ALBANY, NEW YORK

June 1, 1994

3:09 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the staff to take their places, members find their seats. Ask you all in the gallery to stand and join with us as we say our Pledge of Allegiance to the Flag.

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

We're very fortunate today to be joined by two members of the clergy, first Rabbi Aldredo Winter, who is coming from Senator Oppenheimer's district, and ask him to deliver the first prayer.

RABBI WINTER: Please rise.

On Lord, our God, Creator and Judge of all form of humankind, we come with prayers for the well-being of the distinguished Senators assembled in this august chamber for deliberations pertaining to the welfare of the Empire State.

As Thou God to Whom alone belong the dominion and the power always inspire and

support these honorable public servants in the fulfillment of the trust to ensure the implementation of the letter and spirit of the law for all the inhabitants of our state.

In profound humility, O God, we pray that Thy blessing may rest upon all those involved in local and state and federal government which we the people have set in authority upon everyone and everything dear and precious to them and us.

As we thank Thee for the privilege of living in our glorious land of America, fountainhead of liberty and example of democracy to the nations of the world, we pray may we always bring Thy spirit into our homes or places of work, in our courts of law, understanding that as we live lives of peace and brotherhood, as we judge inequity and truthfulness, we establish Thy reign upon earth.

Also, may we all be worthy to continue the noble heritage of the founders of our nation, preserving the legacy of justice for

our fellow human beings, tampered by mercy and guided by regard for the rights of all our citizens.

Lastly, strengthen us, we pray, together with lovers of freedom everywhere to contribute our share in hastening the arrival of that long awaited era when justice will flow like a mighty stream and universal peace shall be the everlasting inheritance of all Thy children. Amen.

ACTING PRESIDENT KUHL: Thank you, Rabbi Winter.

We're also pleased to be joined by us today -- joining with us today is the Chaplain Egert from the 10th Mountain Division.

Chaplain Egert.

CHAPLAIN EGERT: Would you also join me in prayer today.

Eternal God, You Who count the nations and weigh them in the balance, Who put down the mighty and exalt the meek of spirit, bless our nation and look with favor upon the people Whom You've established.

It humbles us to roles that we too shall be brought to judgment that where much is given, much shall be required. Your providence knows no favorites. Nothing can bring Your justice. No prestige nor power can save those who deny your purpose or refuse your will.

Help us to know the power of the lives this day commemorates. May our minds be open to their sacred memory. Grant that we also may have the grace to deny ourselves for the common good. And as You have given, give to us clear vision and unfailing courage in our hour of testing.

Bless the men and women who serve today in our armed forces. Keep them strong and steadfast, inspired with devotion to the cause in which they serve. Grant that we may reverently use our freedom in the maintenance of justice among men and nations, to the glory of Your holy name, we pray. Amen.

ACTING PRESIDENT KUHL: Thank you, Chaplain Egert.

Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, May 31st. The Senate met pursuant to adjournment, Senator Farley in the Chair upon designation of the Temporary President. The Journal of Monday, May 30th, was read and approved. On motion, the Senate adjourned.

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

We'll move directly to reports of standing committees.

Senator Present.

SENATOR PRESENT: Can we return to reports of standing committees?

ACTING PRESIDENT KUHL: The clerk will read.

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

Senate Bill Number 8539, by the Committee on Rules, an act to provide for payments for vendors under the Women, Infants

and Children's program and making an appropriation therefor.

Senate Bill Number 8540, by the Committee on Rules, an act making an appropriation for the support of government.

Senate Bill Number 8541, by the Committee on Rules, an act to provide for payments to licensed day care centers and family day care homes under the Child and Adult Care Food Program.

Also, Senate Bill Number 5056, by Senator Libous and others, an act to amend the Tax Law, in relation to authorizing a tax credit for employing individuals with disabilities.

All bills reported directly for third reading.

ACTING PRESIDENT KUHL: Without objection, all bills are ordered directly to third reading.

Senator Present.

SENATOR PRESENT: Mr. President, can we have Calendar 1115 have its third reading at this time?

ACTING PRESIDENT KUHL: The clerk will read Calendar Number 1115.

THE SECRETARY: Calendar Number 1115. Senator Stafford, moves to discharge the Committee on Finance from Assembly Bill Number 11758 and substitute it for the identical Calendar Number 1115.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, is there a message of necessity, message of appropriation at the desk for this bill?

ACTING PRESIDENT KUHL: The substitution is ordered.

Senator Present, we have messages of necessity and appropriation on this bill at the desk.

SENATOR PRESENT: May I move that we accept the messages?

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity and appropriation. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The motion is adopted.

Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR PRESENT: Can we call up Calendar 1116?

ACTING PRESIDENT KUHL: The clerk will read Calendar Number 1116.

THE SECRETARY: Calendar Number 1116, by the Senate Committee on Rules. Senator Stafford moves to discharge the Committee on Finance from Assembly Bill Number 11759 and substitute it for the identical Third Reading

1116.

ACTING PRESIDENT KUHL: The substitution is ordered.

Senator Present.

SENATOR PRESENT: Mr. President, is there a message of necessity, a message of appropriation at the desk for this bill?

ACTING PRESIDENT KUHL: Yes, there is, Senator Present.

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

ACTING PRESIDENT KUHL: All those in favor of accepting the messages of necessity and appropriation signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The messages are accepted.

Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR PRESENT: Mr. President, can we have Calendar 1117 read at this time?

ACTING PRESIDENT KUHL: The clerk will read Calendar Number 1117.

THE SECRETARY: Calendar Number 1117, by the Committee on Rules. Senator Stafford moves to discharge the committee on Finance from Assembly Bill Number 11760 and substitute it for the identical Third Reading 1117.

ACTING PRESIDENT KUHL: The substitution is ordered.

Senator Present.

SENATOR PRESENT: Mr. President, is there a message of necessity, a message of appropriation at the desk for 1117?

ACTING PRESIDENT KUHL: The clerk indicates there are messages of necessity and appropriation, Senator Present.

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

ACTING PRESIDENT KUHL: All those in favor of accepting the messages of appropriation and necessity signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The messages are accepted.

The clerk will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Can we go back to regular order?

ACTING PRESIDENT KUHL:

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President, on behalf of Senator Cook, please place a sponsor's star on Calendar Number 1092, and on behalf of Senator Skelos, please place a sponsor's star on Calendar Number 637.

ACTING PRESIDENT KUHL: Sponsor's stars will be placed on Calendars Number 1092 and 637.

Senator Wright.

SENATOR WRIGHT: Mr. President, on behalf of Senator Spano, on page number 17, I offer the following amendments to Calendar Number 734, Senate Print Number 5622-C, and ask that said bill retain its place on the Third

Reading Calendar.

ACTING PRESIDENT KUHL: So ordered.

SENATOR WRIGHT: On behalf of Senator Bruno, on page number 35, I offer the following amendments to Calendar Number 1098, Senate Print Number 7133, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: So ordered.

SENATOR WRIGHT: And on behalf of Senator Velella, on page number 44, I offer the following amendments to Calendar Number 872, Senate Print Number 7198, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: So ordered.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on behalf of Senator Libous, I ask that the stars on the following bills be removed: Calendar Number 249, Bill Number 6219-A; Calendar Number 854, Bill Number 7485-A;

Calendar Number 847, Bill Number 6927-B;
Calendar Number 853, Bill Number 7189;
Calendar Number 901, Bill Number 4588;
Calendar Number 932, Bill Number 7033;
Calendar Number 987, Bill Number 5440-B;
Calendar Number 1035, Bill Number 6929-A;
Calendar Number 1036, Bill Number 7032; and
finally, Calendar Number 1038, Bill Number 8362.

ACTING PRESIDENT KUHL: Sponsor's stars will be removed from Calendars Number 249, 854, 847, 853, 901, 932, 987, 1035, 1036 and 1038.

Senator Present, may we read some substitutions?

SENATOR PRESENT: Good.

ACTING PRESIDENT KUHL: The clerk will read.

THE SECRETARY: On page 35, Senator Seward moves to discharge the Committee on Investigations from Assembly Bill Number 10221-A and substitute it for the identical Calendar Number 1100.

ACTING PRESIDENT KUHL: The

substitution is ordered.

THE SECRETARY: On page 35, Senator Cook moves to discharge the Committee on Rules from Assembly Bill Number 10489-A and substitute it for the identical Calendar Number 1101.

ACTING PRESIDENT KUHL: Substitution is ordered.

THE SECRETARY: On page 36, Senator Lack moves to discharge the Committee on Judiciary from Assembly Bill Number 11369 and substitute it for the identical Calendar Number 1110.

ACTING PRESIDENT KUHL: Substitution is ordered.

THE SECRETARY: On page 36, Senator DeFrancisco moves to discharge the Committee on Rules from Assembly Bill Number 10348-A and substitute it for the identical Calendar Number 1113.

ACTING PRESIDENT KUHL: Substitution is ordered.

THE SECRETARY: On page 36

Senator Seward moves to discharge the Committee on Rules from Assembly Bill Number 10401 and substitute it for the identical Calendar Number 1114.

ACTING PRESIDENT KUHL: Substitution is ordered.

Senator Present.

SENATOR PRESENT: Mr. President, I move that we adopt the Resolution Calendar with the exceptions of resolutions 3683, 3814 and 3815.

ACTING PRESIDENT KUHL: Motion is to accept the -- adopt the Resolution Calendar with those exceptions. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The Resolution Calendar is adopted with exceptions.

Senator Present.

SENATOR PRESENT: Recognize Senator Wright, please.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Wright.

SENATOR WRIGHT: Mr. President, I have Resolutions Number 3814 and 3815 at the desk, and would ask the clerk to read them in their entirety, please.

ACTING PRESIDENT KUHL: The clerk will read Resolutions 3814 and 3815.

THE SECRETARY: Legislative Resolution 3814, by Senator Wright and other members of the Senate, expressing sincerest sorrow upon the occasion of the death of four soldiers from the 10th Mountain Division who died during their tour of duty in Somalia;

WHEREAS, it is the sense of this legislative body that those soldiers, sailors and airmen who serve in our American Armed Forces do so profoundly demonstrate and strengthen our shared commitment to the exercise ever freedom;

Attendant to such concern and fully in accord with its long-standing traditions, it is the intent of this legislative

body to express sincerest sorrow upon the occasion of the death of four soldiers from the 10th Mountain Division (Light Infantry) who died during their tour of duty in Somalia;

The subsequent United States soldiers lost their lives as a result of injuries sustained in the line of duty in the beleaguered nation of Somalia: Private E-2 David J. Conner, 57th Transportation Company (February 15th, 1993); Sergeant Ferdinan Richardson, 2nd Battalion, 25th Aviation Regiment (September 25th, 1993); Sergeant Cornell L. Houston, 41st Engineer Battalion (October 6, 1993); PFC James H. Martin, Jr., 2nd Battalion, 14th Infantry Regiment (October 4th, 1993);

The lives of those courageous soldiers of the United States Army gave the highest positive definition to the dedication of service of our men and women in uniform;

These four American soldiers did so valiantly give their lives in the freedom's cause;

In their consummate courage, these four American soldiers define the parameters of honor and duty, their sacrifice is not in vain. On the contrary, their commitment gives renewed hope to the dream of universal peace for the nations of the world;

Through their long and sustained commitment to the ideals and principles upon which this beloved nation was first founded, Private E-2 David J. Conner, Sergeant Ferdinan Richardson, Sergeant Cornell L. Houston, PFC James H. Martin, Jr., have so heroically advanced that spirit of united purpose and shared concern which is the unalterable manifestation of our American experience; now therefore be it

RESOLVED, that this legislative body pause in its deliberations and express sincerest sorrow upon the occasion of the death of these four soldiers from the 10th Mountain Division (Light Infantry) who died during their tour of duty in Somalia, fully confident that such procedure mirrors our shared commitment to

preserve, to enhance and yet, effect the patrimony of freedom which is our American heritage; and be it further

RESOLVED, that copies of this resolution, suitably engrossed, be transmitted to the families of Private E-2 David J. Conner, Sergeant Ferdinan Richardson, Sergeant Cornell L. Houston and PFC James J. -- James H. Martin, Jr.

Legislative Resolution 3815, by Senator Wright and other members of the state Senate, honoring the 10th Mountain Division (Light Infantry) of Fort Drum, New York;

WHEREAS, thousands of men and women from the great state of New York have served faithfully and courageously with dedication and sacrifice and service to their country and in defense of liberty and freedom around the world;

This legislative body is justly proud of their commitment and performance and the residents of this great state must never forget the courage and determination which these

soldiers have displayed in serving their nation and protecting the ideals of freedom and independence for other less fortunate of the world community;

1200 members of the 10th Mountain Division (Light Infantry), Fort Drum, New York, were called upon early in the days of "Desert Shield", serving with honor and valor throughout the campaign and into "Desert Storm" from September of 1990 to May of 1991;

The 10th Mountain Division of Fort Drum successfully mobilized additional reserve component units for service in Saudi Arabia;

During this same period, the need for a multi-national force providing observers in the Sinai, also is met by members of the 10th Mountain Division, the 2nd Battalion, 14th Infantry Regiment comprised of 550 soldiers, served in the area from November 1990 to April 1991, and the 2nd Battalion, 22nd Infantry Regiment, dispatched 540 members during the period of February through August of 1992;

Matters of national interest also include the safety and welfare of the country and its citizenry during incidents of natural disaster; the 10th Mountain Division deployed over 5,000 soldiers to Florida to provide essential relief assistance and protection during the months of September, October 1992 following Hurricane Andrew;

International attention began to focus on the plight of the Somali people in the latter months of 1992, and again it was the 10th Mountain Division which was among the first forces to be supplied;

Beginning December 7th, 1992, over 4500 10th Mountain Division soldiers deployed to Somalia in support of Operation Restore Hope; 2nd Brigade formed Task Force Commando and conducted humanitarian relief and peace-keeping operations. By March 30th, 1993, all but 1200 soldiers from Task Force Commando redeployed to Fort Drum, the second rotation began on April 9th, 1993 when 1st Brigade assumed the Task Force mission from 2nd

Brigade. Over 1100 soldiers from 1st Brigade formed Task Force Warrior, and under Operation Continue Hope, provided a quick reaction force in the support of UNOSOM II headquarters. The third rotation began on August 16th, 1993 when the Aviation Brigade assumed the Task Force mission from 1st Brigade. Over 1150 soldiers from the Aviation Brigade formed Task Force Falcon and continued peace-keeping operations. In October, 1993, 740 soldiers, including the 2nd Battalion, 22nd Infantry Regiment, deployed to reinforce units already in country and the Quick Reaction Force and form the nucleus of Joint Task Force Somalia, they remained until their commission was accomplished;

It was a proud and joyous community, state and nation that would finally welcome home the last elements of the 10th Mountain Division on the 29th of March, 1994. Members of an extraordinary cadre of men and women whose solemn promise, to defend and protect, was fulfilled in the highest of traditions of a proud military and grateful

nation; now therefore, be it

RESOLVED, that this legislative body pause in its deliberations to pay tribute to the brave men and women representing the 10th Mountain Division (Light Infantry) of Fort Drum, New York, recognizing their exemplary record of service and courageous response to the calls of a nation and world in need; and be it further

RESOLVED, that a copy of this resolution, suitably engrossed, be transmitted to Major General David C. Meade, Commanding General of the 10th Mountain Division, Fort Drum, New York.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Wright on the resolutions.

SENATOR WRIGHT: Mr. President, it's a distinct honor and privilege today for me to sponsor this resolution in recognizing the men and women who serve in the 10th Mountain Division from Fort Drum in my home district.

At this time, I would also like to take the opportunity to introduce Major General David Meade, the Commanding General of

Fort Drum.

(Applause)

Major General Meade is leading his delegation of young men and women who are visiting the Capitol today and spending the day with us as we recognize their effort and their commitment along with members of the Assembly earlier today.

If you take a look at the history of Fort Drum, it goes back a long time in terms of the history of Jefferson County and, in fact, it goes back to 1907 when a local community originally leased 10,000 acres and made that available to the United States Army for training, and over the period of time since then, there's been a continuing commitment from the people of the North Country to the United States Army and to the area now known as Fort Drum.

In 1986, this state made a commitment to the United States Army to make the necessary investment to make Fort Drum and its expansion a reality in the North Country and a

reality in this state. That investment exceeded a commitment in excess of $200 million, an investment in local infrastructure, an investment in housing, an investment in sewer, water, sanitation services, an investment in human services, that were critical to the decision-making in the United States government to decide that Fort Drum would become a facility for expansion, would become the most modern facility in the United States Army and would receive an investment of $1.4 billion into the state of New York to become home for the 10th Mountain (Light Infantry).

In the intervening years, that division has done nothing but serve its country and serve the people of the North Country in this state with extreme honor and dedication.

As the resolution indicated, the representatives of the 10th Mountain have been deployed to the Sinai. They've been deployed to Saudi and "Desert Storm". They've been deployed here in the continental states in a humanitarian mission in response to Hurricane Andrew, and

most recently, have served with distinction and honor in exemplary service in Somalia in that humanitarian effort, and as one of the resolutions also recognizes, four members of the division made the ultimate sacrifice on behalf of this nation in terms of giving of their life that we so duly honored and recognized today.

So I'm very pleased to have representatives from the 10th Mountain Division here. I'm very pleased that, as a Legislature and the Senate particularly, we are recognizing today the efforts of the men and women who serve in the 10th Mountain, but also who serve in the United States Army, and in doing so, we reaffirm the commitment of the state of New York to maintaining that installation at Fort Drum, to making the necessary commitment essential to ensure that that facility remains an important part of the infrastructure within the United States Army, and New York State maintains that commitment.

So it's with great pleasure that I'm pleased to sponsor the resolution today, Mr.

President, to recognize the men and women of the 10th Mountain Division, and on behalf of my community in the state, to recognize their service and commitment to all of us, and I would ask that the resolution be open to all of the members of the Senate.

Thank you.

ACTING PRESIDENT KUHL: Senator Present -- Senator Present, with regards to the sponsorship, is it your desire to place all of the members of the Senate on the sponsorship other than those who wish otherwise?

SENATOR PRESENT: You are correct, sir.

ACTING PRESIDENT KUHL: O.K. Direct the clerk to do that.

Senator DiCarlo, on the resolution.

SENATOR DiCARLO: Mr. President, it's a pleasure to rise in support of this resolution. I've spent the last seven or eight hours with Senator Wright and these soldiers from Fort Drum, and I'm very proud of them. I'm

also proud of a number of them who come from the county of Kings, my home town of Brooklyn, New York. They are fine individuals and I'm sure will continue to make us proud.

Speaking as the chairman of the Veterans Committee, the last time we had members of the military from West Point, I stood and I made a point that, as we see these bright, young, energetic, loyal Americans before us today who are serving us now, we must always remember and never forget the duty that we have to them when they leave the military as veterans.

So I would pledge to the soldiers here today that we will not forget what you do for us, and we will always remember, and God bless all of you.

Thank you.

ACTING PRESIDENT KUHL: Senator Mendez.

SENATOR MENDEZ: Mr. President, I also, for the record, do want to state that for one, we all here feel very proud of the

accomplishment of this wonderful group of young men and women that with such valor and courage, defend our country anywhere that they are sent to do so.

Among this wonderful group, there is a constituent of mine, and his name is Abraham Rose. Would you please stand up? And he completed -- thank you. He completed his mission with other members of the 10th in Somalia.

And in closing, Mr. President, I just want to say a message that I learned this morning, and that I think all of them will understand very well, and that message goes as follows: "Hooah!"

(Response of "Hooah!")

ACTING PRESIDENT KUHL: The Chair recognizes Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

I join the rest of my colleagues in thanking Senator Wright for giving us this opportunity to offer a much deserved "thank you"

to the 10th Mountain Division and to its commander, General Meade, and we thank you also for bringing to Albany today such a fine group of young men and women.

I would just like to remind all of you gathered with us today in the Senate chambers, that we look to you as leaders of the future in the military, and here in New York State we've had an opportunity to observe first hand the shifting attitude of this nation regarding its military forces, and we've had an opportunity to reflect upon our role in our nation's defense, sometimes with great pain, as we have been through the recent BRAC go 'round, and as we look to the next BRAC go 'round.

While we understand as Americans that there will be military cutbacks, we have looked very deep inside our souls and analyzed what's happening around the rest of the country, and we know probably better than any other Americans right now outside of the Pentagon, how much we need to protect you at Fort Drum, and how much we need to continue providing the

resources to make all of our northeastern military installations secure.

One of the big shifts that has happened in this nation over the last 50 years while we're celebrating D-Day or the commemorating the awesome anniversary of D-day is perhaps the better language, we recognize the tremendous shift away from the heavy armored divisions and into the Light Infantry. The quick reaction forces are the hallmark of today's Army and you are the premier force in that area.

Because of your status, because of the excellence that you've achieved in all of the international missions that you have been involved with, as well as Hurricane Andrew, you're now in line for a new brigade as a result of the downsizing that's happening in the European Theatre, and at the same time, the 3rd Brigade that's presently affiliated with Fort Drum, which is a guard unit, is due to be announced as an enhanced by grade which will increase in its strength.

Part of the new seamless Army that blends together guard and reserve components along with active duty, has been pioneered, tested and proven successful as a result of your work at Fort Drum.

So I want to thank General Meade for coming today, offer our continued support, those of us in upstate New York who serve as your deployment arena. I have the distinction of representing both Hancock and Griffiss Air Force base which are well known to you and the rest of Fort Drum, and I will pledge that we will do everything that we can to maintain all of the facilities that you need to do your mission as we go into the next decade.

Thank you for coming today. Congratulations.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

I'm honored to join Senator Wright and the rest of my colleagues here in

honoring members of the 10th. The 10th has a very, very proud history.

When you look at the achievements of the division from back when -- way back when it was part of Mark Clark's 5th Army in World War II -- I'm sure, General, you've read some of his comments about the brilliance of the men and women who fought and served with it.

Each year here we have a day called "West Point Day", and over the past 16 years that I have been here and hosting that, I have seen many young men and women come here. Some of those young men and women went to the 10th. Wherever they served, they served with pride, they were distinguished.

Just recently, two men in the Somalia expedition were awarded the Congressional Medal of Honor, a 35-year-old sergeant and a 33-year-old sergeant -- the tremendous weight, not only of the families, but of you, the survivors, who rally around those families and make sure that they have the stability to carry forth not only for the

spouses but for those children.

The military is a family that is proud and has survived and it survives because of the cameraderie and the willingness to remember that you've made a commitment to yourself and to the United States of America, and to defend that, and you in the 10th can be very proud. We New Yorkers are proud of you, and no matter where you come from, we're proud that you're here. This will be a tradition and years later on you'll look back as I do.

I will be retired 27 years the 30th of this month. I know I don't look that old, John. In my days, I think -- I think of the skirmishes with the 10th in Germany, and I think about those who went on and led to greater things in 'Nam. The 10th, proud; the 10th, a tradition; the 10th, first class.

God bless you all.

ACTING PRESIDENT KUHL: The question is on the Resolution Number 3815, the -- of the two presented first, honoring the 10th Mountain Division. All those in favor

signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is unanimously adopted.

The question is now on Resolution 3814, honoring the four soldiers who gave their life. For those of you who are voting for this bill aye, I would ask you to stand in a moment of silence.

(A moment of silence was observed.)

The resolution is unanimously adopted.

General Meade, on behalf of Senator Wright, Senator Marino, all of the members of the Senate, we welcome you here today. You and the people who join you, your soldiers under your command, make all of this possible, make all of this democracy possible. You allow us to work for a better country and we thank you for that.

Thank you for coming.

(Applause)

Senator Present.

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

ACTING PRESIDENT KUHL: The clerk will read the non-controversial calendar.

THE SECRETARY: On page 5, Calendar Number 301, by Senator Holland, Senate Bill Number 6309-C, an act to amend the Penal Law, in relation to persistent violent felony offenders.

ACTING PRESIDENT KUHL: Read the last section.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 434, by Senator Levy, Senate Bill Number 190, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number

478, by Senator Saland, Senate Bill Number 5881-B.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 502, by Senator Volker, Senate Bill Number 3474, an act to amend the Criminal Procedure Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 607, by Senator Levy, Senate Bill Number 71-A, an act to amend the Vehicle and Traffic Law.

SENATOR GOLD: Lay it aside for the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 682, by Senator Seward, Senate Bill Number 5229, an act to amend the Public Service Law.

ACTING PRESIDENT KUHL: Read the

last section.

THE SECRETARY: Section 2.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 719, by Senator Johnson, Senate Bill Number 7248-A.

SENATOR GOLD: Lay it aside for Senator Oppenheimer.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 800, by Senator Holland -

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 812, by Senator Larkin.

SENATOR PRESENT: Lay that bill aside for today.

ACTING PRESIDENT KUHL: Lay the

bill aside for the day.

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

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 829, by Senator Johnson -

SENATOR GOLD: Lay it aside for Senator Oppenheimer.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 838, by Senator Saland, Senate Bill Number 4659, an act to amend the Executive Law and the Social Services Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 855, by Senator Libous -

SENATOR PRESENT: Lay that bill aside for the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 878, by Senator Daly, Senate Bill Number 1392, an act to amend the Insurance Law, in relation to multiple employer welfare arrangements.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 893, by Senator Rath, Senate Bill Number 7051-B, an act to amend the State Administrative Procedure Act.

ACTING PRESIDENT KUHL: Road the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 894, by Senator Rath, Senate Bill Number 7054-B, an act to amend the State Administrative Procedure Act.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 917 -

SENATOR PRESENT: Lay that bill aside.

SENATOR SKELOS: Mr. President, would you lay that bill aside on behalf of Senator Wright?

ACTING PRESIDENT KUHL: Lay the bill aside -

SENATOR SKELOS: I'm sorry. Would you star the bill?

ACTING PRESIDENT KUHL: Sponsor's star on the bill. The bill is starred.

THE SECRETARY: Calendar Number 945, by Senator Daly, Senate Bill Number 7786, Environmental Conservation Law and the Public

Health Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR COOK: Mr. President.

ACTING PRESIDENT KUHL: Senator Cook.

SENATOR COOK: Could we reconsider the vote on that bill that was just passed, 945?

ACTING PRESIDENT KUHL: Still in the house here? The clerk will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: Senator Cook.

SENATOR COOK: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 956, by Senator Skelos, Senate Bill Number -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1000, by member of the Assembly McLaughlin, Assembly Bill Number 3908-A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1004, by Senator Maltese -

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1044, by Senator Cook, Senate Bill Number 7185, Agriculture and Markets Law, in relation to agricultural practices.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1053, by Senator Daly, Senate Bill Number 2993,

an act to amend the Education Law.

ACTING PRESIDENT KUHL: Read the last section.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1093 -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1095, by Senator -

SENATOR PRESENT: Lay it aside for the day.

SENATOR SKELOS: Star the bill, please.

ACTING PRESIDENT KUHL: The sponsor requests the bill be starred. Star the bill.

THE SECRETARY: Calendar Number 1096, by Senator Bruno, Senate Bill Number 6937, Racing, Pari-mutuel Wagering and Breeding Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1099, by Senator Rath, Senate Bill Number 7157-B, an act to amend the Tax Law, authorizing the county of Genesee to impose an additional one percent sales tax.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1100, substituted earlier today by member of the Assembly Casale, Assembly Bill Number 10221-A, an act to amend the Tax Law, authorizing the county of Herkimer to impose an additional one percent sales tax.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1101, substituted earlier today, by member of the Assembly Hickey, Assembly Bill Number 10489-A, Commissioner of General Services to sell and convey to the Greene County Community Action Agency, supported housing facility.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1102, by Senator Nozzolio, Senate Bill Number

7407, an act to amend the Real Property Tax Law, in relation to taxation of certain state lands.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50, nays 1, Senator Dollinger recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1104, by Senator Johnson, Senate Bill Number 7837-A, an act to amend the Executive Law.

ACTING PRESIDENT KUHL: Read the last section.

Senator Dollinger.

SENATOR DOLLINGER: Is this Calendar Number 1104?

ACTING PRESIDENT KUHL: Calendar Number 1104 is being called right now.

SENATOR DOLLINGER: Lay the bill aside for a question and explanation.

ACTING PRESIDENT KUHL: Lay the bill aside.

SENATOR DOLLINGER: Thank you.

THE SECRETARY: Calendar Number 1105, by Senator Stafford, Senate Bill Number 7970.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1106, by Senator Stafford, Senate Bill Number 8030.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay it aside.

THE SECRETARY: Calendar Number 1107, by Senator Stafford, Senate Bill Number 8031,proposing an amendment to the Constitution.

ACTING PRESIDENT KUHL: The question is on the resolution. The clerk will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The resolution is adopted.

THE SECRETARY: Calendar Number 1108, by Senator Bruno, Senate Bill Number 8035, authorizing an apportionment of state aid to certain -- for certain capital expenditures.

ACTING PRESIDENT KUHL: There's a local fiscal impact note at the desk. The clerk will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1109, by Senator Lack, Senate Bill Number 8058, Uniform Justice Court Act.

ACTING PRESIDENT KUHL: The clerk

will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1110, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 11369, amends Chapter 502 of the Laws of 1992, relating to certain non-judicial officers and employees.

ACTING PRESIDENT KUHL: The clerk will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1111, by Senator Padavan, Senate Bill Number 8104, amends Chapter 890 of the Laws of 1982.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1112, by Senator Daly, Senate Bill Number 8262, Education Law, in relation to courses of instruction in patriotism.

ACTING PRESIDENT KUHL: Read the last section. Lay the bill aside.

THE SECRETARY: Calendar Number 1113, substituted earlier today, by member of the Assembly Pillittere, Assembly Bill Number

10348-A, Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT KUHL: The clerk will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1114, substituted earlier today, by member of the Assembly Tocci, Assembly Bill Number 10401, an act to amend the Military Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Cook.

SENATOR COOK: Mr. President, on behalf of Senator Daly, would you please place a sponsor's star on Calendar 945?

ACTING PRESIDENT KUHL: Calendar Number 945 will be starred at the request of the sponsor.

Senator Holland.

SENATOR HOLLAND: Mr. President, on page 16, I offer the following amendments to my bill, Calendar 701, Senate Print Number 1806-A, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The bill is amended and will retain its place on the Third Reading Calendar.

Senator Present, that completes the non-controversial calendar. What's your pleasure?

SENATOR PRESENT: Mr. President,

let's take up the controversial calendar, please.

ACTING PRESIDENT KUHL: The clerk will read the controversial calendar.

THE SECRETARY: On page 5, Calendar Number 301, by Senator Holland, Senate Bill Number 6309-C, an act to amend the Penal Law, in relation to persistent violent felony offenders and place of imprisonment.

SENATOR GOLD: Explanation.

ACTING PRESIDENT KUHL: Senator Holland, Senator Gold has asked for an explanation, sir.

SENATOR HOLLAND: Yes, sir. This bill deals with only three violent felonies, and a life term would be issued for three violent felonies. 43 percent of the people convicted of felony charges are re-arrested within three years. Governor Cuomo has stated that 20 percent of the offenders commit 80 percent of the crimes, but federal figures also show that only six percent of the criminals commit about 70 percent of the crimes.

Let me introduce you to a man named Cecil Emil Davis, age 34.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold, why do you rise?

SENATOR GOLD: Senator Holland, I had asked for the explanation, and I appreciate you giving it, but with your permission, maybe I could make the question a little easier -- I mean, not easier but, I mean, a little more direct.

We had one of these bills a few weeks back. We had a bill by Senator Holland yesterday -- Saland yesterday.

SENATOR HOLLAND: I'm Holland.

SENATOR GOLD: (Continuing) maybe you could tell us what's the difference, or are we going to have 35 bills so that every Republican can say they introduced one?

SENATOR HOLLAND: I can't answer that question yes or no, but I can tell you Senator Saland's bill, I believe, deals with other none-violent crimes. My bill only deals

with three violent felonies.

SENATOR GOLD: Would the Senator yield to a question?

SENATOR HOLLAND: Sure.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR GOLD: I was under the impression, and I'll tell you, it's hard to read everybody's version because I know since the Governor isn't going to sign 35 of them, I figure maybe we'll get the same debate every day, but yesterday I thought we were dealing with a bill that dealt with A-1 and A-2 felonies. Aren't those pretty violent?

SENATOR HOLLAND: I understand - you're correct. It did deal with three violent felonies, but it went on to deal with other non-violent crimes as well. This bill just deals with three violent felonies.

SENATOR GOLD: So -- if I can ask you one last question?

ACTING PRESIDENT KUHL: The Senator yields to one last question. Senator

Gold.

SENATOR GOLD: Does this mean your bill is a softer bill than the Saland bill, that you're softer on crime? Is that it?

SENATOR HOLLAND: I don't know the answer to that question, Senator.

ACTING PRESIDENT KUHL: The clerk -- Senator Mendez.

SENATOR MENDEZ: Would the Senator yield for a question?

ACTING PRESIDENT KUHL: You're asking Senator Holland to yield to a question? Senator, do you yield? The Senator yields.

SENATOR MENDEZ: You mentioned that your bill deals with only three major felonies.

SENATOR HOLLAND: Violent felonies, yes, Senator.

SENATOR MENDEZ: Which are they? Would you enumerate them for me, please?

SENATOR HOLLAND: The violent felonies?

SENATOR MENDEZ: Yeah.

SENATOR HOLLAND: Yes. They are listed in section 70.02 of the Penal Law, but they are attempted murder, kidnapping, arson, manslaughter, sodomy, aggravated sexual assault, criminal possession of a weapon, criminal use of a firearm, assault on a police officer, intim... what is it -- intimidation of a victim, robbery and rape.

SENATOR MENDEZ: Thank you.

SENATOR HOLLAND: Those are the only crimes.

ACTING PRESIDENT KUHL: The clerk will read the last section.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, would the sponsor yield just to one question?

SENATOR HOLLAND: Sure.

ACTING PRESIDENT KUHL: Senator Holland, do you yield?

SENATOR DOLLINGER: I just want to make sure I understand. Is it correct,

Senator, that if you are charged with a third of any one of that collection, you would then trigger the penalties that are provided for in this bill?

SENATOR HOLLAND: If you are convicted, yes, that's correct.

SENATOR DOLLINGER: And if you are -- excuse me, Mr. President.

ACTING PRESIDENT KUHL: You're asking to continue to yield, Senator Dollinger?

SENATOR DOLLINGER: Yes, please.

ACTING PRESIDENT KUHL: Continue? The Senator continues.

SENATOR DOLLINGER: If there is another violent felony which is not included in the list you just read but which there is a conviction, then it would still require three that are within the subset that you recited a moment ago?

SENATOR HOLLAND: The bill only says within section 70.02 of the Penal Law, yes.

SENATOR DOLLINGER: O.K. Thank

you, Mr. President.

ACTING PRESIDENT KUHL: The clerk will read the last section.

Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 50, nays 1, Senator Espada recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: On page 10, Calendar Number 502, by Senator Volker, Senate Bill Number 3474, an act to amend the Criminal Procedure Law.

SENATOR GOLD: Mr. President -

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: -- could you hold

this for just one moment? I think Senator Galiber is going to at this moment enter the chamber and proceed towards his seat, and I think he may have an interest in this piece of -

ACTING PRESIDENT KUHL: The Chair will recognize Senator Galiber when he reaches his seat.

SENATOR GOLD: Well, I recognized him when he walked in the door, the good-looking fellow with a nice tie.

ACTING PRESIDENT KUHL: Senator Galiber, on Calendar Number 502.

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

Can I have an explanation and then I have a brief amendment which I hope will be convincing enough to get a good "aye" vote on.

ACTING PRESIDENT KUHL: Senator Maltese for an explanation on Senator Volker's bill.

SENATOR MALTESE: Mr. President,

this refers to an amendment to the Criminal Procedure Law, in relation to submission of written materials to the jury during deliberation.

It is being introduced at the request of the chief administrator of the courts upon the recommendation of his advis... the Advisory Committee on Criminal Law and Procedure. It would amend section 310.20 in order to permit certain written materials to be submitted to the jury during deliberations.

Although the present law indicates that certain items, namely exhibits, verdict sheets and, in certain circumstances, copies of statutes may be given to the jury, the law at present makes no provision for submission to the jury of a copy of the accusatory statement -- instrument, the indictment, or the court's instruction to the jury or a list of the elements of the charges against the defendant or defenses thereto.

Since 1987, there's been a course of Court of Appeals decisions and lower court

decisions that have cast doubt on certain aspects of what may be given to the jury. As a result, the Advisory Committee has come up with this amendment which they hope would remove all doubt.

They indicate that they would follow the present statute and provide that the court still has discretion to decide what may or may not be given to the jury and, in addition thereto, the parties must consent. This would apply in all circumstances except in one, where no consents would be required, although it would still be at the discretion of the court for submission of a sheet containing the elements of the crimes charged, the defenses thereto and portions of the court's charge with reference specifically to those crimes charged and the defenses thereto.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Galiber.

SENATOR GALIBER: Senator, would you yield for just one or two questions?

ACTING PRESIDENT KUHL: Senator

Maltese, do you yield?

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR GALIBER: This amendment, you stated back in 1987, there's -- we're trying to give to the jury as much as possible in order to -- their deliberations to be expedited in some way but certainly make their judgments as those who hear the facts and make a decision, would make it a lot easier for them, is that correct?

SENATOR MALTESE: I -- Mr. President, I believe that the purpose of this amendment is to remove the doubt on the part of the jury as to the elements of the crime, whether their decision, based on the facts of the case and their interpretation of the law as given to them by the judge, would be consistent with the law. So this -- the purpose of this is so that they may take into the jury room these extra materials, so to speak, in order to allow them to understand the judge's charge and apply

the facts to the circumstances of the case.

ACTING PRESIDENT KUHL: Senator Galiber.

SENATOR GALIBER: In the spirit of where the sponsor of this amendment is coming from, I offer the following amendments and would like an opportunity to explain it. I believe it's at the desk.

ACTING PRESIDENT KUHL: Senator Galiber, we do have an amendment at the desk. You're waiving its reading, have an opportunity to explain it?

SENATOR GALIBER: No, I would like to have it read, Mr. President, please.

ACTING PRESIDENT KUHL: You would like to have the amendment read?

SENATOR GALIBER: That's correct.

ACTING PRESIDENT KUHL: The clerk will read the amendment.

THE SECRETARY: Strike out everything after the enacting clause and insert: Section 1. Section 310.20 of the Criminal Procedure Law is amended by adding a

new sub- division (3) to read as follows:

"(3). Upon request of the defendant, the court must also provide the jury with a written statement that the jury has the final authority to decide whether or not to apply the law to the facts before it; that is, if -- that it is appropriate to bring in to the -- its deliberations, the feelings of the community and its own feelings based on conscience, and that nothing shall bar the jury from acquiting the defendant if it feels that the law, as applied to the facts, would produce an inequitable or unjust result.

Section 2. This act shall take effect on the 90th day after it shall have become a law."

ACTING PRESIDENT KUHL: The Chair recognizes Senator Galiber on the amendment.

SENATOR GALIBER: Thank you, Mr. President.

And I say to my colleagues, usually we do not have the amendment read, but this amendment which I offer is a concept which

has been around for a very long while, and it's called jury nullification, so in the spirit of what we are attempting to do to make the jurors give them as much information as possible.

Historically, we've always recognized, Senators, that the jury had a right to go contra to what the judge would tell them as a matter of law. Usually, when we have our trials, they say to the jury, "You must decide based on the facts," and we give the -- the judge, that is, gives the law -- a charge on the law built into the concept, and juries have always exercised nullification.

Built into the notion of a jury is a community input tried by your peers. They have an inherent right to disregard the law as a judge presents it to them at trial. The problem, however, and the Supreme Court cases upheld that they do, in fact, have this power and they should exercise that power. However, what has happened is that judges have been reluctant, in fact, oh, yea, perhaps not reluctant but said "No, we will not charge the

jury" to that effect.

This amendment is a simple one. It tells the jury that they do, in fact, have an absolute right to ignore the law that is presented by him. This is a simple amendment, complex concept, no question about it, and we have seen cases from time to time where juries have ignored the law. We've had cases of persons who have shot in self-defense where the jury has discharged or refused to indict, rather than to convict in areas where the assault took place, but will find in the -- possession of the gun in question. We've had occasions where people who had possessionary crimes. The one noted case was a mayor, if you will, of Washington, who the jury refused to indict -- to convict, rather, but held him for the possession of a small quantity of cocaine.

So, Mr. President, the bill would create in New York State the Florida form of jury law to require trial courts upon the request of the defendant to inform jurors of all their powers and responsibilities of a

particular case, including their inherent authority to decide whether or not to apply the law to the facts before them. It is well established that the juries have an unquestioned, unrefutable and unreversible power to acquit -- to acquit and disregard the instructions of the law given by the trial judge in the cited cases. I will try to cut this short.

While the support by the power of the jury to nullify what's said by the courts is beyond question, the sticky point is whether or not the jury should be told by this power through instructions from the court. While the Supreme Court has never settled this question, lower federal courts have rather consistently ruled that such instructions should not be given.

They cite another case. The New York State Court of Appeals have viewed the issue of jury nullification with icy detach ment, not only in jury instructions but also in a voir dire process. Jury nullification is

something that it's about time, if you will, that we should take note of it and this piece of legislation, the amendment, in the spirit of what Senator Maltese is attempting to do, would accomplish just that.

ACTING PRESIDENT KUHL: Is there any other Senator?

Senator Maltese.

SENATOR MALTESE: Would the sponsor yield to a question?

ACTING PRESIDENT KUHL: Senator Galiber, do you yield? The Senator yields.

SENATOR MALTESE: Mr. President, would the sponsor indicate whether or not he feels -- whether or not he feels that this is the law at present with the exception of the fact that the request -- the mandate would be on the court to advise the jury of the law, of the nullification?

SENATOR GALIBER: That's the part, yes, sir.

SENATOR MALTESE: Would the sponsor also indicate whether or not this would

be a mandate on the court without the parties' consent?

SENATOR GALIBER: The request would have to flow from the defense attorney. If the request from a charge, as you well know was given, the judge would have to charge. It would be mandated that he charge that the request of the -

SENATOR MALTESE: So this would remove the discretion of the court and would be done despite the opposition of the prosecution?

SENATOR GALIBER: That's correct.

SENATOR MALTESE: No further questions.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the amendment to Calendar Number 502?

(There was no response.)

Hearing none, the question is on the amendment. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(Response of "Nay.")

The nays have it. The amendment is defeated.

The clerk will read the last section to Calendar Number 502.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 682, by Senator Seward, Senate Bill Number 5229, an act to amend the Public Service Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Senator Seward, Senator Leichter has asked for an explanation of Calendar Number 682.

SENATOR SEWARD: Yes, Mr. President.

This bill would authorize the Public Service Commission to promulgate rules to make sure that the -- any messages that are in the -- determined to be harmful to minors could not be available to minors, and the way that the bill guides the Public Service Commission to accomplish that goal would be to require them to -- anyone that would have access to these so called dial-a-porn' services, would first have to apply for a personal identification number, and at the time of that application would have to prove that they are 18 years of age or older and then, of course, would have to use that number when they had access to these services.

The bill also requires that the billing and collection practices of the telephone companies be a matter of contractual agreement between the information providers, the providers of these services, and the telephone companies.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Yeah. Mr. President, we had this bill before us last year. I pointed out at that time that while we would all like so-called offensive messages not to be available for children, but a bill of this sort, to my mind, is clearly unconstitutional where there are no standards whatsoever as what is offensive to children, to say the Public Service Commission keep out these messages that are offensive. We don't tell them what's offensive. There's no guide, no standard whatsoever.

Maybe some people consider it offensive if you urge people to go out and march for the environment. I don't know. Some people might say that is so, and as I read the bill, I see no standards whatsoever. I would just refer people to what I thought was a very well written and a very persuasive memorandum in opposition, of the Civil Liberties Union.

Finally, let me just point out

that the following four lovers of the Con stitution voted against the bill last year, Senator Galiber, Senator Ohrenstein, Senator Waldon and Senator Leichter.

Thank you.

ACTING PRESIDENT KUHL: The clerk will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Seward to explain his vote.

SENATOR SEWARD: Yes, Mr. President.

I appreciate Senator Leichter's concerns but I would point out, as I explain my vote, that the expression "harmful to minors" is defined in the legislation and it references the Penal Law, specifically subdivision (6) of Section 235.20 of the Penal Law as the yardstick to be used to determine what is, in fact,

harmful to minors. So, based on that, I support the bill.

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 682 are Senators Galiber, Leichter and Paterson. Ayes 47, nays 4.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Senator Johnson, Senator Oppenheimer has asked for an explanation.

SENATOR JOHNSON: Yes, Senator. This is a bill, and you may recall two years ago we did a bill limiting the amount of mercury in batteries. We found out since there are many other sources of mercury in manufacturing, even around our homes. Battery manufacturing, of course, we dealt with and that's being phased

out. You know that when you see the batteries, they say "mercury free" or "almost mercury free". Fluorescent lights still have a lot of mercury in them. Jewelry manufacturing, paint manufacturers, electric switch and chemical manufacturers, even refining and recycling mercury eliminates -- puts some mercury into the air and into the environment. Dentists, hospitals all use mercury, and we did say at the time we did the batteries that we thought since mercury is such a dangerous persistent poison, that we would look into other ways to deal with other environmental sources of mercury.

This simply calls upon the Commissioners of Health and Environmental Conservation and Economic Development, to convene a task force with those industries using mercury so they can sit down, get together and try to find out how much they're using, whether there is any releases, whether there is a way to not use mercury, whether there's a way to limit the release into the environment for the protection of human health, and that's all

this does, Senator.

It doesn't mandate anybody to do anything about it but to find out what's out there and how we can take some effective steps to deal with it.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Oppenheimer.

SENATOR OPPENHEIMER: If the Senator -- the sponsor would yield for a question.

ACTING PRESIDENT KUHL: Senator Johnson, do you yield for a question?

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields, Senator Oppenheimer.

SENATOR OPPENHEIMER: The purpose of the task force is important. The question - and I believe the bill has been amended. The question that was raised consisted of the people who would be placed on the task force because it looked as though only industry people were on and we were hopeful that health people would be

on and, you know, other people.

SENATOR JOHNSON: Senator, do you have a copy of my bill, 7248-A?

SENATOR OPPENHEIMER: That -- I was questioning the "A".

SENATOR JOHNSON: Do you have that at your desk?

SENATOR OPPENHEIMER: Somewhere in this mess, yes.

SENATOR JOHNSON: Look at the reverse side of it, Senator.

SENATOR OPPENHEIMER: You are saying that -

SENATOR JOHNSON: I'll read it to you if you would like. I thought you might have it there. "Such task force shall also include representatives of environmental, consumer protection, retail groups, toxicological experts and other industries," and so on.

So I think everyone who's interested at all would be represented on this task force.

SENATOR OPPENHEIMER: Thank you

very much, Senator.

That was my question, and I should have read the amendment myself.

ACTING PRESIDENT KUHL: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: Yes, on the bill.

We have memos, and I think that we ought to correct the impression that the memos offer, because the problem that has been posed has been overcome by this amendment, and now EPL and nypirg would support this bill. So I'm going to vote in favor. I urge everyone to do so.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on Calendar Number 719?

(There was no response.)

Hearing none, the clerk will read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR GOLD: Explanation.

ACTING PRESIDENT KUHL: Senator Present, an explanation has been asked for.

SENATOR PRESENT: Forthcoming.

ACTING PRESIDENT KUHL: Senator Nozzolio, an explanation has been asked for on Calendar Number 814, by Senator Gold.

SENATOR NOZZOLIO: Mr. President, my colleagues, Senate Bill 4924-A is a measure that was introduced by myself at the request of the Firemen's Association of the state of New York (FASNY) and the Conference of Private Organizations of New York State.

What the measure does is to

permit and increase the prize limit from $1,000 to $3,000 for games of chance, otherwise known as bell jar games and merchandise wheels.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Would Senator Nozzolio yield to a question?

ACTING PRESIDENT KUHL: Senator Nozzolio, do you yield to Senator Gold?

SENATOR NOZZOLIO: Yes.

ACTING PRESIDENT KUHL: The Senator does.

SENATOR GOLD: Senator, this is -- bell jar game, can you tell me how that works?

SENATOR NOZZOLIO: I am not a participant, Senator, but as I understand that games of chance and bell jar games are games that eleemosynary organizations participate in as fund-raising devices, allowed now currently under law and that bell jar is a -- is kind of a euphemism for placement of slips of games of

chance paid for on an individual slip basis much like the lottery where a tear-off is used and a victor is decided on the series of the particu lar game.

SENATOR GOLD: Thank you.

Would you yield to one more question, Senator?

SENATOR NOZZOLIO: Certainly.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR GOLD: Senator, while I realize that the Legislature in New York operates differently, in many respects, from other legislative bodies, certainly differently from the Congress, I believe that we ought to have some sense of where we're going when we handle legislation in certain areas.

So, for example, it has not been uncommon for us on a particular day to have a senior citizens' calendar, and we have a bunch of bills, 10, 15, whatever, which is the legislative program for senior citizens that year. We've done it with veterans. We've had

in the last few weeks, a number of bills that have dealt with bingo, with bingo employees, with increasing, decreasing, with bell jar, and what I'm curious about, Senator, is why we don't have one day or one program that lets all of us know at one point what we're proposing in this area.

Now, what my particular concern is, is that in a lot of these areas, while I know that there are charitable and not-for profit institutions that help themselves with these programs, my guess, and this is only a guess, is that the money that is being raised is not coming from people who live on Park Avenue in the 80s, Central Park South. I mean, a lot of this money is coming from people who are either poor people or middle income or whatever but, at what point, it seems to me, do we have a plan where we say, "It's all right to raise money, but we should not be reaching further with these goals", and I'm not making a judgment as to what the right level is. I am making a judgment that we get this area in piecemeal, and

by the end of the session, I don't know whether any of us are going to know exactly where it's come out, so that's a really long introduction but, I mean, that's really my question.

Shouldn't we have some policy - and I know your bill is one isolated bill, Senator Nozzolio, but don't you think it should be considered along with what we do with bingo -- Senator Skelos, I think may have a bill. We've had other bills -- and have some general policy and determine what we're going to let the not-for-profits do or not do?

SENATOR NOZZOLIO: Senator, that does not sound unreasonable to me, but my purpose, frankly, was to push a measure that had, in my view, been outdated by the -- by the shared members of gaming across the state, that the not-for-profits, particularly within the areas of Indian reservations that now allow casino gaming, asked very strongly for this type of legislation, and I think that their concern is obviously a concern of every community that is served by a volunteer fire organization or a

volunteer -- other volunteer organizations that support many community enterprises that deal with the health and safety and welfare of the community.

So that's why I'm suggesting that this bill is appropriate today or any other day because it helps volunteers help people in communities. The volunteers work long and hard, save the taxpayers of this state billions of dollars a year that otherwise would have to be provided at services supported through tax dollars. They participate in a number of fund-raising efforts from chicken barbecues to other type of fund-raising activities, and this is one, and as such, I believe that it's an appropriate piece of legislation, because it allows them to further help men and women in their community.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Padavan.

SENATOR PADAVAN: Would the sponsor yield to a -

ACTING PRESIDENT KUHL: Senator Nozzolio, do you yield to Senator Padavan?

SENATOR NOZZOLIO: Certainly.

ACTING PRESIDENT KUHL: The Senator does.

SENATOR PADAVAN: Senator, as I understand your bill and your explanation, this would allow these bell jar games, as they're called, to increase the total payout in a - over any given period of time which could be a day, could be a week, could be a month from $1,000 to $3,000.

SENATOR NOZZOLIO: That's correct, Senator.

SENATOR PADAVAN: Now, in your explanation, however, you also mentioned merchandise wheels as also being allowed to increase, if I heard you correctly before, the prize limit from 1,000 to 3,000. Can you explain how that works?

SENATOR NOZZOLIO: Yes, Senator. That in all games of chance, except merchandise wheels and bell jars, the series of prize

limitations intended to protect the house against particular losses that, unfortunately, from the perspective of the eleemosynary organizations, the not-for-profits, they look at the prize limitation as a limitation and a restriction on their ability to gain activity, again interest in the -

SENATOR PADAVAN: Excuse me, Senator. I understand that part. I'm just trying to understand physically how the merchandise -- I think it's called merchandise wheel -- is operated relevant to the prize limit; what is it?

SENATOR NOZZOLIO: What is the wheel itself, Senator?

SENATOR PADAVAN: Yes. What is it and how does it relate to the prize limitation that you're seeking an increase from 1,000 to 3,000? Maybe -- I understand -

SENATOR NOZZOLIO: They are two separate games, Senator.

SENATOR PADAVAN: I know they are. That's what -

SENATOR NOZZOLIO: Exact two separate games.

SENATOR PADAVAN: I know that. What is that game? And how does it relate to the prize limit? Is it the number of times you can give out a prize when you turn a wheel that ends up on a number; is that it? Do I -- was I perhaps correct?

SENATOR NOZZOLIO: Senator, as you explain, the merchandise wheel is one of those games that's used during the casino nights and the Las Vegas type nights and, yes, as I understand it, it is the wheel that's spun to - all the tickets are sold or chances sold to participate on numbers on that wheel.

SENATOR PADAVAN: All right. Thank you, Senator.

Would the Senator yield to another question?

SENATOR NOZZOLIO: Certainly.

ACTING PRESIDENT KUHL: Senator Nozzolio continues to yield.

SENATOR PADAVAN: Now, Senator,

at the same event, use the firemen's bazaar, I think is your example, let's say in some church basement or any other place of that sort, could you have a merchandise wheel, a bell jar at the same same time each with a limit of $3,000 under your bill?

SENATOR NOZZOLIO: Yes, Senator, as I understand it.

SENATOR PADAVAN: Could you also at the same place have a bell jar, a wheel and bingo which currently has a limit on it, but has been said here, there's a bill on our calendar that raises that limit to 3,000 as well, but it has not happened so you can't say it's so, but could you have a bell jar, a wheel and bingo at the same place, the same occasion?

SENATOR NOZZOLIO: I'm not sure about the licensing for bingo, Senator, but I know that I'll stand on my answer regarding bell jars and wheels. I'm not certain about the laws governing bingo.

SENATOR PADAVAN: Well, I looked in the law, and unless my reading is incorrect,

the answer to that question could be asked, and I'm not saying I'm reading it accurately. That's why I asked you. If I knew the answer, I wouldn't ask you, but it seems that, if you read it, it doesn't seem to preclude it.

Something else I can't find out one way or the other is, could you have more than one wheel and more than one bell jar at a given event?

SENATOR NOZZOLIO: Again, Senator, I'm not familiar with the licensing practices of these particular games.

SENATOR PADAVAN: But, Senator -

ACTING PRESIDENT KUHL: Senator Padavan, are you asking him to continue to yield? Does the Senator yield?

SENATOR NOZZOLIO: Yes.

ACTING PRESIDENT KUHL: Senator Nozzolio yields.

SENATOR PADAVAN: Senator, the reason I asked you this question, it's very important to know the answer, because while we understand -- if I could preface my question.

We understand the desire for these organizations to raise some funds, we at the same time know - I just read the paper today about New Orleans, that when gambling opportunities, whether they're poker machines or whatever they are, get out of hand in terms of the magnitude, the opportunity for the wrong people to get involved because now the stakes are high, presents a real problem.

Your bell jars, as I understand it -- again please correct me if I'm wrong -- is you strip off a piece of paper, and if you have three cherries to four lemons, you can win something, which is quite similar to a slot machine where, if you put a coin in and you get three cherries or four lemons, you're going to have an instant pay out. So it's akin of that kind of process.

So, Senator, I ask you again. Is it not important for us to know at a given event how much of this activity is going to go on? Are we going to have bingo with a limit up to 3,000, bell jars with more than one perhaps? Are we

going to have wheels, more than one at a seemingly innocuous community event which now turns into a mini casino? Don't you -- my question, Senator, don't you think it's important for us to know that?

SENATOR NOZZOLIO: Senator, the answer to that is not difficult to find. It is in statute. It's relative to occasions allowed that the maximums that we are allowing are maximums relevant to one game, whether those are a series of prizes or one prize in particular, that the single prize limitation is not changed in this loss. It's capped at a dollar amount. It simply allows those charities to have more games during the period of occasion where they obtain their license. The license, Senator, as you know, is a license on a nightly basis. It's not for an extensive period of time. It's on an occasional basis. The license has to be applied for from the charitable organization to the Racing, Wagering Board, that they are well governed, and that, I think, your comparison is one that tries to extend this to the extreme,

and that extreme is one that I think you're trying to, in my opinion, view a "Las Vegas Night" at a local fire hall, again, to a visit to a casino in Las Vegas. It's not the same extent by any stretch.

SENATOR PADAVAN: Would the Senator yield to another question?

ACTING PRESIDENT KUHL: Senator Padavan -- Senator Nozzolio, do you yield?

SENATOR NOZZOLIO: Certainly.

ACTING PRESIDENT KUHL: The Senator does.

SENATOR PADAVAN: Senator, with regard to bell jars, my inquiry to the state Gaming Commission -- go ahead.

SENATOR NOZZOLIO: Go ahead, Senator.

SENATOR PADAVAN: (Continuing) My inquiry of the state Gaming Commission indicates that a bell jar license does not have a time limit associated with it as do other kinds of activities such as bingo where there is, I think, a 12- or 14-hour limit, meaning that the

bell jar can be there at some place for an in definite period of time. It is unique to bell jars, from what I'm told.

SENATOR NOZZOLIO: Senator, is that a question?

SENATOR PADAVAN: Yes. My question to you is, are you aware of that fact?

SENATOR NOZZOLIO: Senator, I'm confused by that question in the sense that I looked at the statute and it states that for the purposes of the game of chance known as bell jar, one occasion shall mean the successive operation of any such bell jar -

SENATOR PADAVAN: Correct.

SENATOR NOZZOLIO: -- which results in the capping on these -- I guess, Senator, you're saying it can extend for more than one day?

SENATOR PADAVAN: Exactly, to reach $3,000.

SENATOR NOZZOLIO: To the amount limited, yes, sir.

SENATOR PADAVAN: Would the

Senator yield?

SENATOR NOZZOLIO: Certainly.

ACTING PRESIDENT KUHL: Senator Nozzolio yields.

SENATOR PADAVAN: Now, after they reach the $3,000 payout under your bill, then they can put another bell jar up there, right, am I correct, Senator?

SENATOR NOZZOLIO: Senator, I'm not sure what the licensing process is.

SENATOR PADAVAN: Well, if there's no limitation -- at least I can't find any, not only in your proposal but in the body of law that I made copies of earlier today -- it would indicate that under the prior $1000 limit, that would be the case which would indicate that you could have, if all of this is correct, and I believe it to be so, an ongoing bell jar, a never ending bell jar, as long as you wanted to buy the kits that you buy from these providers that have all of those components in there.

SENATOR NOZZOLIO: Senator -

SENATOR PADAVAN: So this is not

-- question: Are you aware of the fact that this is not just with regard to bell jars, a singular one-time event that happens periodically over the course of the year, the firemen's bazaar or something like that, but bell jars are unique in that they can occur on an ongoing basis?

SENATOR NOZZOLIO: You are right that bell jars have continuous prize limits that must be capped for a particular occasion so that occasion doesn't get replicated throughout the year.

SENATOR PADAVAN: Over and over again?

SENATOR NOZZOLIO: Yes.

SENATOR PADAVAN: Correct. And the fact we are -- with regard to this, you didn't create the process. You're just raising the limit. I understand that, Senator. I wish I was aware of what's been going on when we created this. Was it in 1989 when we did this, when bell jars became part of the continuum of games of chance?

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

SENATOR PADAVAN: In 1989. I don't know where I was then but I obviously wasn't in attendance. But in any event, Senator, we do agree that this can be an ongoing enterprise. How many -

ACTING PRESIDENT KUHL: Senator Padavan -

SENATOR PADAVAN: Would the Senator yield?

ACTING PRESIDENT KUHL: -- may interrupt for just a moment?

SENATOR PADAVAN: Certainly.

ACTING PRESIDENT KUHL: Senator Padavan, are you asking Senator Nozzolio to continue to yield?

SENATOR PADAVAN: Senator, would you yield, please?

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PADAVAN: Senator, is there -- in any one occasion which we have

together determined can be over an extended period of time in that bell jar, is there any limit as to the given prize? For instance, if you have $3,000, could there be six prizes of $500 in there or can there be 1,000 of one dollar? Is there any limitation in that regard?

SENATOR NOZZOLIO: Senator, the single prize shall not exceed $500, but I suppose you could have 3,000 one dollar prices.

SENATOR PADAVAN: So the single -- the maximum there can be, therefore, from what you're telling me within this 3,000 continuum, up to -- you could have six $500 prizes in there?

SENATOR NOZZOLIO: Under the statute -- under the bill we're debating today, Senator, yes. Under the current law, the $1,000 limit, there can only be two of those prizes.

SENATOR PADAVAN: Would the Senator yield? You're saying -

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

SENATOR NOZZOLIO: Yes.

SENATOR PADAVAN: The maximum individual prize was less?

SENATOR NOZZOLIO: No, Senator. Under the current law, the total -

SENATOR PADAVAN: Is a thousand. I understand what you're saying.

Senator, would you yield again, please?

ACTING PRESIDENT KUHL: The Senator continues to yield, Senator Padavan.

SENATOR PADAVAN: What is your guesstimate as to the total amount that would have to be wagered or bet to reach the $3,000? I realize it's an estimate, but you must have some feel for it, I would imagine.

SENATOR NOZZOLIO: Senator -

SENATOR PADAVAN: What is a normal payout? Is it two to one, three to one or something like that?

SENATOR NOZZOLIO: Senator, I'm not a normal participant in these games. I really don't know what the odds are.

SENATOR PADAVAN: I'm not either. I'm getting an education as we talk along here.

Would the Senator yield?

ACTING PRESIDENT KUHL: Senator Nozzolio, do you continue to yield? The Senator does.

SENATOR PADAVAN: I just assume, is it a three to one pay out, that for every three pieces of paper you pull out, strip off, that one of them is going to be a winner? Would that be unreasonable?

SENATOR NOZZOLIO: Again, Senator, I would only be speculating.

SENATOR PADAVAN: Well, does it seem reasonable -- if the Senator would yield again.

ACTING PRESIDENT KUHL: Senator Nozzolio, do you continue to yield? The Senator does.

SENATOR PADAVAN: -- that the total wagering would have to be at least twice, if not three times the amount of the maximum

prize under your proposal of $3,000, so -- which would mean, therefore, that the amount of wagering that would go on would be somewhere, perhaps 6-, $9,000. Is that unreasonable for me to say that?

SENATOR NOZZOLIO: I think that may be high, Senator, but I don't think -

SENATOR PADAVAN: You don't know.

SENATOR NOZZOLIO: -- for the point you're making, it's all that unreasonable.

SENATOR PADAVAN: Would the Senator yield?

ACTING PRESIDENT KUHL: Senator Nozzolio,, do you continue to yield? The Senator does.

SENATOR PADAVAN: Is there an age limitation on who can participate in this?

SENATOR NOZZOLIO: Yes, Senator. There is under the statute, in the laws of '89, I believe, that these games are regulated, that they're given -- their occasion -- a license, their one-night license, that no one under the age of 18, I believe, is allowed to participate

in -

SENATOR PADAVAN: Senator -

SENATOR NOZZOLIO: -- under the threat of losing the particular license.

SENATOR PADAVAN: Senator, if you would yield to this question.

ACTING PRESIDENT KUHL: Senator Nozzolio continues to yield.

SENATOR PADAVAN: You did agree -- you seem to indicate that you agreed that this need not be one night. It could be ongoing.

SENATOR NOZZOLIO: Senator, a lot of -- just to engage in this colloquy, that as I understand a lot of the not-for-profits have these bell jars filled with slips can be in a location at the firehouse, clubhouse, lodge, and that they're used on a nightly or frequent basis with someone occasionally playing the game. That's the nature of the term "bell jar". I don't know how that came into being and the fact that these are slips of paper that are held in a jar for the participant.

SENATOR PADAVAN: Would the Senator yield?

ACTING PRESIDENT KUHL: Senator Nozzolio, do you continue to yield? The Senator does.

SENATOR PADAVAN: The scenario that you just provided us, is it conceivable that these locations that undoubtedly have other events going on, weddings, gatherings, birthday parties, and so on, that a teen-ager could go over and put down a dollar, whatever they charge for these slips and wager, and that the only person to regulate would be that individual who happened to be there; is that possible?

SENATOR NOZZOLIO: Senator, it's possible, as that same individual who may be dispensing alcoholic beverages in a licensed establishment as many of these places do have liquor licenses, that the same risk is involved, Senator, that someone under the age of 18 could be served -- under the age of 21 could be served and that, I believe it's in the same type of risk and enforcement process that would go on.

In areas across upstate, Senator, the ABC Board on occasion has participated in, I don't want to call them "sting operations" but review procedures to see that everyone that walks into a bar is not under age. I think you have the same type of risk that the seller of those tickets would have, if they sold them to someone under age.

Senator, you're correct. I think there's always a risk that someone under the age of the majority could purchase one of these tickets, but that risk is the same risk as someone purchasing alcoholic beverages.

SENATOR PADAVAN: Well, Senator, let me ask you a question. You mentioned the Alcoholic Beverage Control Commission, Liquor Authority, inspectors, and so on. How many inspectors are there that work for the gaming and wagering commission statewide who would go around to presumably these myriad locations keeping an eye out to ensure that children aren't wagering money in bell jars which will now presumably under your legislation

proliferate in quantity because of the increase in revenue?

SENATOR NOZZOLIO: Senator -

SENATOR PADAVAN: How many inspectors are there?

SENATOR NOZZOLIO: Senator, I'm not sure of the number. I am aware of the fact that in the one portion of the state budget that we have enacted this year, the State Operations Budget, there was an increase in the number of inspectors' money increased to allow additional inspectors to be hired but, Senator, I don't have the know-how.

SENATOR PADAVAN: Is it 10, is it 120, is it 100?

SENATOR NOZZOLIO: I would only be guessing, sir.

SENATOR PADAVAN: Well, I've never seen one, so I don't know how many there are, is why I asked the question.

Senator, how many manufacturers or distributors of these -- I guess you call them a kit, a bell jar kit, whatever the term

they use. How many providers of these kits are there -

SENATOR NOZZOLIO: I do not know, Senator.

SENATOR PADAVAN: -- in this business?

SENATOR NOZZOLIO: I do not know.

SENATOR PADAVAN: What do they - do we know what they charge for their services?

SENATOR NOZZOLIO: No idea, Senator.

SENATOR PADAVAN: Would the Senator yield -- continue to yield?

ACTING PRESIDENT KUHL: Senator Nozzolio continues to yield.

SENATOR PADAVAN: Is it fair to say that there are private entrepreneurs who make money, whatever the number of them are - could be a ten, could be a hundred, I have no idea -- who make money by selling these bell jar packages throughout the state or as they operate?

SENATOR NOZZOLIO: Yes, Senator.

SENATOR PADAVAN: So, therefore, it's a fair statement for me to say that the profit incentive here goes beyond the non-charitable organization that you've referred to here a couple of times?

SENATOR NOZZOLIO: That may be, Senator, yes.

SENATOR PADAVAN: Thank you, Senator, very much, and I would like to speak on the bill, if I may.

ACTING PRESIDENT KUHL: Senator Padavan, on the bill.

SENATOR PADAVAN: Mr. President, I appreciate Senator Nozzolio's forebearance in answering a number of questions that I had, and frankly, I saw this bill yesterday and I didn't know what a bell jar is and I've tried today to find out what a bell jar is, and I guess we've all learned a few things about bell jars.

What I have learned is really a bell jar strip is virtually no different than a slot machine. Instead have putting money in a coin receptacle, pulling the lever and getting

an instant payout, you put your hand in a jar and you pull out a piece of paper, and if you win, you get a payout after you give the money to do that.

While bell jars are already legal, it is my feeling that when we triple the payout, which is what this bill would do, keeping in mind as the sponsor explained, this is not a one-time event. This is not our typical community charity event. These jars sit there in a different form and a different shape like a slot machine and they could sit there in definitely, and people will come and go and wager money. I guess I presume as he explains, it could be at the edge of a bar or they could be in a V.F.W. hall or firemen's location, anywhere -- anywhere where they seek to get a permit, and the feeling that I -- I have, and what disturbs me is that I think what we are again doing here is developing an inbred reliance on this kind of gambling activity which encourages too many people to be plunking down money for a game that, while it is intended to

help worthwhile organizations, in aggregate begin to help -- hurt the community at large, and I think we go too far. That's why there are limits on bingo, in terms of the number of occasions that they can hold them and where they can hold them. That's why there are limits on church and temple-sponsored "Las Vegas Nights" in terms of where they can hold them and when they can hold them, how many times a year, so that you don't let this thing get out of hand, but bell jars are different.

And so I suggest to you that while there is an intent on the part of sponsors to help charitable organizations, we're also helping some other people, the manufacturers of these bell jar kits who are in the business of making profit, and if we increase the prize, then their incentive and their desire to go out and sell more and more kits, obviously increases. The whole thing begins to snowball, and I don't think we want to be in the business of doing that.

And so I say to all of you who

are here, this is an unwise bill. The notion that we could have a bingo parlor with a $3,000 limit under one bill proposed, a wheel of merchandise with another $3,000 limit and a bell jar forever with another $3,000 limit, that just keeps going all in the same place is a mistake, and I would like to encourage each of you to vote against it.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Dollinger on the bill.

SENATOR DOLLINGER: Mr. President, would the sponsor yield to a question?

ACTING PRESIDENT KUHL: Senator Nozzolio, do you yield to a question from Senator Dollinger?

SENATOR NOZZOLIO: Yes.

ACTING PRESIDENT KUHL: The Senator does.

SENATOR DOLLINGER: Mr. President, during the discussion with Senator Padavan which was very enlightening on this bill, I read the sponsor's memo, and I just -

my question is, you make a reference here about Canadian organizations that are sponsoring bell jar games, and that there's a claim that we're losing patrons to Canadian organizations, isn't that correct?

SENATOR NOZZOLIO: Yes, Senator.

SENATOR DOLLINGER: It's my understanding that you have to go to Canada then to be in a bell jar game, isn't that correct?

SENATOR NOZZOLIO: No, Senator, it's not correct.

SENATOR DOLLINGER: Mr. President, I just didn't hear the answer. Excuse me?

SENATOR NOZZOLIO: I said, no, Senator, it is not correct, that you can -- this is a legal activity within New York State.

SENATOR DOLLINGER: But my question is -- and again through you, Mr. President, if the sponsor would continue to yield. The point that's made here is that we're losing patrons to Canadian organizations. As I heard the bell jar game described by Senator

Padavan in his his colloquy with you, wherever this little jar sits, if it's a Canadian organization, it's got to sit somewhere in Canada, and so presumably, someone has to go into Canada to use the bell jar there or am I mistaken?

SENATOR NOZZOLIO: No, Senator, let me try to clarify. I said that in the memo, we were competing or those charitable organizations in New York State, particularly those next to the Canadian border, Senator Daly mentioned Lewiston as one, has -- have a difficult time competing with a similar game with expanded prize limits within just a few minutes of travel time away.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Again, Mr. President, if the sponsor would just yield.

ACTING PRESIDENT KUHL: Senator Nozzolio, do you continue to yield? The Senator does.

SENATOR DOLLINGER: My under

standing of your response is that there are actually people in Lewiston, as Senator Daly - who are going into Canada solely to play bell jar games?

SENATOR NOZZOLIO: Senator, I think it's more a question of having the reality, not just in -- along the Niagara frontier, but also within the central part of our state now that the Indian casino gaming is a reality and will be a reality not only in Oneida, but by this time next year in the North Country, in western New York and southwestern New York, possibly even southern New York by Indian tribes having similar types of casino gaming.

The Canadians have an identical bell jar type gaming that does compete certainly with "Las Vegas Nights" that are held by the charitable organizations in western New York, but it's a question of having the same charities lose patronage, lose participation in casino gaming nights that they do sponsor because of these other enterprises that are continually

gaming across the state and across the Canadian border.

SENATOR DOLLINGER: Again through you, Mr. President.

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

SENATOR NOZZOLIO: Sure.

ACTING PRESIDENT KUHL: The Senator does.

SENATOR DOLLINGER: So I understand. You don't know how many patrons or how much income has been lost by not-for-profit organizations in the borders of Niagara County or Erie County that are near Canada as suggested in the memo; you don't know what that number is?

SENATOR NOZZOLIO: Senator, we had, to answer your question, representatives of the Elks, the Moose, the FASNY testify last fall, that they are feeling losses in their - from their member organizations' handle on those particular casino gaming nights in those areas that we talked about, those close to the

Canadian border and those close to the Indian reservation now that allows casino gaming. They didn't have numbers in terms of how many travelers went to Canada to play bell jar, but they did have a very strong sense. These are representatives of those organizations I mentioned, had a very strong sense that they were losing patronage as a result of having prize limits that are outdated.

SENATOR DOLLINGER: Again, through you, Mr. President, if I could ask the sponsor to yield.

ACTING PRESIDENT KUHL: Senator Nozzolio, do you continue to yield? The Senator yields.

SENATOR DOLLINGER: So, is it fair to say that what we're doing with this bill is we're allowing not-for-profit entities to compete with the gambling institutions in places like Turning Stone for patronage? For public spirited not-for-profit purposes, we are going to condone gambling the way Indians are now allowed to do it on a broader scale?

SENATOR NOZZOLIO: Senator, to respond to your question, the word compete is your word. I don't think it's exactly our concept, but it's a sense of trying to bring more customers, to lose less customers, to those gambling entities. There's only so much gambling dollars that is within communities; and that those communities, particularly within the orbit within the axis of those enterprises you mentioned, do have a competition problem as described by the representatives. However, I don't think you are going to see a night to night competition. These are occasional ventures. They're not every night as you see in the casinos.

So competition is the word that I don't want to use, but I do want to say that the representatives want more of an opportunity to attract participants at their functions, and that that attraction on their occasional nights seems to be waning because of this additional daily gaming enterprise in Canada and on the Indian reservation.

SENATOR DOLLINGER: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

SENATOR DOLLINGER: First, Mr. President, I want to thank my colleague, Senator Padavan for his insightful questioning as well as comments. He's changed my opinion about this bill.

Secondly, I understand the motivation of the sponsor and the need to attend to the issues for our not-for-profit organizations who are looking for a source of funds. But it seems to me that what the sponsor is suggesting -- and though perhaps he did not use the word competition, that's clearly what we're going to do. By increasing the limit on bell jars, we're going to create a form of legalized gambling which is going to benefit not-for-profit organizations, which means that we're going to have lower end gambling in this state, not in a casino variety but in the local VFW hall; or whether it's in the local fire hall

or the church basement, nonetheless, we're going to have gambling.

And I think Senator Padavan's admonition to this group to think long and hard before we countenance the creation of this new strata of lower end gambling, which not only falls under the not-for-profit but also has the merchandisers of bell jar kits and other things hiding behind it, I think we'd be well advised to make sure that if we want to do that that we know that that's exactly what we're doing and we're not doing it under the disguise of simply increasing the amount of bell jar winnings.

I'd point out I was at the Turning Stone Casino. I played the little bell jar game, and I bought the tickets, and I lost, but I was clearly gambling. And in my judgment, if we're going to do that, I think we need to take a broader look at it. I don't think you do it under the disguise of doing it this way by increasing these amounts.

I think there's some real dangers, as Senator Padavan pointed out, in this

proposal and I think we will substantially increase the scope of lower end gambling in this state by passing this initiative.

I'll be in the negative, Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Stachowski.

SENATOR STACHOWSKI: Mr. President. I rise to stand in support of this bill. Having just been at a FASNY dinner last week in our area, I found out what an important issue this is to FASNY, this increase, in particular, in the bell jar game.

Yes, the bell jar game is constantly available in the fire hall. And what this increase in limits will do is, obviously, if the limits are higher, that means it takes more dollars to get to those limits, and that helps the fire company raise more money through a choice form of fund raising for them.

Rather than having tax dollars put into their fire company for operation, they allow people that come to the fire hall,

basically, a lot of times fire hall members who use this as a form entertainment by choice.

The fact is that if they're sitting in the volunteer fire company, to give you an example -- and not to make light of it, but to give you an example of how this operates is, say, they are in the fire hall for the evening, having a couple of sociable Cokes or beers or whatever they have with their friends while they are there, and instead of playing a video game where there's absolutely no reward but there is entertainment, they play the bell jar, where the prizes aren't immense. It's more of a form of entertainment. They enjoy ripping the strips.

And, granted, it is gambling at a small level, but it's not the kind of addictive gambling I think that everybody is building this major concern over. I believe that if that were the case that the fire company who is such a backbone in every community would be much more concerned about this, and it wouldn't be such a priority for them.

I think that the wheel increase will help them have a better game of chance where once in a while through a fluke some of their Monte Carlo nights the different organizations have end much earlier because they hit the limit real fast, and this will give them a little bit more chance of the local church maybe raising a few more dollars and I don't think at anybody's expense that their family will go without eating for that week because they had gone hog wild, for example, which they could do at a casino at a higher stake gambling but in this church style, not-for-profit style, and in particular in the FASNY position which mainly relates to bell jar.

I think that this is a good fund-raising vehicle for these organizations. I don't think it's the menace to society that possibly other people would feel about casino gambling. I think this is a good bill. It helps the volunteer organizations and volunteer fire companies, in particular, achieve a goal that they are trying to do; and, that is, to

keep their fire company and their equipment up-to-date, to make sure that they are better equipped and fully prepared to fight fires and handle emergencies in their community.

And if this vehicle helps them to do that, then I think we would be foolish to fall under the guise of organized casino gambling to stop this bill, which this bill isn't organized casino gambling. This is low level entertainment-type gambling. Granted it's gambling, but it's the vehicle that these organizations use to make sure that they can carry out the services that they carry out for the community, and I will be voting aye.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on Calendar Number 814?

(There was no response.)

Chair recognizes Senator Nozzolio to close.

SENATOR NOZZOLIO: Mr. President. My colleagues. I certainly appreciate those sincere comments raised on

behalf of this measure. I also appreciate Senator Stachowski's comments in favor of this measure.

I want to clear up for my colleagues who may have listened to Senator Dollinger that this is not a new form of gambling. This gambling, this gaming exists today and has existed at least since 1989 legally throughout the charitable, not-for-profit community, and that it is existing. It's a reality. It's something that we are not altering or creating by passing this legislation.

What we are doing is increasing the value of prizes so that those charitable organizations like the fire companies, like the not-for-profits close to -- particularly those close to the Canadian border or close to Indian reservations that now or will have gaming in the future are will be able to compete.

The presidents of the Elks, the Moose, FASNY, came to the table asking for help because their membership is having difficulty in

these troubled times raising additional funds. Unless this Legislature wants to appropriate more money to the fire companies, as I know we all would like to do but because of budget restrictions can not, we must and have been asking those companies and those organizations to fund-raise, and this is a fund-raising enterprise. It's a fund-raising enterprise for them, and we should look at it in those terms.

This is not creating casinos. This does not extend the form of games that are already available. That's all this does is allow those games which exist today to be able to be more enjoyed in terms of competition and bring more money into the coffers of those charitable organizations who we all know do so much for our state.

Mr. President. Thank you for the opportunity to present this bill.

ACTING PRESIDENT KUHL: Clerk will read the last section, Calendar Number 814.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 814 are Senators DiCarlo, Dollinger, Gold, Hannon, Holland, Johnson, LaValle, Leichter, Onorato, Tully, also Senator Cook. Ayes 40. Nays 12.

ACTING PRESIDENT KUHL: Bill is passed.

THE SECRETARY: Calendar Number 829, by Senator Johnson, Senate Bill Number 4084A, Environmental Conservation Law.

SENATOR OPPENHEIMER: Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Oppenheimer.

SENATOR OPPENHEIMER: As I read it, this bill would allow DEC to charge a fee for their information services when private parties are asking for environmental audits, and

the only plus I can see is that it might make it easier and faster for the DEC in that they might be able to hire some additional people. But for the most part, this is not a good bill because there are too many community groups and not-for-profits, people very concerned with the issues of environment that will be priced out of the market because it's going to be costly to obtain this information.

This is sort of a double hit. This is not only an environmental hit, but it's a freedom of information hit, as well. Generally, I think we believe here that public information should be liberally available to everybody interested in obtaining information concerning the government. And we look on environmental audits as being beneficial, and we believe they should be encouraged. And, you know, our citizens and our public interest groups shouldn't have to spend money to make this -- get this information, to have it be made available to them.

And I don't think we want

information to be available only to those who are able to pay -- you know, have the ability to pay. One of the foundations of open government, I believe, is our Freedom of Information Law here in New York State, and it's the way the people hold us, the government, accountable to them.

And I think public documents should be affordable, and I don't believe the DEC should be guarding this information. It should be as available as possible, and we already have a small charge of 25 cents for each sheet that we reproduce, and I think increasing the fees only makes it increasingly more difficult for citizens to avail themselves of what is their right to public information.

So I'm going to vote against this. And the EPL is opposed to this. The NYPIRG is opposed, and I will be voting against.

ACTING PRESIDENT KUHL: Clerk will read the last section of Calendar 829.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 829 are Senators Espada, Galiber, Gold, Goodman, Jones, Kruger, Leichter, Markowitz, Onorato, Oppenheimer, Present, and Solomon. Ayes 40. Nays 12.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR GOLD: Explanation.

ACTING PRESIDENT KUHL: Senator Skelos, an explanation has been asked for.

SENATOR SKELOS: Mr. President. This bill, which passed last year with five negative votes, amends the General Obligations Law by returning the assumption of risk doctrine

to certain civil lawsuits.

In an action for damages if the defendant shows that the injury sustained by the plaintiff arose during the commission or attempted commission by the plaintiff of certain enumerated crimes and that the actions of the defendant were justified pursuant to Article 35 of the Penal Law, then the plaintiff is deemed to assume the risk of all injury coming from the encounter with the victim and that proof shall constitute a complete defense to the action.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50. Nays 2. Senators Galiber and Gold recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President. I was out of the chamber when the vote was taken on 829. Could I have unanimous consent to be recorded in the negative on that, 829.

ACTING PRESIDENT KUHL: Without objection, Senator Dollinger will be recorded in the negative on Calendar 829.

Senator Leichter.

SENATOR LEICHTER: Mr. President. May I have unanimous consent to be recorded in the negative on Calendar 301.

ACTING PRESIDENT KUHL: Without objection, Senator Leichter will be recorded in the negative on Calendar Number 301.

Clerk will continue to read the controversial calendar.

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

SENATOR GOLD: Explanation.

ACTING PRESIDENT KUHL: Senator Maltese, an explanation has been asked for on Calendar Number 1004 by Senator Gold.

SENATOR MALTESE: Mr. President. This bill amends the Vehicle and Traffic Law in relation to directing the Commissioner of Motor Vehicles to issue plates bearing the flag of the United States of America.

I think the fact that we had with us today the Mountain Division makes this license plate even more symbolic.

This bill simply permits those persons who purchase automobiles where 75 percent of the parts are manufactured in the United States and where the automobiles are 100 percent assembled in the United States, they can elect to purchase special plates with the flag of our nation.

This bill came up previously in 1992 and passed this house, but at the time there was no charge affixed thereto. Now this goes along with the majority of other what they call vanity plates and now charges $25.

The so-called onerous burden of ascertaining which automobiles fit the criteria indicated has already been taken care of by a bill that some would call onerous that has already been passed by the Congress of the United States America and is already included in the law in the U.S. Code, 15 U.S. Code Section 2003.

The concept itself and the original United States code revision which was passed in 1992 and enacted into law, the American Auto Labeling Act, has been fully supported and endorsed by the UAW in a very lengthy memorandum.

I think at a time that the loss of jobs and so much manufacturing and so many products are being made in foreign countries, this simply gives those persons who choose to purchase an automobile where the majority of its parts and where its completely assembled in the United States an opportunity to indicate that on their license plate. It also, if they fit within this criteria, gives them an opportunity

to display the flag of our country on their license plate.

The recent articles in the New York Times and other newspapers have indicated more and more -- as we see so many foreign countries moving further and further into our economy and controlling greater and greater segments of our economy, more and more people according to recent research polls, and I would like to quote from one article in the New York Times with very small print, I might add, Yanklevich Partners, Incorporated, found that 61 percent of Americans said they feel guilty when purchasing non-American products up from 49 percent in 1989; and a similar poll done by an outfit called Demand Factors, Incorporated, a research firm -- they conduct market surveys for domestic clothing and textiles makers found that 38 percent of women under 35 years of age check labels of the country of origin when shopping, up from 23 percent, and that of those who look for the "Made in USA" label, about 90 percent buy American-made goods.

Now, the only point I'm making there is that this information is already readily available at the time of the purchase of an automobile. What this legislation seeks to do is take advantage of that information with no fiscal impact to the state and permit the purchasers or the owners of automobiles who fit within the criteria to purchase a plate with the American flag.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Senator Maltese yield to a question?

ACTING PRESIDENT KUHL: Senator Maltese, do you yield?

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: Senator yields, Senator Gold.

SENATOR GOLD: I'm looking at a list. I don't know if it's the most current or what, but, for example, I'm told that the Mercury Grand Marquis is manufactured in America, in Western New York, as a matter of

fact, but its parts are assembled in Canada. And you are saying, if I understand this bill, that if people in Western New York who work on these cars and feel very proud of the work they do want to buy the car and they are also proud of America, they have to make a choice between buying a Grand Marquis manufactured in New York or buying another car so they can have a flag on their license plate?

SENATOR MALTESE: Mr. President. I imagine that those persons working in these industries, the majority of them, might be included in the 1.4 million active and retired members of the UAW, and their union has endorsed the concept. They have to make perhaps a choice as to whether they purchase that particular car which would enable them to, in turn, purchase this license plate or perhaps affix it in some other manner to their automobile, a sticker or what have you.

I think the criteria is a fair one. For those persons who wish to buy made in America solely or made in America the majority

of their product, they are making the choice, and they are factoring into that choice economy, the amount they wish to spend, and the type of automobile they wish to purchase. That's just another factor.

SENATOR GOLD: Will Senator yield to a question?

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: Senator Maltese, do you yield? Senator yields.

SENATOR GOLD: Senator, I just want to clarify the record. I don't show any memos in support of this bill by the organization you referred to. Is there a memo.

SENATOR MALTESE: No, I did not receive a memo.

SENATOR GOLD: Because I know I have a memo from the auto dealers, which is back in, I guess, '92 when we debated this. I don't have a memo from them this year, either. But I didn't want the record to indicate that the union was in favor of your bill, and there was a memo that I didn't know about. There is no such

memo.

Well, Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Gold on the bill.

SENATOR GOLD: There are obviously a lot of questions I can ask Senator Maltese. We all know the questions and all know the answers, and I don't have to prolong it.

The reason I think there was so much overwhelming opposition in 1992 is because we really are mixing apples and oranges. It's just so easy to stand up here and talk about patriotism and then mix that into seventeen other different areas.

There are people in this country, good loyal Americans, who work for companies that happen to be foreign companies, a lot of them, doing business over here and even manufacturing over here; or that are American companies that have contracts with foreign countries, and I thought that's what was happening. I mean the world economy is becoming a world -- a world economy.

It's funny. I, at one point, received a call from a newspaper and said, "Senator, you supported one of those bills, 'Buy America bills'; and what kind of car do you have?" And I said, "I have...," and I told him. It's an American-made car. And then they said, "Well, we came up with -- there's a motorcycle in your family and it's -- it's a Honda." And that -- and, you know, right away, I was supposed to get embarrassed. Well, thankfully I have a son who's brighter than I am. And Stevie said, "Hey, Dad, don't get upset." He said, "Sure it's a Honda, but it's made in America."

Now, I mean -- I guess I shouldn't have bought or we shouldn't have bought a Honda because it had a name that wasn't American enough or you can't take a chance.

Senator Maltese, I know you probably mean very well, but this bill doesn't deal with the reality of life in America today. There isn't one member of this body who does not own some electrical appliance that was

manufactured in the Far East, and I think that there is not one person who owns such an appliance who is not a great American. What does one have to do with the other?

And I doubt very, very much whether the members of this house and their families walk around the department stores and walk around their neighborhoods and do the kind of nationalistic selections that we're talking about. And I understand that when it comes to clothing we have the ILGW, and we are all very careful about buying clothes that are made in America and we're all very careful, but there are some realities of life. We have more and more contact between America and Mexico and America and Canada and Japanese companies that are coming over here.

I took a trip this weekend, and we were listening to a book on the radio. You know, they have these recorded books now. I think it was Rising Sun. Some people say it was nothing but a Japanese bashing book. But the fact is if you listen to this stuff and if the

things they say are accurate, we have Japanese money all over America. Are we telling them not to bring their money, not to employ Americans?

And as a result of the disasterous Reagan-Bush years where we have people out of work, are we telling people who were out of work, "Go to work but make sure who the ownership of that company is"? And you are not a real American if you don't work for a company that's at least 75 percent owned or a company that's 100 percent owned -- what kind of values are we giving people?

In my opinion, any New Yorker who wants to pay a fee and have an American flag on their license plate is a distinguished New Yorker and a distinguished American and they ought to be able to do that. I mean this is the same house that says to young people we're going to mandate that at your college graduation you got to pledge allegiance and sing the Star Spangled Banner.

And we've said to you, on those occasions, we should have a society that makes

them proud and has them doing it because it's the right thing, not because big brother is telling them. And now we have big brother who is going to say that it's not even enough that on your license plate you don't want the name of your county or your city or your baseball team or your football team. You don't want any of that. You want the American flag.

"But, mister or miss or missis, you can't have the American flag unless your car was 75 percent, and I don't care whether or not you bought it from an American dealer. I don't care whether Americans have made money on this all the way up and down the line. Patriotism is 100 percent." As a matter of fact, in this bill it's not even 100 percent. "Patriotism is 75 percent or it's nothing."

And, Senator Maltese, if I had to take a lie detector so that they were monitoring my response, and somebody said to you is Serph Maltese a great American? And I'd say yes. That's not the issue. This bill takes concepts and mixes them up for no reason.

I would like to be able to drive down the highway, Senator, and see as many flags as I can on the license plates of the cars of this state, and that would be wonderful, and I think that that showing of patriotism would mean a lot more to the country than setting up the selectivity based upon whether or not there is an American company employing American people that may have some contract with Canada, or what have you, in order to put a final product together.

I think that your heart is a good American heart, but I think this bill goes in a really absurd direct.

ACTING PRESIDENT KUHL: Chair recognizes Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, on this bill. In 1992, the idea of the American flag on the license plate was a great idea, but this particular bill was flawed. And here we are again, in 1994, and now we use a federal piece of legislation that the UAW endorsed to say that that UAW endorsement of

that federal legislation means that the UAW is in favor of this kind of bill and that they would all be for it and that we, as good supporters, for example, of the UAW or as great Americans because we had soldiers in front today, should vote for this bill to put license plates on a certain listed number of cars.

Well, unfortunately, a couple of things have changed since 1992 but this bill being bad is not one of them. But the plant that I spoke of in 1992, the Woodlawn Stamping Plant for Ford Motor Company, is no longer in my district. It's Senator Volker's districts.

And quite possibly, he would be the one up this year making this speech, because he would be concerned about that plant if we took this to what Senator Maltese said should be the conclusion that since the UAW supports this bill and we should all be wanting to get these American flags and we should only buy cars that can qualify for this American flag, then in a short time, the people wouldn't be buying the Crown Victorias and the Grand Marquis, and they

would no longer need to be making all those fenders and doors and hoods and trunk lids in the Woodlawn Stamping Plant.

And since they would no longer be needing to make all those parts, then we would no longer be needing all those people to be working there, and I guess it would be more important to make sure that the people making that Toyota somewhere in another state would be having their jobs because people would be buying more of those American made Toyotas to get this American flag on their car and be proud that they're driving that Toyota made in America, and that it's too bad that all those people in Woodlawn that used to work there in that plant that live throughout Western New York would no longer be working because we shouldn't be buying Grand Marquis and Crown Victorias because they don't fall under by Senator Maltese's definition for this particular bill.

And, also, it would be interesting to say that you wanted to buy an Escort, which does come on that list. But,

unfortunately, when you bought that Escort, neither you or the dealer looked inside that little registration letter and found out that that particular escort was one of the list that are made -- I mean assembled in Mexico. Because there are Escorts that are assembled in Mexico. And if you had the misfortune of buying that without checking and decided a year later or a few months later that you were going to spend the extra money to get that American flag because you're a proud American, you couldn't do it because you picked the wrong Escort.

So for those reasons and the simplicity of it is it would be interesting if some of these soldiers had the opportunity to see their fathers lose their job at that Woodlawn plant or some other similar plant in the State of New York because people stopped buying that car because it's not on the list.

And I'm sure the UAW didn't support this particular bill when they have all their members working in plants that make those parts for cars that are assembled, say, in

Canada -- or assembled in Mexico, but in particular in my interest in Canada. They wouldn't want to see any of those people lose their jobs. As a matter of fact, they want to see more people buy Crown Victorias and more people buy Grand Marquis.

And maybe a bill like this won't cost any jobs, but maybe it would stimulate jobs if we were saying let's make sure we're doing things to help New York State's economy, since this is New York State and since those plants are in New York State and do make parts for cars that unfortunately don't qualify for bills like this one. Maybe if we thought about those things, we wouldn't bring bills like this to the floor that -- as remote as it is, may not cost anybody anything, but if people stopped buying those particular cars and you cost one person a job, well, then it's not worth the $25 that somebody is paying to get the American flag on that license plate that they will qualify for.

ACTING PRESIDENT KUHL: The chair recognizes Senator Leichter.

SENATOR LEICHTER: Mr. President. Would Senator Maltese yield?

SENATOR MALTESE: Yes.

ACTING PRESIDENT FARLEY: Senator Maltese yields.

SENATOR LEICHTER: Is there anything in your bill that would prevent people from putting an American flag decal on their car?

SENATOR MALTESE: Absolutely not.

SENATOR LEICHTER: So you could have a car that's 100 percent of foreign origin, a Mercedes, but you could put an American flag right next to the license plate; is that right?

SENATOR MALTESE: Well, conversant with any rules and regulations about obscuring windshields or portions of the car, you can plaster the care with American flags, back, front, hood, fenders and what have you.

SENATOR LEICHTER: All right. So, Senator, as a practical matter, you can display an American flag, as you ought to be

entitled to display. You wouldn't have it on your license plate, but you could have it right next to the license plate; is that correct?

SENATOR MALTESE: That's correct.

SENATOR LEICHTER: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Leichter on the bill.

SENATOR LEICHTER: Yes. You know, I want to say to my good friend, Senator Stachowski, I wouldn't worry about any jobs being lost as a result of this bill because, as a practical matter, I just can't see somebody going and shopping for a car that would be - sees a car they like and it's got 35 percent foreign material in it and saying, "I'm not going buy this car because now I won't be able to show the American flag on my license plate."

Senator, I think it's well-intentioned. You are obviously concerned about manufacturing in the United States and so on. But, really, this bill doesn't do anything, and the very fact that you could put a decal

with the American flag right next to the license plate or anywhere else on the car, as you should.

And I want to say that I think Senator Gold made some very pertinent comments about the fact that we're dealing with a world economy and that all of us have goods that were made in other countries. Obviously, we also export very widely to other countries. In fact, New York State is a net exporter of goods. We have a real interest in seeing a furtherance of international commerce.

So, Senator, with all due respect, I think maybe Senator Gold said it best when he said we would like to see everybody show the American flag even if they drive a Mercedes.

Mr. President. I'm going to vote in the negative.

ACTING PRESIDENT KUHL: The chair recognizes Senator Dollinger.

SENATOR DOLLINGER: Will the Senator yield to a couple questions.

ACTING PRESIDENT FARLEY: Senator Maltese, do you yield to Senator Dollinger?

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: Senator Maltese yields.

SENATOR DOLLINGER: Senator, in reading through this bill I'm just intrigued by the use of the term parts. What does that term mean? And how would it apply for a stereo system, which, of course, has all those little doodads and transistors and I don't know what you call'em, circuit boards with all those little individual parts, most of which are not made in the United States or a major portion of which are not. What constitutes a part the whole circuit board or all the little pieces on the circuit board?

SENATOR MALTESE: Mr. President. Fortunately, the reply or the answer to Senator Dollinger's question has been taken care of by some other, I assume, bean counters who have put together the legislation applying that I referred to earlier. The labels are already

available and the certificates are available by the automakers, and they label by percentage the portion of the parts and their portion of the place of manufacture; so, therefore, the percentage is already worked out in the federal legislation and is already enumerated specifically for each automobile by the serial number of the automobile.

As to what differentiation they put on if a person elects on have so-called optional equipment and what have you, I haven't the slightest idea.

SENATOR DOLLINGER: Okay. Again through you, Mr. President.

ACTING PRESIDENT KUHL: Senator Maltese, do you continue to yield? Senator does.

SENATOR DOLLINGER: Does your bill make specific reference to that parts catalog or inventory that's part of the federal law?

SENATOR MALTESE: Mr. President. It makes no specific reference to the federal

legislation other than referring to a statement certifying that such vehicle is constructed of not less than the 75 percent of the parts manufactured in the United States of America. So I imagine that the vehicle would require the manufacturer to provide the owner of such motor vehicle with a manufacturer's statement of motor vehicle parts content and place of assemblage. And it's included right in the legislation, rather than referring to a specific code section or a specific federal legislation which would then have to be changed or revised if the applicable federal legislation was changed.

SENATOR DOLLINGER: Again through you, Mr. President.

ACTING PRESIDENT KUHL: Senator Maltese, do you continue to yield?

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: You also use in the statute the term completely assembled. Again, my question is if the stereo system or

the electronic motor that goes into driving the window up and down or the air conditioning system or the antilock brake system, if any of the computer components of those systems are assembled outside the United States, they wouldn't fall within the definition of being completely assembled within the United States under your statute. Is that correct?

SENATOR MALTESE: Mr. President. The term "completely assembled" does not refer to the portions of the parts. I believe the parts that Senator Dollinger refers to would come under the first section which would be under the 75 percent exclusion. The completely assembled refers to the assembling of the parts themselves into the complete automobile.

SENATOR DOLLINGER: But if any portion of the assembly of any component of the automobile is done out of the United States, they wouldn't qualify under your law; is that correct?

SENATOR MALTESE: That's correct.

SENATOR DOLLINGER: A final

question.

ACTING PRESIDENT KUHL: Senator Maltese, do you continue to yield?

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: I just -- on page 2 of the bill, and it talks about a dealer providing the purchaser with the manufacturer's statement. What happens if there is a resale of the automobile? Is there any obligation on the part of the seller to transfer that warranty from the dealer onto the purchaser?

SENATOR MALTESE: Mr. President. The appropriate percentage of the parts or where the assembly, that would not change. The manufacturer would have issued a certificate applicable only to the serial number of the car. If the seller would transfer the car that wouldn't change as far as where the car was assembled or the requisite 75 percent.

So while there is no requirement on the part of the manufacturer to supply the

certificate, it would seem that if that's important to a purchaser, he would undoubtedly be able to request such a certificate from the manufacturer.

SENATOR DOLLINGER: Okay, but -

SENATOR MALTESE: But it is not mandated.

ACTING PRESIDENT KUHL: Senator Maltese, do you continue to yield?

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: There is no provision that requires the seller of the used automobile to transfer that certificate to the purchaser of the used vehicle so that the purchaser could then go out and get the license plate. Isn't that correct?

SENATOR MALTESE: Mr. President. There is no requirement, but it would seem that that registration, if you will, would always apply to the automobile; and the purchaser would at that time, since he falls within the confines

of the statute, be able to apply for the American flag license plate.

SENATOR DOLLINGER: One final question, Mr. President.

ACTING PRESIDENT KUHL: Senator Maltese, do you continue to yield?

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: If the owner of the vehicle is in an automobile accident, destroys the front end and then it's all rebuilt with foreign parts, do they still qualify for the license based on the original manufacturer's certification that it was both assembled entirely in the United States and that all the parts were 75 percent created in the United States?

SENATOR MALTESE: Mr. President. I imagine that the appropriate situation would have to be resolved on a question of common sense, and I supposed we would have to enact common sense into the law, which sadly is often

lacking. So I guess if we start replacing pieces of the automobile, it would depend how much of the automobile ends up being replaced.

SENATOR DOLLINGER: Okay. Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

SENATOR DOLLINGER: Mr. President. There was a highly publicized incident in the Town of Greece, which I represent, which drew a lot of the issues addressed by Senator Maltese into sharp focus.

The Town of Greece was going to buy a piece of equipment, road equipment, and it was manufactured by a company called Komatsu. And at the time, the town board decided that they shouldn't be buying a Japanese product. They should, instead, buy an American product, so they cancelled the bid with Komatsu and, I believe, bought a good old fashioned John Deere piece of equipment, a wonderful piece of equipment with a well-established, historical American name associated with it.

Unfortunately, they did a little bit of research and found out that the Komatsu product was actually mostly manufactured in the United States, about 50 percent, and the John Deere product was actually about 90 percent manufactured outside the United States.

The danger of attaching labels to products and saying this is an American-made product that will remain an American-made product, it's an American-made -- assembled, completely assembled in the United States -- the reason why I brought up the point about the computers is because there are lots of circuit boards in cars these days, many of which may not originate in the United States, many of which have all kinds of little tiny parts, which I guess should be counted the same weight that a fender or a body or the driveshaft should be accounted.

I guess I join my colleagues in being wary of attaching labels to specific goods and making declarations that we are only going to recognize those automobiles that are made

exclusively assembled in the United States and made 75 percent in American parts. My view is very simple. I think there is a wonderful symbol of America already located on our license plates, proudly affixed to all the state license plates in this state which I think symbolizes a commitment to America, the love of America, the America that most of us know, the great tradition of tolerance, a great tradition of pride and patriotism. It's called the Statue of Liberty. And I think that's an appropriate symbol of America. It's already located on the license plate. We don't need this bill.

ACTING PRESIDENT KUHL: Chair recognizes Senator Solomon.

SENATOR SOLOMON: Thank you, Mr. President. I think Senator Gold touched upon the issue, and I think everyone else has touched upon the issue. To basically say that this car was made in America where in fact we have American-made cars, cars that we believe are American made such as Ford Motor products or Mercury Motor products, and not label them as

"Made in America" is ludicrous.

Just as you can go out today and buy an RCA television, which is not made in America, or a Sylvania television. In fact, the only television, today, made in America is by Zenith. I'm not sure if it's made in North America or America anymore, because it could be assembled in Mexico. It could be assembled in Canada, et cetera.

I think what we're trying to do here, Senator Maltese, to say micromanage is an understatement, but we dealt with this bill two years ago, and there is absolutely no line of logic that says that we should pass a piece of legislation which in fact could be causing Americans to lose jobs.

And I find it interesting. I would like to know how many people that own Crown Victorias, are you going to go up to them and say, "You know, you got a Crown Victoria but it's not assembled here in America? This is not an American-made car."

I suspect, Senator Maltese, you

are not going to be able to find too many people when you go up to them and ask them, "Is that Crown Victoria an American made car?" they are going to scratch their heads and say, "Where did you come from, Senator?"

This is a ludicrous piece of legislation, and I can not understand your logic for this if you think this is going to produce jobs in this country. If anything, the only thing this is doing is spending the taxpayers' money, the people of the State of New York, for the cost of printing this bill, introducing this bill, trying to pass this bill and trying to get it signed into law. And, then, trying to enforce it is going to be another matter.

I think we've really got to put our feet on the ground and scratch our heads and say, "What is this piece of legislation even doing in front of us today?"

ACTING PRESIDENT KUHL: Clerk will read the last section.

SENATOR GOLD: Slow roll call.

THE SECRETARY: Section 2. This

act shall take effect on January 1, 1995.

ACTING PRESIDENT KUHL: Call the roll.

SENATOR GOLD: Slow roll call.

ACTING PRESIDENT KUHL: Slow roll call has been requested. Will five Senators who are requesting that please stand.

There being five Senators, the clerk will call the roll slowly.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Bruno.

(There was no response.)

Senator Connor, excused. Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator Daly.

SENATOR DALY: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.

SENATOR DiCARLO: Yes.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: No.

THE SECRETARY: Senator Espada.

(There was no response.)

Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Galiber.

SENATOR GALIBER: No.

THE SECRETARY: Senator Gold.

SENATOR GOLD: Mr. President very, very briefly.

ACTING PRESIDENT KUHL: Senator Gold to explain his vote.

SENATOR GOLD: I found Senator Leichter's comments particularly humorous in terms that here's this poor guy, Senator Maltese, who wants to reach into his pocket and give the State of New York twenty-five beautiful dollars and we're saying to him, "You idiot, you can get a decal for a buck, put it on your license plate and go home."

I vote no.

ACTING PRESIDENT KUHL: Senator Gold in the negative.

THE SECRETARY: Senator Gonzolez, excused. Senator Goodman.

SENATOR GOODMAN: Aye.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoffmann.

(There was no response.)

Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Jones.

SENATOR JONES: No.

THE SECRETARY: Senator Kruger.

SENATOR KRUGER: No.

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.
SENATOR LAVALLE: Aye.
THE SECRETARY: Senator Leichter.
SENATOR LEICHTER: No.
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.
SENATOR MARINO: Aye.
THE SECRETARY: Senator Markowitz.
SENATOR MARKOWITZ: To explain my vote.
ACTING PRESIDENT KUHL: Senator Markowitz to explain his vote.
SENATOR MARKOWITZ: Thank you. I assume this vote means that those of us who own

automobiles whether -- without an American nameplate, although I'm not sure what a GEO is and some of these other products -

ACTING PRESIDENT KUHL: Senator Markowitz, excuse me. It's getting awfully noisy in here. Could we please calm it down, ladies and gentlemen.

SENATOR MARKOWITZ: We're pushing aside GEOs and other hybrids under American names manufactured under Japanese management, using American parts and Canadian and Mexican, putting that aside, I'm assuming by this vote that those of us that don't own an automobile certifiable of 75 percent or more of American made parts with an American nameplate are less of Americans; because if we choose to have a flag on our license, we will be denied that opportunity.

I think, in view of the fact of all the pressing problems facing the State of New York and the murders that are going on in the streets of our cities in this state, for us to take any time at all, including myself,

talking on this in my opinion ridiculous piece of legislation, I just don't believe we're facing reality sometimes.

I vote no.

ACTING PRESIDENT KUHL: Senator Markowitz in the negative.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: No.

THE SECRETARY: Senator Montgomery, excused. Senator Nanula, Excused. Senator Nolan.

(There was no response.)

Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Ohrenstein.

(There was no response.)

Senator Onorato.

SENATOR ONORATO: No.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: No.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.
THE SECRETARY: Senator Pataki.
(There was no response.)
Senator Paterson.
SENATOR PATERSON: No.
THE SECRETARY: Senator Present.
SENATOR PRESENT: Aye.
THE SECRETARY: Senator Rath.
SENATOR RATH: Aye.
THE SECRETARY: Senator Saland.
SENATOR SALAND: Aye.
THE SECRETARY: Senator Santiago.
SENATOR SANTIAGO: No.
THE SECRETARY: Senator Sears.
(There was no response.)
Senator Seward.
SENATOR SEWARD: Yes.
THE SECRETARY: Senator Skelos.
SENATOR SKELOS: Yes.
THE SECRETARY: Senator Smith, excused. Senator Solomon.
SENATOR SOLOMON: Yes, to explain

my vote.

ACTING PRESIDENT KUHL: Senator Solomon to explain his vote.

SENATOR SOLOMON: I just hope, Senator Maltese, you've considered some of the problems the State of New York might have in terms of the purchase of some of the vehicles we see in the pool, whether it be a Ford Escort and a number of the Crown Victorias that some of the people might have that are assigned to the Legislature and assigned to the Governor's Executive Committee, because I just realized some of those Crown Victorias are not American made cars under this bill.

So I think maybe you should introduce another piece of legislation that deals with automobiles purchased by the State of New York for used by the executive, legislative branches, and probably judicial branch, so we can clarify these issues because we certainly don't want government officials driving around in non-American made automobiles.

I vote no.

ACTING PRESIDENT KUHL: Senator Solomon in the negative.

Clerk will continue the roll.

THE SECRETARY: Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: No.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky, excused. Senator Trunzo.

SENATOR TRUNZO: Aye.

THE SECRETARY: Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker, excused. Senator Waldon, excused. Senator Wright.

(There was no response.)

ACTING PRESIDENT KUHL: Clerk

will call the absentees.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Bruno.

SENATOR BRUNO: Yes.

THE SECRETARY: Senator Espada.

(There was no response.)

Senator Hoffmann.

SENATOR HOFFMANN: To explain my vote.

ACTING PRESIDENT KUHL: Senator Hoffmann to explain her vote.

SENATOR HOFFMANN: Mr. President. I have listened with passing interest to this discussion. I say "passing" because I can think of so many better things that we could have done today, perhaps discussing in greater detail some of the emergency appropriations that we passed in great haste, perhaps discussing some of the ongoing budgetary problems that are now making us the laughing stock of the state because we are two months late with the budget.

I find it somewhat absurd that we would waste our time, instead, debating a bill that has relatively little consequence for the taxpayers of this state; will probably never be fully understood when it is reported; and in the scope of things, hardly justifies our continued presence and the great expense to the taxpayers of the state here in the capital.

With reluctance, I'll vote aye simply because it doesn't really make a whole lot of difference which way one votes on this because it's not going anywhere at any point in the future, and it's another example of posturing on an issue when we should, in fact, be devoting ourselves to more serious work.

ACTING PRESIDENT KUHL: Senator Hoffmann in the affirmative.

THE SECRETARY: Senator Levy.

(There was no response.)

Senator Nolan.

(There was no response.)

Senator Ohrenstein.

(There was no response.)

Senator Pataki.

(There was no response.)

Senator Sears.

SENATOR SEARS: Yes.

THE SECRETARY: Senator Wright.

(There was no response.)

ACTING PRESIDENT KUHL: Clerk announce the results.

THE SECRETARY: Ayes 32. Nays 14.

ACTING PRESIDENT KUHL: The bill is passed.

Clerk will continue the -

Senator Stafford.

SENATOR STAFFORD: Could we please put a sponsor star, temporarily, on Calendar Number 1105 and 1106.

ACTING PRESIDENT KUHL: Clerk will star Calendar Numbers 1105 and 1106 at the request of the sponsor.

SENATOR STAFFORD: And could we also recommit Resolution 3683 to Finance.

Thank you.

ACTING PRESIDENT KUHL: Without objection, the resolution is recommitted.

SENATOR GALIBER: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Galiber.

SENATOR GALIBER: May I have unanimous consent to be recorded in the negative on Calendar Number 301.

ACTING PRESIDENT KUHL: Without objection, Senator Galiber will be recorded in the negative on Calendar Number 301.

SENATOR GALIBER: Thank you.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Housekeeping all in order?

(There was no response.)

Mr. President. I would like to announce an immediate brief conference of the majority in Room 332. The faster they get there, the faster they will get out.

ACTING PRESIDENT KUHL: There

will be an immediate meeting of the Senate Majority, Senate conference of the Majority in Room 332. Immediate conference.

Senator Present.

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

ACTING PRESIDENT KUHL: Without objection, the motion to adjourn as adopted. Senate stands adjourned.

(Whereupon, at 6:02 p.m., Senate adjourned.)