755A.

ACTING PRESIDENT FARLEY: Senator Mendez.

SENATOR MENDEZ: Mr. President. There will be an immediate conference with the Democratic Senators.

SENATOR GOLD: As soon as we -

SENATOR MENDEZ: As we adjourn.

ACTING PRESIDENT FARLEY: There will be a conference right after passing this bill.

ACTING PRESIDENT FARLEY: Continue the substitution.

THE SECRETARY: Senator Stafford moves to discharge the Committee on Finance from Assembly Bill Number 11755A and substitute it for the identical Senate Bill 8534A.

ACTING PRESIDENT FARLEY: Substitution is ordered.

Read the last section.

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

ACTING PRESIDENT FARLEY: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT FARLEY: The bill is passed.

SENATOR PRESENT: May we stand at ease for a few moments.

ACTING PRESIDENT FARLEY: The Senate will stand at ease.

(Whereupon, at 3:40 p.m., Senate was at ease.)

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: Mr. President. I move to recommit Senate Bill Print Number 8513, Calendar 1088, on the Third Reading Calendar to the Committee on Finance with instructions to the committee to strike the enacting clause.

ACTING PRESIDENT FARLEY: The bill is recommitted and the enacting clause is struck.

Senator Marchi.

SENATOR MARCHI: Mr. President. On behalf of Senator Skelos, on page 43, I offer the following amendments to Calendar Number 794, Senate Print 5588A, and request that the bill retain its place on the Third Reading Calendar.

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

ACTING PRESIDENT FARLEY: Senator Maltese.

SENATOR MALTESE: Mr. President. With reference to Senate Number 1089, I ask unanimous consent to be recorded in the negative.

ACTING PRESIDENT FARLEY: Without objection, Senator Maltese will be in the negative on 1089.

SENATOR MALTESE: Thank you.

ACTING PRESIDENT FARLEY: That looks like it.

SENATOR PRESENT: There being no further business, I move that we adjourn until tomorrow at 3:00 p.m.

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

(Whereupon, at 3:53 p.m., Senate adjourned.)