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ALBANY, NEW YORK

June 23, 1994

12:09 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT KUHL: The
3 Senate will come to order. Members take their
4 places. Ask you all to rise, visitors to the
5 gallery, please rise for the Pledge of
6 Allegiance.

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

9 In the absence of clergy, I'd ask
10 us all to bow our heads in a moment of silence.

11 (A moment of silence was
12 observed.)

13 Reading of the Journal.

14 THE SECRETARY: In Senate,
15 Wednesday, June 22nd. The Senate met pursuant
16 to adjournment, Senator Kuhl in the Chair upon
17 designation of the Temporary President. Prayer
18 by Rabbi Douglas Kranz, of Armonk, New York.
19 The Journal of Tuesday, June 21st, was read and
20 approved. On motion, Senate adjourned.

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

1 Presentation of petitions.
2 Messages from the Assembly.
3 Messages from the Governor.
4 Reports of standing committees.
5 Reports of select committees.
6 Communications and reports from
7 state officers.

8 Motions and resolutions.

9 Senator Libous.

10 SENATOR LIBOUS: Thank you. Mr.
11 President, on behalf of Senator Hannon, I'd like
12 to remove the star on Senate Print 4797-A, is
13 that correct? 4797-A, and on page 36, I would
14 like to also offer the following amendments to
15 Calendar Number 206, Senate Print Number 4797-A
16 and ask that said bill retain its place on the
17 Third Reading Calendar.

18 ACTING PRESIDENT KUHL: Star will
19 be removed. Amendments are received and
20 adopted. Bill will retain its place on the
21 Third Reading Calendar.

22 Senator Libous.

23 SENATOR LIBOUS: Mr. President, I

1 would also like to offer up the following
2 amendments on Third Reading Calendar bills:

3 On behalf of Senator Maltese,
4 page 4, Calendar 148, Senate Print 3619; on
5 behalf of Senator Velella, page 6, Calendar
6 Number 350, Senate Print 5844; behalf of Senator
7 DeFrancisco, on page 12, Calendar Number 646,
8 Senate Print Number 6579-B; on behalf of Senator
9 Daly, on page 15, Calendar Number 715, Senate
10 Print Number 1093-B; on behalf of Senator
11 Trunzo, on page 19, Calendar Number 874, Senate
12 Print Number 7715, and, Mr. President, on behalf
13 of Senator Skelos, on page 28, Calendar Number
14 1188, Senate Print Number 8167.

15 ACTING PRESIDENT KUHL:
16 Amendments are received on Calendars Number 148,
17 350, 646, 715, 874 and 1188. All bills will
18 retain their place on the Third Reading
19 Calendar.

20 SENATOR GOLD: Mr. President.

21 ACTING PRESIDENT KUHL: Senator
22 Gold.

23 SENATOR GOLD: Yeah, I move that

1 we increase Senator Libous' per diem for today
2 in view of the extra work he's just done for
3 everybody. No, I'll vote.

4 On the other hand, there's a -
5 on the other hand, there's a privileged resolu
6 tion at the desk by Senator Ohrenstein, and I
7 would ask that its title be read and it be
8 moved.

9 ACTING PRESIDENT KUHL: Secretary
10 will read the title of the privileged resolution
11 at the desk on behalf of Senator Ohrenstein.

12 THE SECRETARY: Senate
13 Resolution, by Senator Ohrenstein, commemorating
14 the 24th anniversary of the annual Chinatown
15 Summer Cultural Festival.

16 ACTING PRESIDENT KUHL: Question
17 is on the resolution. All those in favor
18 signify by saying aye.

19 (Response of "Aye.")

20 Opposed nay.

21 (There was no response.)

22 The resolution is adopted.

23 Senator Present.

1 SENATOR PRESENT: Mr. President,
2 would you recognize Senator Farley, please.

3 ACTING PRESIDENT KUHL: Senator
4 Farley.

5 SENATOR FARLEY: Thank you,
6 Senator Present.

7 Mr. President, I have a
8 privileged resolution at the desk. I'd ask its
9 title be read and that it be adopted.

10 ACTING PRESIDENT KUHL: Secretary
11 will read the title of the privileged
12 resolution.

13 THE SECRETARY: Legislative
14 Resolution, by Senator Farley, honoring Phyllis
15 Burns Plant upon the occasion of her retirement
16 after 25 years as an elementary school teacher
17 in the Watertown City School District.

18 ACTING PRESIDENT KUHL: Question
19 -- Senator Farley, on the resolution.

20 SENATOR FARLEY: I'd also like to
21 have Senator Wright on that resolution.

22 ACTING PRESIDENT KUHL: Senator
23 Wright will be added to the resolution. Are

1 there any other Senators you wish to be added to
2 this, Senator Farley?

3 Hearing none, the question is on
4 the resolution. All those in favor signify by
5 saying aye.

6 (Response of "Aye.")

7 Opposed nay.

8 (There was no response.)

9 The resolution is adopted.

10 Senator Present.

11 SENATOR PRESENT: I believe that
12 Senator Bruno has a privileged resolution at the
13 desk. Can we have the title read and have it
14 acted upon.

15 ACTING PRESIDENT KUHL: Secretary
16 will read the title of the privileged resolution
17 at the desk.

18 THE SECRETARY: Legislative
19 Resolution, by Senator Bruno, honoring David W.
20 Eaton upon the occasion of his induction into
21 the Galway Central School Alumni Hall of Fame.

22 ACTING PRESIDENT KUHL: Question
23 is on the resolution. All those in favor

1 signify by saying aye.

2 Response of "Aye.")

3 Opposed nay.

4 (There was no response.)

5 The resolution is adopted.

6 Senator Present, we have some
7 substitutions at the desk. Secretary will read
8 the substitutions.

9 THE SECRETARY: On page 7 of
10 today's calendar, Senator DeFrancisco moves to
11 discharge the Committee on Rules from Assembly
12 Bill Number 2078-C and substitute it for the
13 identical Third Reading 394.

14 On page 31, Senator Waldon moves
15 to discharge the Committee on Rules from
16 Assembly Bill Number 6159-A, and substitute it
17 for the identical Third Reading 1294.

18 On page 31, Senator Connor moves
19 to discharge the Committee on Rules from
20 Assembly Bill Number 6907-A, and substitute it
21 for the identical Third Reading 1296.

22 On page 32, Senator Trunzo moves
23 to discharge the Committee on Rules from

1 Assembly Bill Number 9710, and substitute it for
2 the identical Third Reading 1303.

3 On page 32, Senator Spano moves
4 to discharge the Committee on Rules from
5 Assembly Bill Number 9922 and substitute it for
6 the identical Third Reading 1304.

7 On page 34, Senator Holland moves
8 to discharge the Committee on Rules from
9 Assembly Bill Number 9573 and substitute it for
10 the identical Third Reading 1320.

11 On page 34, Senator Saland moves
12 to discharge the Committee on Children and
13 Families from Assembly Bill Number 3490 and
14 substitute it for the identical Third Reading
15 1321.

16 On page 34, Senator Larkin moves
17 to discharge the Committee on Rules from
18 Assembly Bill Number 722 and substitute it for
19 the identical Third Reading 1322.

20 ACTING PRESIDENT KUHL: All
21 substitutions are ordered.

22 The Chair recognizes Senator
23 Wright for a motion.

1 SENATOR WRIGHT: Mr. President,
2 on page 29, I offer the following amendments to
3 Calendar Number 1247, Senate Print Number 8571,
4 and ask that said bill retain its place on the
5 Third Reading Calendar.

6 ACTING PRESIDENT KUHL:
7 Amendments are received and adopted. The bill
8 will retain its place on the Third Reading
9 Calendar.

10 Senator Present.

11 SENATOR PRESENT: Let's take up
12 the non-controversial calendar.

13 ACTING PRESIDENT KUHL: Secretary
14 will read the non-controversial calendar.

15 THE SECRETARY: On page 7,
16 Calendar Number 429, by Senator Skelos, Senate
17 Bill Number 6522-A, amends Chapter 704 of the
18 Laws of 1991.

19 SENATOR GOLD: Lay it aside.

20 ACTING PRESIDENT KUHL: Lay the
21 bill aside.

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

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

3 THE SECRETARY: Calendar Number
4 589, by the Assembly Committee on Rules,
5 Assembly Bill Number 8046, an act to amend the
6 Cooperative Corporations Law.

7 ACTING PRESIDENT KUHL: Secretary
8 will read the last section.

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

11 ACTING PRESIDENT KUHL: Call the
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes 31.

15 ACTING PRESIDENT KUHL: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 780, by Senator Goodman, Senate Bill Number
19 7902, an act to amend the Executive Law.

20 ACTING PRESIDENT KUHL: Secretary
21 will read the last section.

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

1 ACTING PRESIDENT KUHL: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes 31.

5 ACTING PRESIDENT KUHL: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 891, by the Assembly Committee on Rules,
9 Assembly Bill Number 11355, an act to repeal
10 Chapter 445 of the Laws of 1925.

11 ACTING PRESIDENT KUHL: Secretary
12 will read the last section.

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

15 ACTING PRESIDENT KUHL: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 31.

19 ACTING PRESIDENT KUHL: The
20 bill's passed.

21 THE SECRETARY: Calendar Number
22 1164, by Senator Kuhl.

23 SENATOR GOLD: Lay aside, please.

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

3 THE SECRETARY: Calendar Number
4 1186, by Senator Libous, Senate Bill Number
5 7975, an act to amend the Tax Law and the Social
6 Services Law.

7 SENATOR GOLD: Lay it aside.

8 ACTING PRESIDENT KUHL: Lay the
9 bill aside.

10 THE SECRETARY: Calendar Number
11 1243, by Senator Kuhl.

12 SENATOR GOLD: Lay aside.

13 ACTING PRESIDENT KUHL: Lay the
14 bill aside.

15 THE SECRETARY: Calendar Number
16 1252, by Senator Kuhl, Senate Bill Number 8587,
17 authorizing the city of Elmira to sell and
18 convey certain lands.

19 ACTING PRESIDENT KUHL: There's a
20 home rule message at the desk. The Secretary
21 will read the last section.

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

1 ACTING PRESIDENT KUHL: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes 31.

5 ACTING PRESIDENT KUHL: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 1254, by Senator Wright, Senate Bill Number
9 8592, amends Chapter 533 of the Laws of 1993,
10 amending the Vehicle and Traffic Law.

11 SENATOR GOLD: Lay aside.

12 ACTING PRESIDENT KUHL: Lay the
13 bill aside.

14 THE SECRETARY: Calendar Number
15 1255, by Senator Rath.

16 SENATOR PRESENT: Lay it aside
17 temporarily.

18 ACTING PRESIDENT KUHL: Lay the
19 bill aside temporarily.

20 THE SECRETARY: Calendar Number
21 1257, by Senator Santiago.

22 SENATOR GOLD: Will you lay it
23 aside for the day at the sponsor's request.

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

3 THE SECRETARY: Calendar Number
4 1266, by Senator Stafford.

5 SENATOR GOLD: Lay it aside,
6 please.

7 ACTING PRESIDENT KUHL: Lay the
8 bill aside.

9 THE SECRETARY: Calendar Number
10 1278, by member of the Assembly Harenberg.

11 SENATOR GOLD: Lay it aside.

12 ACTING PRESIDENT KUHL: Lay the
13 bill aside.

14 THE SECRETARY: Calendar Number
15 1287, by Senator Rath.

16 SENATOR PRESENT: Lay it aside
17 temporarily.

18 ACTING PRESIDENT KUHL: Lay the
19 bill aside.

20 THE SECRETARY: Calendar Number
21 1289, by Senator Saland, Senate Bill Number -

22 SENATOR GOLD: Lay aside, please.

23 ACTING PRESIDENT KUHL: Lay the

1 bill aside.

2 THE SECRETARY: Calendar Number
3 1290, by Senator Stafford, Senate Bill Number
4 443, Environmental Conservation Law.

5 SENATOR GOLD: Lay it aside.

6 ACTING PRESIDENT KUHL: Lay the
7 bill aside.

8 THE SECRETARY: Calendar Number
9 1291, by Senator Larkin, Senate Bill Number
10 1946-C, an act to amend the Retirement and
11 Social Security Law.

12 ACTING PRESIDENT KUHL: Secretary
13 will read the last section.

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

16 ACTING PRESIDENT KUHL: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes 33.

20 ACTING PRESIDENT KUHL: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 1292, by Senator Marchi, Senate Bill Number

1 2456, to require the Department of Environmental
2 Conservation to study the period of probable
3 usefulness of landfills.

4 ACTING PRESIDENT KUHL: Secretary
5 will read the last section.

6 THE SECRETARY: Section -

7 SENATOR GOLD: Lay it aside.

8 ACTING PRESIDENT KUHL: Lay the
9 bill aside.

10 THE SECRETARY: Calendar Number
11 1293, by Senator Trunzo, Senate Bill Number
12 2813-A, an act to amend the Retirement and
13 Social Security Law.

14 ACTING PRESIDENT KUHL: Secretary
15 will read the last section.

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

18 ACTING PRESIDENT KUHL: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes 33.

22 ACTING PRESIDENT KUHL: The bill
23 is passed.

1 THE SECRETARY: Calendar Number
2 1294, substituted earlier today, by member of
3 the Assembly Meeks, Assembly Bill Number 6159
4 D, authorizing the city of New York to reconvey
5 its interest in certain real property.

6 ACTING PRESIDENT KUHL: There is
7 a home rule message at the desk. Secretary will
8 read the last section.

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

11 ACTING PRESIDENT KUHL: Call the
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes 33.

15 ACTING PRESIDENT KUHL: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 1295, by Senator Kuhl.

19 SENATOR GOLD: Lay it aside,
20 please.

21 ACTING PRESIDENT KUHL: Lay the
22 bill aside.

23 THE SECRETARY: Calendar Number

1 1296, substituted earlier today, by member of
2 the Assembly Lentol, Assembly Bill Number
3 6907-A, city of New York to reconvey its
4 interest in certain real property.

5 ACTING PRESIDENT KUHL: There's a
6 home rule message at the desk. Secretary will
7 read the last section.

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

10 ACTING PRESIDENT KUHL: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 33.

14 ACTING PRESIDENT KUHL: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 1297, by Senator Johnson, Senate Bill Number
18 4375-C, to allow Paul D'Aversa to file a request
19 for retroactive service credit.

20 SENATOR GOLD: Mr. President,
21 Senator Volker is trying to distract me. Would
22 you lay this aside, please.

23 ACTING PRESIDENT KUHL: Lay the

1 bill aside.

2 THE SECRETARY: Calendar Number
3 1298, by Senator Marino, Senate Bill Number
4 4569-B.

5 SENATOR GOLD: Lay it aside.

6 ACTING PRESIDENT KUHL: Lay the
7 bill aside.

8 THE SECRETARY: Calendar Number
9 1299, by Senator Saland, Senate Bill Number
10 5096, an act to amend the Tax Law.

11 ACTING PRESIDENT KUHL: Secretary
12 will read the last section.

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

15 ACTING PRESIDENT KUHL: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 33.

19 ACTING PRESIDENT KUHL: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 1300, by Senator Daly, Senate Bill Number 5275
23 D, an act to amend the Public Health Law.

1 ACTING PRESIDENT KUHL: Secretary
2 will read the last section.

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

5 ACTING PRESIDENT KUHL: Call the
6 roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT KUHL: Announce
9 the results.

10 THE SECRETARY: Ayes 32, nays 1,
11 Senator Kuhl recorded in the negative.

12 ACTING PRESIDENT KUHL: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 1301, by Senator Spano, Senate Bill Number 5384
16 A, an act to amend the Retirement and Social
17 Security Law.

18 ACTING PRESIDENT KUHL: Secretary
19 will read the last section.

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

22 ACTING PRESIDENT KUHL: Call the
23 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes 33.

3 ACTING PRESIDENT KUHL: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 1302, by Senator Holland, Senate Bill Number
7 6306-A, an act to amend the Public Health Law.

8 ACTING PRESIDENT KUHL: Secretary
9 will read the last section.

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

12 ACTING PRESIDENT KUHL: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes 33.

16 ACTING PRESIDENT KUHL: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 1303, substituted earlier today, by member of
20 the Assembly Harenberg, Assembly Bill Number
21 9710, amends Chapter 787 of the Laws of 1934.

22 ACTING PRESIDENT KUHL: Secretary
23 will read the last section.

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

3 ACTING PRESIDENT KUHL: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes 35.

7 ACTING PRESIDENT KUHL: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 1304, substituted earlier today, by member of
11 the Assembly Eve, Assembly Bill Number 9922, an
12 act to amend the State Finance Law.

13 ACTING PRESIDENT KUHL: Secretary
14 will read the last section.

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

17 ACTING PRESIDENT KUHL: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 35.

21 ACTING PRESIDENT KUHL: The bill
22 is passed.

23 THE SECRETARY: Calendar Number

1 1305, by Senator Cook, Senate Bill Number 7214
2 A, an act to amend the General Municipal Law.

3 ACTING PRESIDENT KUHL: Secretary
4 will read the last section.

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

7 ACTING PRESIDENT KUHL: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 35.

11 ACTING PRESIDENT KUHL: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 1306, by Senator -

15 SENATOR COOK: Star the bill.

16 ACTING PRESIDENT KUHL: Sponsor's
17 star on Calendar Number 1306.

18 THE SECRETARY: Calendar Number
19 1307, by Senator Farley, Senate Bill Number
20 7330, an act to amend the General Municipal
21 Law.

22 ACTING PRESIDENT KUHL: Secretary
23 will read the last section.

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

3 ACTING PRESIDENT KUHL: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes 36.

7 ACTING PRESIDENT KUHL: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 1308, by Senator Hannon, Senate Bill Number
11 7643-A, an act to amend the General Business
12 Law.

13 ACTING PRESIDENT KUHL: Secretary
14 will read the last section.

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

17 ACTING PRESIDENT KUHL: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 36.

21 ACTING PRESIDENT KUHL: The bill
22 is passed.

23 THE SECRETARY: Calendar Number

1 1309, by Senator Daly, Senate Bill Number 7884,
2 authorize the legislative body of the county of
3 Niagara to permit the payment of municipal
4 taxes.

5 ACTING PRESIDENT KUHL: Secretary
6 will read the last section.

7 SENATOR GOLD: Hold on just one
8 second. Can I just ask you to hold it for one
9 second? Thank you for your courtesy. Last
10 section.

11 ACTING PRESIDENT KUHL: Secretary
12 will read the last section.

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

15 ACTING PRESIDENT KUHL: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 37.

19 ACTING PRESIDENT KUHL: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 1310, by Senator Hannon, Senate Bill Number
23 7930, an act to amend the Private Housing

1 Finance Law.

2 ACTING PRESIDENT KUHL: Secretary
3 will read the last section.

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

6 ACTING PRESIDENT KUHL: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes 37.

10 ACTING PRESIDENT KUHL: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 1311, by Senator Wright, Senate Bill Number
14 7942-A, an act to amend the Environmental
15 Conservation Law.

16 SENATOR GOLD: Lay it aside.

17 ACTING PRESIDENT KUHL: Lay the
18 bill aside.

19 THE SECRETARY: Calendar Number
20 1312, by Senator Mendez, Senate Bill Number
21 8017, authorizing the city of New York to
22 reconvey its interest in certain real property.

23 ACTING PRESIDENT KUHL: There's a

1 home rule message at the desk. Secretary will
2 read the last section.

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

5 ACTING PRESIDENT KUHL: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 38.

9 ACTING PRESIDENT KUHL: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 1313, by Senator Volker, Senate Bill Number
13 8066, an act to amend Chapter 68 of the Laws of
14 1968, relating to making appropriations for the
15 support of government.

16 ACTING PRESIDENT KUHL: There's a
17 local fiscal impact note at the desk. Secretary
18 will read the last section.

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

21 ACTING PRESIDENT KUHL: Call the
22 roll.

23 (The Secretary called the roll.)

1 THE SECRETARY: Ayes 38.

2 ACTING PRESIDENT KUHL: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 1314, by Senator -

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

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

10 THE SECRETARY: Calendar Number
11 1315.

12 SENATOR GOLD: Lay it aside for
13 Senator Galiber.

14 ACTING PRESIDENT KUHL: Lay the
15 bill aside.

16 THE SECRETARY: Calendar Number
17 1316, by Senator Tully, Senate Bill Number
18 839 -

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

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

23 SENATOR PRESENT: And lay 1315

1 aside for the day.

2 ACTING PRESIDENT KUHL: 1316

3 aside for the day, Senator Present?

4 SENATOR PRESENT: And 1315.

5 ACTING PRESIDENT KUHL: And 1315

6 aside for the day.

7 SENATOR GOLD: Hold on one

8 second. Thank you very much.

9 ACTING PRESIDENT KUHL: Secretary
10 will continue calling the non-controversial
11 calendar.

12 THE SECRETARY: Calendar Number
13 1317, by the Senate Committee on Rules, Senate
14 Bill Number 8528, an act to amend the General
15 Municipal Law.

16 ACTING PRESIDENT KUHL: There is
17 a home rule message at -

18 SENATOR GOLD: Lay aside.

19 ACTING PRESIDENT KUHL: Lay the
20 bill aside.

21 THE SECRETARY: Calendar Number
22 1319, by Senator Seward, Senate Bill Number
23 8601, an act to amend the Canal Law.

1 ACTING PRESIDENT KUHL: Secretary
2 will read the last section.

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

5 ACTING PRESIDENT KUHL: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 39.

9 ACTING PRESIDENT KUHL: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 1320, substituted earlier today, by member of
13 the Assembly Calhoun, Assembly Bill Number 9573,
14 an act to amend the Town Law.

15 ACTING PRESIDENT KUHL: Secretary
16 will read the last section.

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

19 ACTING PRESIDENT KUHL: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes 39.

23 ACTING PRESIDENT KUHL: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 1321, substituted earlier today, by member of
4 the Assembly Lopez, Assembly Bill Number 3490.

5 SENATOR SALAND: Lay aside for
6 the day, please.

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

9 THE SECRETARY: Calendar Number
10 1322, substituted earlier today, by member of
11 the Assembly Proskin, Assembly Bill Number 722,
12 an act to amend the Town Law.

13 ACTING PRESIDENT KUHL: Secretary
14 will read the last section.

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

17 ACTING PRESIDENT KUHL: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 39.

21 ACTING PRESIDENT KUHL: The bill
22 is passed.

23 THE SECRETARY: Calendar Number

1 1323, by the Senate Committee on Rules.

2 SENATOR PRESENT: You can lay
3 that aside for the day.

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

6 Senator Present, that completes
7 the non-controversial calendar.

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

10 ACTING PRESIDENT KUHL: Secretary
11 will read the controversial calendar.

12 THE SECRETARY: On page 27,
13 Calendar Number 1186, by Senator Libous, Senate
14 Bill Number 7975, an act to amend the Tax Law
15 and the Social Services Law.

16 SENATOR GOLD: Yes.

17 ACTING PRESIDENT SPANO: Senator
18 Gold.

19 SENATOR GOLD: Yeah, Senator
20 Libous, I assume you'd like to do this today,
21 but I'm waiting for two members who have an
22 interest in this. Would you mind if we held it
23 temporarily and we came back?

1 SENATOR PRESENT: Lay it aside
2 temporarily.

3 SENATOR LIBOUS: Lay aside
4 temporarily, very temporarily.

5 SENATOR GOLD: Yeah, right. Thank
6 you very much.

7 ACTING PRESIDENT SPANO: Lay it
8 aside temporarily.

9 THE SECRETARY: On page 29,
10 Calendar Number 1243, by Senator Kuhl, Senate
11 Bill Number 8460, in relation to the membership
12 in the State Police 20-year retirement plan.

13 ACTING PRESIDENT SPANO: Senator
14 Gold.

15 SENATOR GOLD: Yeah. Will the
16 Senator just yield to a quick question?

17 ACTING PRESIDENT SPANO: Senator
18 Kuhl, will you yield for a question?

19 SENATOR KUHL: I yield, Senator.

20 SENATOR GOLD: Yes, thank you,
21 Senator. Senator, this only affects, I think,
22 one or two or three people, is that correct?

23 SENATOR KUHL: That's correct.

1 SENATOR GOLD: And is this one of
2 those situations where, for some reason, they
3 can't use the Trunzo bill?

4 SENATOR KUHL: That's correct,
5 Senator.

6 SENATOR GOLD: Would you tell me
7 why?

8 SENATOR KUHL: If you let me find
9 the bill.

10 Senator Gold, this system or this
11 bill is meant to resolve a problem for one
12 specific state trooper who essentially applied
13 for a transfer to the current system and he did
14 make application under the administrative review
15 system that was set up under the Trunzo bill,
16 but he was denied because he didn't fall into
17 one of the three categories, the three
18 categories being prior service credit, other
19 systems benefits or changing retirement systems
20 provided under the bill because his situation
21 was a transfer within the same system.

22 So the bill that we adopted which
23 would have allowed for some applications to be

1 treated doesn't apply to this particular
2 system.

3 SENATOR GOLD: Senator yield to
4 one last question?

5 SENATOR KUHL: Sure.

6 ACTING PRESIDENT SPANO: Senator
7 yields.

8 SENATOR GOLD: Senator, you are a
9 person who has been a member for a long time,
10 and whether I, as a Democrat, like it or not,
11 you have a lot of respect around here. Why
12 couldn't we just put in a bill that changes the
13 Trunzo law so that other people similarly
14 situate could be considered under a particular
15 section, instead of opening the flood gates
16 again for private bills.

17 Now, I don't know one factual
18 matter about this gentleman. He may be telling
19 the truth, he may not be; I assume he is, but
20 we're being asked to make judicial judgments
21 within the pension system.

22 SENATOR KUHL: That's not really,
23 Senator -- in response to you, that's not really

1 the situation here.

2 SENATOR GOLD: All right.

3 SENATOR KUHL: The situation is
4 that he does have factual information and he
5 does have copies of the certified letter that he
6 sent. The system is saying that the certified
7 letter never was received.

8 SENATOR GOLD: Right.

9 SENATOR KUHL: So it's not a
10 judicial interpretation as to whether it applies
11 or whether it doesn't. This is factual
12 information, but the system as it is doesn't
13 allow the retirement system to give him the
14 credit that he's due.

15 SENATOR GOLD: Well, on the bill,
16 Mr. President.

17 ACTING PRESIDENT SPANO: Senator
18 Gold on the bill.

19 SENATOR GOLD: I don't want to
20 have a long legal discussion with Senator Kuhl,
21 but having a letter and saying you sent it is
22 still a matter that's subject to proof. If you
23 had a hearing, somebody could believe it or not

1 believe, but what apparently happened is that
2 they said they couldn't give him a hearing
3 because it doesn't fit under the bill; and I say
4 change the bill and let him go to his hearing
5 like everybody else. Last section.

6 ACTING PRESIDENT SPANO: Senator
7 Dollinger.

8 SENATOR DOLLINGER: Will the
9 sponsor yield to a question?

10 ACTING PRESIDENT SPANO: Senator
11 Kuhl, will you yield to a question?

12 SENATOR KUHL: Certainly.

13 ACTING PRESIDENT SPANO: Senator
14 Kuhl yields.

15 SENATOR DOLLINGER: I've sort of
16 now figured out which bill this is, and I
17 apologize for yesterday because I got mixed up
18 on the two bills, but my understanding is that
19 there's a \$170,000 past service credit
20 appropriation from the state of New York to fund
21 this bill; is that correct?

22 SENATOR KUHL: I believe the
23 local fiscal impact note or fiscal impact note

1 indicates that there's a potential liability for
2 170,000. That's correct, but that's -- that's
3 with the understanding that there may be three
4 individuals. My understanding is that that is
5 not correct, that what we're really talking
6 about is only one individual who really falls
7 into this; so you're talking not \$170,000,
8 you're talking about a third of that actual
9 cost. We're talking slightly less than \$60,000,
10 but certainly there is a cost to this bill.

11 SENATOR DOLLINGER: O.K. I guess
12 my question is, Mr. President, who would -
13 again, if Senator Kuhl will continue to yield,
14 who will pay that, and is it in the budget to
15 pay that?

16 SENATOR KUHL: It's in the
17 retirement system, Senator. This -- this
18 allowance for this type of credit was available,
19 O.K.? It was built into the system. What
20 happened was, the system just didn't recognize
21 the availability of this individual for that
22 credit, because it did not receive, so they say,
23 the application for the retirement transfer.

1 So it's built into the system.
2 What's actually happening is this individual is
3 being denied that portion of the funding that
4 goes to support his retirement system because of
5 an error, an admitted error, by the system
6 itself.

7 SENATOR DOLLINGER: O.K. Again
8 through you, Mr. President, if Senator Kuhl will
9 continue to yield.

10 SENATOR KUHL: I continue to
11 yield.

12 ACTING PRESIDENT SPANO: Senator
13 Dollinger.

14 SENATOR DOLLINGER: Just so I
15 understand it, and again I apologize for not
16 being familiar with how this system works and
17 how these exceptions work. But is it your
18 understanding that there is in the system
19 already \$170,000 or a third of \$170,000 which
20 has already been paid by either the state of New
21 York, I assume by the state of New York, already
22 paid into the system and, therefore, there's
23 cash available in the system for which this

1 individual is being denied access because of the
2 snafu that you describe?

3 SENATOR KUHL: Yes.

4 SENATOR DOLLINGER: Or is it
5 going to require an additional payment this year
6 of that one-third of \$170,000 to cover -- to
7 create this nest egg from which this individual
8 would be funded?

9 SENATOR KUHL: Your former
10 statement is my understanding, Senator.

11 SENATOR DOLLINGER: The cash is
12 already in the system.

13 SENATOR KUHL: The money is
14 there. It was put into the system at the time
15 of his employment, yes.

16 SENATOR DOLLINGER: O.K. Again,
17 Mr. President, just on the bill.

18 ACTING PRESIDENT SPANO: Senator
19 Dollinger, on the bill.

20 SENATOR DOLLINGER: I don't want
21 to be drawing fine lines here, but if this bill
22 -- if the money is already in the system and
23 it's a snafu, although I agree with Senator Gold

1 that we ought to be establish a mechanism for
2 dealing with these in the administrative
3 process, which I think the sponsor does too, if
4 there's no additional contribution required to
5 fund this, I'm prepared to vote for it.

6 My concern is that in those in
7 stances in which we're paying money now to -
8 into the system to create the nest egg, it seems
9 to me that that's unfair for all the reasons
10 that we've discussed that we do that by special
11 bill.

12 So I'll vote in favor of this
13 one, but I hope that Senator Gold's comments
14 about making those kinds of changes actually
15 come to pass.

16 ACTING PRESIDENT SPANO: Read the
17 last section.

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

20 ACTING PRESIDENT SPANO: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 43.

1 ACTING PRESIDENT SPANO: The bill
2 is passed.

3 Senator Gold.

4 SENATOR GOLD: Yes, Senator
5 Leichter.

6 ACTING PRESIDENT SPANO: Senator
7 Gold, those members who wish to be recorded in
8 the negative on Senator Kuhl's bill, please
9 indicate.

10 THE SECRETARY: In relation to
11 Calendar Number 1243, those recorded in the
12 negative are Senators Galiber, Gold and
13 Leichter. Ayes 40, nays 3.

14 ACTING PRESIDENT SPANO: The bill
15 is passed.

16 Senator Present.

17 SENATOR PRESENT: Mr. President,
18 can we go back to Senator Libous' bill, Calendar
19 Number 1186. (Pause) Senator Libous wants to
20 hold it. Continue with the calendar.

21 THE SECRETARY: Calendar Number
22 1254, by Senator Wright, Senate Bill Number
23 8592, an act to amend Chapter 533 of the Laws of

1 1993, amending the Vehicle and Traffic Law.

2 SENATOR LEICHTER: Explanation.

3 ACTING PRESIDENT SPANO: Senator
4 Wright.

5 SENATOR WRIGHT: Mr. President,
6 as the title relates, we're amending Chapter 533
7 of the Laws of 1993, and extending for one
8 additional year through September of '94 -
9 excuse me, October 1st of 1994, provisions that
10 are required by the federal government as it
11 relates to suspension and revocation of driver's
12 licenses for drug-related offenses and activi
13 ties, and this is a key in terms of retaining
14 and receiving federal aid as it relates to
15 highways and, as we related in the memorandum of
16 explanation, it showed estimates of 16- and 34
17 million. Earlier today, we received updated
18 figures, and those numbers and potential
19 penalties if New York State does not enact this
20 provision now have increased to 22 million for
21 fiscal year '94 and 45 million for fiscal year
22 '95-96.

23 ACTING PRESIDENT SPANO: Senator

1 Galiber.

2 SENATOR GALIBER: Yes. Senator,
3 you've made a statement to the effect that we
4 would lose federal monies if this legislation is
5 not extended.

6 In all candor, we had this debate
7 last year, different sponsor. I would like to
8 think I frightened him off, but I doubt it very
9 seriously, but it's worth revisiting because, as
10 I pointed out to him last year and to you this
11 year, that you left out a good portion of the
12 notion that we're going to lose money.

13 There's about seven or eight
14 other states who had the wisdom, in my judgment,
15 to suggest that this is no way to combat drug
16 addiction, and it certainly borders on almost
17 being unconstitutional that you're taking
18 someone's license for not even a nexus to the
19 offense.

20 We could -- the question,
21 Senator, is it a fact that if the legislative
22 branch of government and the Governor's office,
23 the executive branch, that would be quite an

1 accomplishment, but if we could agree that we
2 are opposed to this, that would, in fact, have
3 the effect -- effect of satisfying the federal
4 government and we would not lose the federal
5 money; isn't that correct, Senator?

6 SENATOR WRIGHT: That's not my
7 understanding of the federal regulations and
8 their requirements.

9 SENATOR GALIBER: Well, Senator,
10 in all due respect, there are seven other states
11 -- 17, I'm understanding, 17 other states who
12 have taken this option and like my mother would
13 say, I wouldn't say it unless it was so. The
14 fact of the matter is that these 17 states, I
15 repeat, in their wisdom, said no, we're not
16 going to let them bulldoze us into a piece of
17 legislation that just doesn't make any sense
18 merely for the purpose of saving funds.

19 The federal government, in its
20 wisdom, said yes, if you do want the funds
21 there's a way you can acquire the funds and not
22 pass this piece of legislation and I think,
23 Senator, you merely need to share last year's

1 experience with your colleague, and I think that
2 he would probably -- I know he would inform you
3 that -- I don't want to be right, but that there
4 is an alternative to what you are suggesting.

5 SENATOR WRIGHT: Senator, while I
6 -- Mr. President, while I -

7 ACTING PRESIDENT SPANO: Senator
8 Wright.

9 SENATOR WRIGHT: While I respect
10 the Senator's point of view, I don't happen to
11 share that particular point of view and am
12 concerned with the fiscal impacts on the state
13 budget that we've really adopted that reflects
14 and anticipates this revenue and we don't want
15 to be in a position that we create further
16 fiscal difficulties for the state at this stage
17 and, in fact, the legislative houses and the
18 Governor did agree a year ago to pursue this
19 course of action, and we're extending that one
20 year because we believe it is a reasonable and
21 appropriate approach to provide additional civil
22 penalties of this nature, as well as to secure
23 the additional funding.

1 Equally important, it's not
2 simply a federal regulation in terms of funding,
3 but it was also a recommendation of our own
4 statewide Anti-Drug Abuse Council in 1990.

5 SENATOR GALIBER: Well, Senator.

6 ACTING PRESIDENT SPANO: Senator
7 Galiber.

8 SENATOR GALIBER: Senator, I draw
9 your attention and, like most debates, they
10 become unfair from time to time. I'm not sure
11 you have the regulation but I do, the federal
12 regulation which sets forth the procedure for
13 states opting out of this program without losing
14 the money, and it's not a McCarthy thing. I
15 really have the regulation here, and I'd like to
16 share it with you if it would make a difference
17 but my instincts on a Thursday morning suggest
18 that I -- I don't think that would change your
19 view, but here are the facts.

20 In addition thereto, Senator,
21 it's my sense again that this is a one-house
22 bill and, as I argued last year when it was a
23 two-house bill and went into effect, what this

1 bill does -- on the bill. Thank you, Senator.

2 ACTING PRESIDENT SPANO: Senator
3 Galiber.

4 SENATOR GALIBER: What this bill
5 really does, I'm not quite sure I can answer
6 that, but it's a piece of legislation which has
7 no connection whatsoever to using a small
8 quantity of marijuana or a large quantity of
9 marijuana or whatever the drug may be.

10 We have, and I agree with,
11 increasing penalties for driving while
12 intoxicated. Fine. You catch someone driving
13 without a -- with a suspended license, hey,
14 let's hit him and hit him hard. If you find
15 that person driving and using marijuana, whether
16 it's a small quantity or a large quantity,
17 whether it's "crack" or one of the other drugs,
18 hit him hard.

19 But, Senator, what this bill does
20 says that if you are arrested in someone's
21 apartment and you have constructive possession
22 maybe of a small quantity of marijuana that's
23 found in the house, that person loses a license

1 even if that person does not have a license and
2 might want a license in the future. No
3 connection whatsoever.

4 This isn't fighting drug
5 addiction. This isn't fighting what we all -
6 we may differ on the procedure and Senator, I
7 might, just being somewhat facetious about it, I
8 might check out why they passed this bill on to
9 you. I'd be a little careful about the person
10 who suggested that you carry it this year. I
11 got an idea who it was by the way, but you
12 should be a little suspect because this is a
13 horrible piece of legislation.

14 Someone, you know, and then we go
15 another point, to show you how it's been abused,
16 Senator -- pardon me, Mr. President -- we've got
17 some statistics here that are horrible
18 statistics. We've got one county, you know,
19 that the enforcement has just been arbitrary
20 that as of May 10th of 1994, just over seven
21 months since the law is enacted, there's been
22 5,376 suspension orders that have been entered
23 by the Department of Motor Vehicle. Albany

1 County had 229 suspensions. Nassau and Suffolk
2 had just a total of 133 license suspensions.

3 So we get a feel how arbitrarily
4 and capriciously this piece of legislation is
5 being used. It reminds me in the city of New
6 York when at one point in time when they used to
7 sell heroin, Senator, in capsule forms, but
8 you're too young to remember that. 50 cent
9 capsules they used to sell it and each police
10 officer -- not every one, because we've got some
11 great police officers, but it used to be kind of
12 standard equipment along with the gun and the
13 billy and what not, so if they caught you with
14 nothing else they kind of nudge a little 50 cent
15 cap' of heroin into you on the side and charge
16 you with possession.

17 These statistics indicate that
18 what's happened with this bill that this piece
19 of legislation is used as a harassment perhaps
20 type of instrument, and I'm not really concerned
21 about the harassment part of it. I'm concerned
22 that there is absolutely no nexus to this piece
23 of legislation and the penalties involved, not

1 the penalties so much, but the act of possession
2 of drugs.

3 It doesn't fight drugs. It
4 doesn't deter anyone from using drugs. They put
5 a category out there of small quantity of
6 marijuana. We don't even prosecute any longer
7 for small quantities of marijuana. We have all
8 but legalized marijuana. We have decriminalized
9 it, they refer to it, which means there is still
10 some penalties, some sanctions if you will, but
11 in order for you to get arrested in most places,
12 obviously except in these high places upstate
13 where they had all these suspensions, you have
14 to be caught with a couple of boxcars of
15 marijuana in order for them to prosecute you.

16 So, Senator, this is just another
17 piece of legislation that just shouldn't be on
18 the books. It serves absolutely no purpose
19 whatsoever. I reiterate, and I think it's worth
20 mentioning -- I know it's worth mentioning that
21 Senator Libous and I discussed this from time to
22 time, Lt. Governor also. We both want the same
23 thing. We'd like to put a screeching halt to

1 this horrible, horrible drug problem that we
2 have in this state and it's spreading.

3 We've been fighting a 7-year war;
4 we've declared war on drugs; we've been fighting
5 it for 7 years. It's almost like a religious
6 war, if you will. I have alternatives to it. I
7 don't push my alternatives onto people, but the
8 foundation is the same thing you want, I want,
9 and everyone within the sound of my voice wants
10 and that is to put a screeching halt to this
11 horrible, horrible use of drugs.

12 This piece of legislation doesn't
13 come anywhere close to fighting the drug problem
14 whether you want to declare war or regulate it
15 as I do. It doesn't come close. It's a
16 horrible piece of legislation.

17 ACTING PRESIDENT SPANO: Senator
18 Tully.

19 SENATOR TULLY: Would Senator
20 Galiber yield to a question?

21 ACTING PRESIDENT SPANO: Senator
22 Galiber, will you yield?

23 SENATOR GALIBER: Et tu, Tully?

1 Yes. No problem.

2 ACTING PRESIDENT SPANO: Senator
3 Galiber yields.

4 SENATOR TULLY: Yes. Mr.
5 President, I come without weapons, knives or any
6 other such thing. I just wondered, Mr.
7 President, whether Senator Galiber could let me
8 know how we would proceed to continue to obtain
9 the federal funding if we did not extend this
10 legislation.

11 SENATOR GALIBER: I have a -- we
12 didn't put -- this is not an act between Senator
13 Tully and myself. I thought you'd never ask
14 this.

15 I had a resolution to give to you
16 this morning, Mr. President, but I know, in your
17 wisdom and the sharp eyes of my colleagues
18 especially on the other side would have picked
19 up the defect. But the resolution, Senator,
20 sets forth the procedure, what the federal
21 regulations are, how we can comply and how we
22 can opt out and still receive the money. I'd be
23 glad to share it with you.

1 SENATOR TULLY: Mr. President,
2 prior to seeing this very illuminating
3 resolution, would we be able to ascertain from
4 Senator Galiber whether or not he's been in
5 contact with anyone from the federal government
6 as to whether they would support this resolution
7 and continue the funding?

8 SENATOR GALIBER: No, but I -- if
9 you want to lay the bill aside, I have a friend
10 of mine, Patrick Moynihan -- we graduated
11 together 50 years ago -- he's a Senator, U.S.
12 Senator and chairman of Finance, and I can
13 certainly consult with him, since he has been
14 responsible, as has your colleague, Senator, not
15 D'Amato.

16 SENATOR TULLY: Senator Wright?

17 SENATOR GALIBER: Not Wright,
18 that fellow who has Transportation on your
19 side.

20 SENATOR TULLY: Senator Levy.

21 SENATOR GALIBER: Senator Levy,
22 yeah. He's the one. He knows of the
23 transportation money, the very money that we're

1 talking about, Senator Moynihan was successful
2 in bringing some \$92 billion to the state of New
3 York, got New York's money back with the highway
4 money they put out, the Thruway money some years
5 ago, but I think that, if you want verification
6 of it, we certainly could lay the bill aside and
7 I could get that confirmation from -- not based
8 on our friendship which I respect, but certainly
9 his and I and ours also, not because -- but what
10 I'm saying is so.

11 SENATOR TULLY: Thank you, Mr.
12 President. I always enjoy hearing from Senator
13 Galiber, and I'm certain Senator Wright, in his
14 infinite wisdom, will consider his request.
15 Thank you.

16 SENATOR GALIBER: Just one point,
17 and God bless staff, as you well know. My staff
18 Mike here pointed out to me, all we really need
19 is the Governor to pass the resolution or read
20 the resolution and say O.K., for us to say O.K.,
21 and for the Assembly to say O.K., and I know
22 that's difficult, but that's all we need in
23 order for this to go through.

1 So on the bill, and I close on
2 this note as I opened up. Senator, this bill
3 does nothing toward fighting what we're all
4 concerned with. This is a bad piece of
5 legislation, and you can tell by the statistics
6 that it's been misused in certain counties and
7 I'm not casting aspersions. I haven't the
8 slightest idea why it was misused.

9 But the fact of the matter is
10 that we need not lose -- we need not lose -- we
11 need not lose, if you will, this highway money.
12 Seventeen states, in their wisdom, saw fit to
13 say, We are not going to have some youngster on
14 one of the local campuses caught up in a situa
15 tion smoking marijuana and then take that
16 person's license away or preclude that person
17 from getting a license, and especially upstate
18 where movement is important. Licenses,
19 transportation is extremely important. Can we
20 now take somebody's license because somebody
21 down the line was caught in a dormitory walking
22 next to someone and he locked up -- rounded up
23 and locked up everyone.

1 Senator, it's a bad piece of
2 legislation and just let me know who referred
3 this bill to you. As I said before, I think I
4 have an idea; I'd like to talk to him.

5 Thank you, Mr. President.

6 ACTING PRESIDENT SPANO: Senator
7 Gold.

8 SENATOR GOLD: Yes, Mr.
9 President, I want to make some comments, but I
10 think Senator Onorato has a question he wants to
11 ask, so could I yield to Senator Onorato for one
12 moment?

13 SENATOR ONORATO: Thank you,
14 Senator.

15 Senator Wright, would you yield
16 to a question, please?

17 SENATOR WRIGHT: Certainly, Mr.
18 President.

19 SENATOR ONORATO: Senator, this
20 revocation of a license, does it apply when the
21 sale or use, while he's actually driving in the
22 vehicle or does it apply to anybody?

23 SENATOR WRIGHT: It applies to

1 any violation. It's not restricted in that
2 manner.

3 SENATOR ONORATO: Doesn't have to
4 be driving the vehicle.

5 SENATOR WRIGHT: That's correct.

6 SENATOR ONORATO: Does it also
7 apply to alcohol, if he's caught driving while
8 intoxicated, will he be suspended automatically?

9 SENATOR WRIGHT: I believe it's
10 specific to drug abuse.

11 SENATOR ONORATO: Only drug,
12 thank you.

13 SENATOR GOLD: Mr. President.

14 ACTING PRESIDENT SPANO: Senator
15 Gold.

16 SENATOR GOLD: Yes, Mr.
17 President.

18 I want Senator Wright, if he
19 would be kind enough, to yield to a question,
20 but I want to point out when this proposal was
21 first presented as a legislative proposal in
22 1992, there was quite a bit of opposition. In
23 this house, there was 16 votes against it. When

1 it became a law, led by Senator Galiber and
2 Senator Leichter and myself and Senator
3 Ohrenstein and Onorato voted against it, but now
4 it's been a law, Senator Wright, and the
5 question is whether we extend it.

6 Senator Galiber read off some
7 numbers as to actual suspensions, I believe it
8 was, and my question to you, Senator Wright, do
9 the numbers that Senator Galiber read off
10 account for all of the drug convictions in those
11 areas during that period of time?

12 SENATOR WRIGHT: I certainly
13 don't have the answer to that, Senator. I've
14 not had the -- Senator Galiber share those
15 statistics with me nor had the opportunity to do
16 any kind of comparison to what occurs in those
17 areas, obviously.

18 SENATOR GOLD: Well, if I may,
19 would Senator Galiber be kind enough just to
20 give us those numbers one more time? Would you
21 yield, Senator?

22 SENATOR GALIBER: The enforcement
23 as the note here says certainly has been arbi

1 trary, and as of May 10th of 1994, just over
2 seven months since the law has been in effect,
3 5,376 suspensions have been ordered. Albany
4 County had 229 licenses suspended and Nassau,
5 Westchester, Suffolk had a total of 133.

6 SENATOR GOLD: All right. Thank
7 you.

8 Senator Wright, will you yield to
9 a question now?

10 ACTING PRESIDENT SPANO: Senator
11 Wright yields.

12 SENATOR WRIGHT: Yes.

13 SENATOR GOLD: As I understand
14 the law, Senator, it's a mandatory situation in
15 drug convictions, is that true?

16 SENATOR WRIGHT: That's correct.

17 SENATOR GOLD: And Senator, is it
18 your understanding that in the period of time
19 involved, that the state of New York only had
20 some 5,000 drug convictions throughout the
21 entire state of New York?

22 SENATOR WRIGHT: Again, as I
23 related, Senator, I have not had opportunity to

1 review those statistics and do not have the in
2 formation as it relates to statewide
3 convictions.

4 SENATOR GOLD: Thank you. On the
5 bill.

6 ACTING PRESIDENT SPANO: Senator
7 Gold, on the bill.

8 SENATOR GOLD: Mr. President, as
9 I have pointed out on other occasions, one of
10 the biggest problems that we have as legislators
11 is voting on labels and not on bills and, if a
12 bill comes before us and somebody says we have
13 to do this because, number one, it's going to
14 end crime, it's going to end drugs or we got to
15 vote for this because it's going to mean \$80
16 million dollars, I mean we all go crazy. Nobody
17 wants to vote against a bill that's going to
18 stop crime or drugs. But the bottom line is
19 that this bill, in the language that we passed
20 it, set up a mandatory program and, as Senator
21 Onorato has pointed out from time to time, it's
22 basically apples and oranges. You don't even
23 have to be driving a car, and they're telling

1 you you're going to lose your right and there is
2 that kind of problem. But I think, even worse
3 than that is, based upon the research that
4 Senator Galiber has done, it just isn't being
5 applied.

6 Now, what's the sense of having
7 this thing on the books if you get a situation
8 where, be it a good lawyer or whatever the
9 situation, maybe it's the area of the state
10 you're from, but the penalty is not obviously
11 being meted out.

12 The other part of it is that I
13 have a little bit of a memory. My age, it's
14 getting worse, I guess, but I got a little bit
15 of a memory, and I remember how the Rockefeller
16 laws were going to end drugs and this is going
17 to end drug use, and that's going to end drug
18 use, and it's nonsense. We don't deal with
19 issues that end drugs, unfortunately, and I
20 think, as Senator Galiber pointed out, not only
21 does this not end drug use, it is used in a
22 discriminatory way, and I'd be willing to bet,
23 Senator Galiber, and I know you won't even take

1 the bet, but I'd be willing to bet you that, if
2 you took a look at the 5,000 suspensions and
3 compared that to the number of convictions to
4 see whether the relative number of people who
5 lose were black or Hispanic or Puerto Rican or
6 Latino or Puerto Rican, et cetera, et cetera,
7 you'll find out that it's a disproportionate
8 share, because that's the way our system, unfor-
9 tunately, works.

10 So I'm not impressed with the way
11 it has worked so far. I think it is still a bad
12 idea, and I'm going to support Senator Galiber.

13 ACTING PRESIDENT KUHL: Secretary
14 will read.

15 Senator Wright.

16 SENATOR WRIGHT: Mr. President,
17 on the bill.

18 ACTING PRESIDENT KUHL: Senator
19 Wright, on the bill.

20 SENATOR WRIGHT: While I
21 appreciate the concerns voiced by my colleague,
22 Senator Galiber, I would point out -- and while
23 he may question the intent of the sponsor who

1 referred it to me, I would point out that it's
2 my belief, and I believe correctly so, that this
3 legislation last year when enacted into law was,
4 in fact, a Governor's program bill being
5 suggested as another penalty and deterrent, and
6 I would further point out that reflected in the
7 budget that was submitted by the executive
8 branch and adopted by both houses and signed by
9 the executive branch, that, in fact, the revenue
10 to be generated from this compliance with the
11 federal regulations has been reflected and
12 incorporated in that budget.

13 So it's not simply a question of
14 ensuring compliance with the federal
15 regulations. It's not simply a question of
16 achieving the revenues that we forecast and
17 project with the budget, but it also is an issue
18 of deterrent in providing additional penalties
19 over and beyond the penalties that are already
20 on the books, and I, therefore, believe and
21 encourage my colleagues to support the
22 legislation as we did a year ago.

23 ACTING PRESIDENT KUHL: Senator

1 Galiber.

2 SENATOR GALIBER: I don't think
3 it makes much difference, but let me try any
4 way.

5 Senator, this memorandum that I
6 made reference to, to support that state \$16
7 million federal highway fund, if we simply
8 adopted the resolution, like the amendment I had
9 proposed if it wasn't defective, stating, and I
10 quote here from the Code of Federal Regulations,
11 and I alluded to it before, that the state
12 legislature has adopted a resolution expressing
13 its opposition to such a law and the Assembly
14 and the Governor do likewise, we will be in
15 compliance with the federal statutory regulatory
16 requirements and as of May 1933 -- 1993,
17 Senator, there are 17 states -- 17 states have
18 exercised this option: Alaska, Idaho, Maine,
19 Minnesota, Missouri, Nebraska, Nevada, New
20 Mexico, North Dakota, Rhode Island, South
21 Dakota, Tennessee, Utah, Vermont, Washington,
22 West Virginia and Wyoming. Why not New York?

23 ACTING PRESIDENT KUHL: Senator

1 Wright.

2 SENATOR WRIGHT: Will you yield
3 to a question?

4 ACTING PRESIDENT KUHL: Senator
5 Galiber, do you yield to a question from Senator
6 Wright?

7 SENATOR WRIGHT: Senator,
8 following that -

9 SENATOR GALIBER: The answer is
10 yes.

11 ACTING PRESIDENT KUHL: Senator
12 Galiber yields, Senator Wright.

13 SENATOR WRIGHT: Following that
14 logic, wouldn't one then assume that, in fact,
15 we would have received a program bill from the
16 Governor suggesting just that for the
17 Legislature to consider this year since we
18 received this as a program bill a year ago in
19 terms of achieving federal compliance and
20 maintaining the integrity of the budget?

21 SENATOR GALIBER: Senator, we do
22 strange things in election year. You know that
23 as well as I do. I suspect that some place

1 around the second floor -- I always say it
2 jokingly; I'm not quite sure I'm joking -
3 there's a mirror. You talk with the mirror to
4 find out what the mirror wants. So I can't
5 predict that.

6 All I know is, in good faith and
7 all candor and factually, that there is a
8 resolution, there is an option here that we can
9 acquire this money. But I do hit on it, this
10 question about a deterrent. This is not a
11 deterrent, but the perception -- the perception
12 is that, if you take a license away from
13 someone, someone who's not even driving a car,
14 someone who doesn't even have a license, that
15 person if picked up -- that person won't even be
16 able to get a license.

17 That's no -- this does not serve
18 as a deterrent. I'm not here to argue that
19 deterrent factor because we could be here for -
20 we got to get out of here some day soon, I
21 hope. The fact of the matter we could be here
22 talking about just that, but the fact is that
23 this piece of legislation is not needed, and the

1 Governor, I can't speak for him.

2 SENATOR WRIGHT: I can appreciate
3 that, Senator.

4 SENATOR GALIBER: I don't know,
5 if we can be fortunate enough to speak for both
6 houses, maybe we should, but the fact of the
7 matter we would not have lose -- not have lost
8 any highway money. It would have no -- absol
9 utely no impact, none whatsoever, as far as the
10 budget is concerned. \$63 billion, you know, is
11 not going to have any effect. We would not lose
12 this money.

13 SENATOR WRIGHT: Thank you.

14 ACTING PRESIDENT KUHL: Is there
15 any other Senator wishing to speak on this bill?
16 Hearing none, the Secretary will read the last
17 section.

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

20 ACTING PRESIDENT KUHL: Call the
21 roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT KUHL: Announce

1 the results.

2 THE SECRETARY: Those recorded in
3 the negative on Calendar Number 1254 are Senat
4 ors Connor, Espada, Galiber, Gold, Ohrenstein,
5 Paterson and Smith. Ayes 43, nays 7.

6 ACTING PRESIDENT KUHL: The bill
7 is passed.

8 Senator Present.

9 SENATOR PRESENT: I think Senator
10 Libous is ready to take up 1186 now.

11 ACTING PRESIDENT KUHL: Senator
12 Libous is ready. Secretary will call his bill.

13 THE SECRETARY: Calendar Number
14 1186, by Senator Libous, Senate Bill Number
15 7975, an act to amend the Tax Law and the Social
16 Services Law.

17 ACTING PRESIDENT KUHL: Senator
18 Galiber.

19 SENATOR GALIBER: Yes, so we can
20 get back to where we were yesterday, would you
21 continue the explanation? We were at a point
22 where -

23 ACTING PRESIDENT KUHL: Senator

1 Libous, Senator Galiber has asked for an
2 explanation.

3 SENATOR LIBOUS: Yes. Thank you,
4 Mr. President.

5 SENATOR GALIBER: We'd passed the
6 cryptic yes/nos, we were into something of an
7 explanation.

8 SENATOR LIBOUS: My father always
9 taught me to be brief, and I apologize, Senator
10 Galiber, but what I will do is get into it.

11 Basically, what we are doing here
12 is, if someone has been on public assistance and
13 they win the lottery and they win a million
14 dollars is that they would have to pay back to
15 the state that portion that they won and it
16 would extend over a ten-year period.

17 Now, some might ask, Why did you
18 pick a million dollars? This was a figure that
19 we looked at, we thought was a fair -- if
20 someone wins a million dollars, that they should
21 be required to pay back that portion of the
22 public assistance money.

23 The system, as Senator Leichter

1 has brought to my attention, just a few moments
2 ago, he said that there is some provision now
3 where that, if you want to go after the money,
4 that you can do that. It's in the law. The
5 only difference is that that would give each
6 district attorney the option to do that, but
7 that would be an additional cost or mandate on
8 local counties and we don't want to do that.

9 The money would be taken out
10 before the proceeds are even paid at the state
11 level, and it would also set up a registry
12 between Social Services and the Lottery, so that
13 they would have a mechanism for pulling those
14 funds, and those names would obviously be
15 confidential just in the way they set it up now
16 for -- for child support cases.

17 ACTING PRESIDENT KUHL: Senator
18 Galiber.

19 SENATOR GALIBER: Senator, we
20 kind of started this yesterday. I was really
21 going to vote with this -- for this bill. But
22 would you yield for a question?

23 SENATOR LIBOUS: Yes, sir.

1 ACTING PRESIDENT KUHL: Senator
2 Libous, do you yield? Senator Libous yields,
3 Senator Galiber.

4 SENATOR GALIBER: Is there any
5 place other than the category that you've
6 mentioned where people find themselves with
7 bankruptcy or some other procedure, some
8 operation of law, that they are beneficiaries of
9 going through some action, is there any case
10 where those persons are required or suggested
11 that they should pay this money back as a result
12 of taking advantage of some operation of law, if
13 you know?

14 SENATOR LIBOUS: Senator Galiber,
15 I'm not aware of any.

16 SENATOR GALIBER: O.K. You were
17 candid with us, as you always are, yesterday and
18 you mentioned to us that some of your
19 constituents looked into the crystal ball.

20 SENATOR LIBOUS: Yes.

21 SENATOR GALIBER: Or into the
22 futuro, so to speak, and suggested because I had
23 asked the question, how many -- how many welfare

1 recipients had hit the Lotto, and you gave me a
2 short answer -- it was a short answer but a good
3 answer because you didn't know, and I don't know
4 as it was a great answer, but I would doubt -
5 would I be correct, Senator, that there is no
6 one that you know of who is on welfare and has
7 hit the lottery where this bill, if passed into
8 law, would force that person by operation of law
9 to pay the money back? There's no one out there
10 so far who would have to pay -- who hit the
11 Lotto and now is in a position, if we pass this
12 piece of legislation in the ten years to pay it
13 back?

14 SENATOR LIBOUS: As we stand here
15 now -

16 SENATOR GALIBER: Yeah.

17 SENATOR LIBOUS: -- Senator, Mr.
18 President, Senator Galiber, this afternoon as I
19 said, DSS does not keep those records, and we do
20 not know. That's correct, as we stand here.

21 SENATOR GALIBER: None. All
22 right. Senator, this registration, just let me
23 clear that up because that's what's making me

1 change my mind, because I firmly believe that
2 someone in good faith who needs the social
3 service system, and there are many, many more
4 people who need it and use it on a temporary
5 basis, we tend to take one out of a million and
6 highlight that and make the whole system made up
7 of a bunch of abusers, and that's not so.

8 I believe that the person is like
9 -- almost like the sincere person who takes a
10 student loan. Most of them try to pay it back
11 -- we got to chase them a little bit but would
12 pay that money back, because they recognize that
13 there was a vehicle there, there is a system out
14 there when they really needed something that was
15 helpful.

16 The few that would try to beat
17 it, those are the ones we're really after, very
18 frankly. The registration troubles me a little
19 bit. Now that you mentioned today in the course
20 of your explanation that you would register
21 persons who are on the welfare roll, so these
22 good-hearted people who find themselves out of
23 work, unemployed, session, jobs, loss, whatever,

1 temporarily on Social Services for a week or two
2 or ten days or a month, or maybe even a year,
3 now have their name registered some place on -
4 based on this piece of legislation, and I get a
5 little frightened about registration.

6 You've heard me mention it before
7 in 1984, as I say it over and over again, that
8 we're now -- we've just gone too far with this
9 registration business, and as we weigh it out in
10 your instance, Senator, where you are responding
11 as we all do to a constituent who says, "How
12 about those cheats on welfare? What happens if
13 one of them is fortunate enough to hit the
14 Lotto? What are you going to do about it,
15 Senator?" And you react like most of us do, you
16 come and put a bill in. The fact of the matter
17 is that person, as we weigh it out, will now be
18 on this register for whatever the bill calls
19 for, ten years or whatever the case may be.

20 So Mr. -- that's what I'd like to
21 clear up, they would have to have them
22 registered?

23 SENATOR LIBOUS: Mr. President,

1 the way I understand it right now, it would
2 follow the same system that they have right now
3 in DSS. They have a system with child support
4 payments, and basically it's kept in the
5 strictest confidence. A computer code is given,
6 and it's sent monthly and updated monthly of
7 those folks who are delinquent right now in
8 payment. The same would go for those in the
9 public assistance program.

10 SENATOR GALIBER: Just one fast
11 last question, Senator.

12 SENATOR LIBOUS: Sure.

13 SENATOR GALIBER: Do you think -
14 do you feel that the process of registering all
15 these people, whether it's the administrative
16 cost or just the possibility of abuse, a
17 possibility of breakdown of confidentiality, is
18 worth this piece of legislation where you have
19 absolutely no example to give us where someone
20 who is a recipient of welfare hit the Lotto, hit
21 the Lotto and didn't pay the money? I don't
22 think it's worth it, Mr. President.

23 SENATOR LIBOUS: Mr. President.

1 SENATOR GALIBER: Doesn't balance
2 out.

3 SENATOR LIBOUS: Mr. President,
4 that's a fair question by Senator Galiber, and
5 my guess is with the inexpensive cost of
6 computers and discs and tapes today, as we
7 become more acquainted with the "information
8 highway" if we were able to hit, one person I
9 guess that would pay back, it would pay back
10 those costs.

11 ACTING PRESIDENT KUHL: The Chair
12 recognizes Senator Espada.

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

15 Will the sponsor yield to a
16 question, please?

17 ACTING PRESIDENT KUHL: Senator
18 Libous do you yield to Senator Espada?

19 SENATOR LIBOUS: Yes, I will.

20 ACTING PRESIDENT KUHL: Senator
21 Libous yields.

22 SENATOR ESPADA: Senator Libous,
23 what is it about the one million dollar mark

1 that moves you to do this, and not for a Jackpot
2 winner that wins a lesser amount, part one, and
3 part two would be what about people on
4 unemployment or Social Security that perhaps
5 would have winnings of one million dollars? Your
6 feelings about that, please.

7 SENATOR LIBOUS: Mr. President,
8 our feeling when we put the bill in that we
9 would just gear it toward public assistance and
10 the lottery and the million. We didn't gear it
11 toward anything else, and certainly if someone
12 else wanted to introduce legislation that would
13 gear it toward other circumstances, that's a
14 possibility, Mr. President. I didn't feel that
15 I wanted to do it at this time because the
16 specific requests that came to me from my con
17 stituents were dealing with public assistance
18 and that's why, Senator, I addressed it this
19 way.

20 The million dollars was a number
21 that we picked basically. There was no
22 scientific method as to going into it. It was
23 just a number that we picked after looking at

1 the situation.

2 SENATOR ESPADA: Just as a
3 follow-up, Mr. President.

4 ACTING PRESIDENT KUHL: Senator
5 continue to yield?

6 SENATOR LIBOUS: Yes, sir.

7 SENATOR ESPADA: With respect to
8 this concern or value system that is present in
9 your district that you wish to apply strictly to
10 AFDC/HR recipients, I'm asking you, just for my
11 personal edification, does that extrapolate to
12 people on unemployment or Social Security
13 recipients? I know it's not a subject of your
14 current legislation, but just for my personal
15 edification.

16 SENATOR LIBOUS: Mr. President, I
17 would be willing to discuss that with the
18 Senator at another time off the floor. I'm open
19 to discussion.

20 SENATOR ESPADA: On the bill, Mr.
21 President.

22 ACTING PRESIDENT KUHL: Senator
23 Espada, on the bill.

1 SENATOR ESPADA: In the context
2 of this legislative session and the general laws
3 that have been done, AFDC and welfare in
4 general, I think welfare bashers in general
5 would be disappointed with this bill -- disap
6 pointed because the maniacal obsession and
7 contempt for poor people is really not clear
8 here, and I know that that's the motivation, but
9 it's truly not clear.

10 It has been clear with respect to
11 some other members of our "legislative hall of
12 shame" when we run into a problem with whether
13 or not women should be exempted from job
14 training programs because they have babies one
15 to three years of age. We say there's not
16 enough child care; therefore, just move it back
17 two years and have all those babies dumped
18 somewhere in some apartment because we have to
19 make these moms work after all. That's what
20 drives this -- this philosophy, this value
21 system, this welfare -- quote, "welfare reform"
22 movement.

23 When we bump into inadequate

1 benefit levels of people are homeless on the
2 streets, never mind that a couple hundred
3 dollars doesn't buy you, you know, garage
4 parking space in the city, less so an apartment,
5 we conveniently avoid that. We don't deal with
6 that here.

7 School attendance is a problem.
8 Kids don't go to school over 18, let's get the
9 bums back in there. What do we do? Well, just,
10 you know, penalize the wel... the family welfare
11 budget 25, 35, \$50 a month, doesn't matter, and
12 so those are fitting members of our legislative
13 hall of fame.

14 This one, however, this one is
15 anti-business. We -- those dollars, the one,
16 two, three, four dollars that welfare recipients
17 somehow scrounge up to participate in the "pay
18 your dollar live out your dreams" sweepstakes,
19 that won't be going to the state; that won't be
20 going to the retail outlets that depend on
21 this. Certainly there is a disincentive to
22 participate, and we lose the revenue. The
23 government will lose revenue.

1 Who will gain? The underground
2 economy; the mob-linked enterprises. So this is
3 a pro-fraud, pro-mob legislative initiative
4 because, essentially, people will continue to
5 try to live out their dreams and hopes in some
6 fashion. They like to gamble, say, on three
7 numbers instead of six, and, quite honestly, the
8 odds are better. You don't have to take -- pay
9 tax on your earnings. You get a cash payment.
10 So what we've created here is a disincentive to
11 do the things that I outlined and an incentive
12 to participate in fraudulent, mob-linked
13 activities in our community.

14 And the truth in advertising laws
15 would, I guess, obligate us -- require us to say
16 that essentially the logos of -- and the
17 advertisements that say you have to be in it to
18 win it, would have to have some kind of
19 disclaimer to say that perhaps this would apply
20 to all except these cheating welfare scoundrels
21 that would have to pay these jackpot winnings
22 back to the state. That would be costly, I
23 would imagine, to have to redo all those

1 commercials.

2 And why not -- while we're being
3 creative about this, why not just have a welfare
4 Lotto just for welfare recipients, just for the
5 scoundrels that are lucky enough to win? They
6 just pull them all together, the million in New
7 York City, just let them have their own little
8 Lotto system, in which case all the earnings
9 will enure to the state.

10 Does it sound ridiculous? Well,
11 let's get a little more ridiculous? Let's talk
12 about maybe some refunds from the corporate
13 welfare policies that we have going here. Once
14 you're in the black, having been in the red,
15 pay. Why don't you pay some back, hunh? We
16 gave you a helping hand when you were down and
17 out, IBM, Chrysler, you name 'em, the Fortune
18 500 companies. We gave you some help when you
19 needed it. Give some back now. We won't call
20 you names; we won't pass any laws, but how about
21 just asking, I say.

22 So, in essence, we can go on with
23 this. We can ask welfare recipients if they

1 gave blood at blood banks. Hey, when you
2 feeling a little better, give some back; you
3 must give some back, else we'll drain your
4 children and your families of blood and live up
5 to the true credo of what this is all about,
6 bloodsucking, sucking out the hope and
7 aspirations of people, as far-fetched as it may
8 be and as ill-conceived as this whole notion of
9 lottery systems in the first place are, this is
10 what it's truly about.

11 So we're anti-business. We're
12 pro-mob. We're pro-fraud, and I changed my
13 mind. This legislative initiative does belong,
14 it is fitting, has a fitting membership in the
15 "legislative hall of shame".

16 Thank you.

17 ACTING PRESIDENT KUHL: The Chair
18 recognizes Senator Leichter.

19 SENATOR LEICHTER: Yes, Mr.
20 President.

21 Mr. President, what really makes
22 this bill totally unnecessary and really shows
23 that it makes no sense whatsoever is that it is

1 currently law. It is currently law that you can
2 collect from somebody who received welfare, or
3 his or her estate, if there are sufficient
4 assets to pay back the state for what was paid
5 out. Has nothing to do with lottery. There's
6 no million dollar threshold. Whether you
7 receive that money by inheritance or whether you
8 earn the money, you can get it, so you've got to
9 ask yourself why put forward this bill?

10 SENATOR GOLD: Mr. President.

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

13 SENATOR GOLD: Senator Leichter
14 yield to a question?

15 ACTING PRESIDENT KUHL: Senator
16 Leichter, do you yield to Senator Gold? Senator
17 yields.

18 Senator Gold.

19 SENATOR GOLD: Senator Leichter,
20 I mean I can't believe my ears. Are you telling
21 me, Senator Leichter, that the State Lottery
22 Commission, which has a list of everybody it
23 pays out to, because it makes commercial, that

1 that list from one state agency could go to the
2 other state agency today and they could actually
3 compare the names and address and they could
4 actually take that money today?

5 SENATOR LEICHTER: Senator, under
6 the law today, a public welfare official who
7 knows that somebody who received public
8 assistance in the last past ten years has assets
9 sufficient to repay the state, has an obligation
10 and the right to collect this.

11 That happens to be in Section 104
12 of the Social Services Law. It's the law now.
13 It was voted on in 1974, and you probably voted
14 for it, Senator Gold, and I voted for it and
15 Senator Marchi and some of the other old timers
16 who are here, Senator Present.

17 So you got to ask yourself, Well,
18 wait a second. Why put in this bill? Now,
19 Senator Libous, we all want to respond to
20 constituents. We get, sometimes constituents
21 are not possessed of all the wisdom and sagacity
22 of the world. I know I have some in my district
23 that are not that sage. They voted against me,

1 so by definition there's something they're
2 lacking in something. Somebody may argue the
3 other side of that.

4 But in all seriousness, Senator
5 Libous, I know you referred to the section
6 because yesterday when we started debating, in
7 the back of my mind I thought this was really an
8 unnecessary bill, and I found the section. I
9 gave it to you. You looked at it and you said,
10 Aaah, but my bill allows the Lottery Commission
11 to take that money up front, whereas the current
12 law imposes an obligation on a public welfare
13 official, and then you started throwing in man
14 dates. He's going to have to spend money in
15 collecting this. I don't know what money he's
16 got to spend in collecting it, but, therefore,
17 you decided to go ahead with your bill.

18 But, Senator, I think that
19 Senator Espada -- and I really hope people
20 listened to him. Now, maybe he made it a little
21 dramatic, but he was so on point. He made such
22 excellent points. First of all, why a million
23 dollar threshold? I don't know why. Secondly,

1 without question, the administrative costs are
2 going to be much greater. And you know what's
3 going to happen? Some guy is going to win the
4 lottery, a million dollars or more. His name is
5 Adam Smith or Joe Smith, and you got to -- now
6 you got to cross check with all the welfare -
7 the list of all the welfare recipients for the
8 last ten years, everybody in the state of New
9 York, over a million names, there's somebody
10 will show up with the same name. Now, you've
11 got to go through a long, protracted rigmarole
12 and try to find out whether that's the same
13 person or not.

14 And also, as Senator Espada
15 pointed out, anybody who ever received public
16 assistance would be very unwise ever to play the
17 lottery. So we're going to lose all the these
18 people who won't play the lottery, because why
19 would you play the lottery? Now I'm going to
20 lose, if I play for a million dollars. Maybe,
21 Senator Libous, they'll play the games only
22 where you make less than a million dollars.

23 It really doesn't make any sense

1 whatsoever, and please, we have the law on the
2 book. If you just want to make a statement that
3 you don't like public assistance, get up, hold a
4 sign saying "I'm against public assistance" and
5 you know, welfare people, people on welfare are
6 cheats or whatever your belief is, or the belief
7 of your constituents, and so on.

8 But to put on a bill like that
9 really makes absolutely no sense, makes no sense
10 whatsoever, particularly and especially in view
11 that it's already the law. So you go back to
12 your constituents and you say, You know what, in
13 1974, there were a lot of very wise legislators
14 and they already did what you wanted. In fact,
15 they went further.

16 SENATOR LIBOUS: Mr. President,
17 would Senator Leichter yield to a question?

18 ACTING PRESIDENT KUHL: Senator
19 Leichter, will you yield to Senator Libous?
20 Senator Leichter will yield.

21 SENATOR LIBOUS: You say it's the
22 law in since 1974. Can you tell me how many
23 times the law has been enforced?

1 SENATOR LEICHTER: Senator, it
2 has been in effect here, and I have some reason
3 to believe that it has been enforced. Certain
4 ly, Senator, we're not going to see a penny
5 collected from your bill because you can't even
6 tell us whether anybody has ever won more than a
7 million dollars on the lottery who had received
8 public assistance.

9 SENATOR LIBOUS: Mr. President,
10 that's because this law has apparently never
11 been enforced. You say it's been on the books
12 since 1974.

13 SENATOR LEICHTER: I didn't say
14 it's never been enforced.

15 SENATOR LIBOUS: Will the Senator
16 yield?

17 ACTING PRESIDENT KUHL: The
18 Senator yields.

19 SENATOR LIBOUS: You say you can
20 do it now; everybody is doing it. And what this
21 actually does, what my bill would do is set it
22 up, make it much more convenient where the money
23 will come out before the winnings are actually

1 paid, and I think that's the key here.

2 Right now a local district
3 attorney would have to press charges and take
4 action and that would, in my opinion, be a local
5 mandate, with additional costs, and you're
6 talking to me about additional costs to do a
7 computer tape. If, under that current law, the
8 way it's structured, each local district
9 attorney would have to then pursue the case,
10 that's going to then cost an awful lot of money,
11 much more than a computer tape monthly going to
12 DSS and, by the way, the one for the child, what
13 is that, child support? Thank you -- is going
14 monthly already, so I don't see that as a real
15 big problem.

16 ACTING PRESIDENT KUHL: Senator
17 Leichter -- Senator Leichter, will you hold -
18 will you excuse me for just one moment. Could
19 we take just a 30-second break? Thank you.

20 Senator Leichter, thank you for
21 your indulgence. Senator Leichter still has the
22 floor.

23 SENATOR LEICHTER: Thank you, Mr.

1 President.

2 Senator Libous, I'm not sure I
3 understood the question, but I think I
4 understand the point you're trying to make. You
5 say obviously this law has not been enforced.
6 Obviously, your constituents don't know it
7 existed. It has been enforced. I have no
8 reason to believe that the law has not been
9 enforced. It's on the books and where a local
10 public welfare official has information that
11 somebody who received public assistance in the
12 last ten years has sufficient assets not by
13 winning the lottery of a million dollars or more
14 but for any grounds has sufficient assets, that
15 public welfare official has the obligation and
16 the right to go out and collect that money.

17 You -- you talk about district
18 attorneys. Nothing to do with district
19 attorneys. Not criminal; it's the local public
20 welfare official. It's not a mandate on
21 localities because the public welfare official
22 has available to him the local county attorney
23 and other people who are already paid, who may,

1 if it's necessary, go into court.

2 So there's no, there's no mandate
3 here; there's no cost. The right exists and
4 this is a logical law, doesn't limit it to
5 lottery. For whatever reason, if the person has
6 money, he or she has to return it to the state.

7 So I say again, Senator Libous,
8 you tell your constituents that this Legislature
9 is so smart they've already done what you want.
10 They did it in 1974, and they did it in a much
11 better, fairer and much more extensive uniform
12 fashion than exists under your bill. We don't
13 need this bill.

14 SENATOR GOLD: Mr. President.

15 ACTING PRESIDENT KUHL: Yes,
16 Senator Gold.

17 SENATOR GOLD: Mr. President -

18 ACTING PRESIDENT KUHL: Senator
19 Gold, just for the members' benefit, I have a
20 list going: Senator Gold, Senator Connor,
21 Senator Waldon are next.

22 Senator Gold.

23 SENATOR GOLD: Mr. President,

1 Senator Espada started on the right direction,
2 but I think there's a better idea. Senator,
3 when you talk about people going for blood and
4 they get blood and they come back for blood,
5 with that you opened up a door in my mind.

6 Now, there are about 1.6 million
7 people on public assistance; a third of them are
8 adults. Maybe Senator Libous, what you do is
9 you make them give blood at some place, get
10 their 50 bucks five times a year and we could
11 pick up a hundred million dollars from these
12 people. Maybe their blood is the way that we
13 get paid back in the system.

14 Senator Leichter is concerned
15 about the same names. Senator Leichter, you
16 know what they're going to tell you. If you win
17 the lottery, we'll have finger imaging, then we
18 can compare the finger imaging with the people
19 on public assistance. I dare anybody to put in
20 a bill for finger imaging for people who win the
21 lottery. I dare you. See what -- see what
22 happens when your -- when our law-abiding
23 citizens are told that the finger imaging is

1 really nothing. I mean, after all, we do it for
2 people who receive public assistance. Why, you
3 know, there's nothing wrong with it. There's
4 nothing degrading, Senator Galiber, about finger
5 imaging and all this. We can do it for lottery
6 winners. I'm sure they'll love it. I'm sure
7 they'll love it.

8 The bottom line is that there are
9 legitimate ways today. I won't repeat what
10 Senator Leichter said because the bottom line is
11 if the state wanted to do it, we have the names
12 of all of these winners and we have the names of
13 all the people on public assistance and, as a
14 matter of fact, we have other things. We have
15 the names of people in estates. We have the
16 names of people who get money in all kinds of
17 ways, and so the answer is that we seem to be
18 going today on bills that affect the poorest,
19 the minorities, and I don't know why we're doing
20 it. You want to take away licenses, as Senator
21 Galiber pointed out earlier. You're taking away
22 licenses from Afro-Americans and from Puerto
23 Ricans. You're not taking licenses away from

1 everybody who gets convicted of drug crimes and
2 here's a situation where you are trying to open
3 a door which is already open in a nice way, in a
4 clean way, and the state can do something about
5 it, and it makes no sense to come out of a
6 session where there's so much to do in this
7 state, and we keep making the poor the enemy,
8 and they are not our enemy. They are our
9 neighbors and they need our help. They don't
10 need our disdain.

11 ACTING PRESIDENT KUHL: The Chair
12 recognizes Senator Connor.

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

15 Mr. President, I've had a dollar
16 and a dream and it's never come through yet, but
17 I keep buying Lotto tickets, and I often, you
18 know, you see in the paper who won and I -- one
19 time my wife said to me, How come the people who
20 win are usually working people or poor folks.
21 Gee, you never see any millionaires win the
22 lottery, Lotto, and I said, That's why they're
23 millionaires; they're not wasting that dollar

1 every week buying the lottery ticket.

2 Do you know what the odds are in
3 Lotto, Mr. President? I do. Thirteen and a
4 half million to one that you will pick six
5 numbers, the six winning numbers, thirteen and a
6 half million to one. That's why I only play it
7 when the price goes over thirteen and a half
8 million dollars, because then I figure it's a
9 fair bet.

10 But it's not a fair bet. Why
11 not? Any prizes over a million dollars in the
12 New York State Lottery system, and Lotto is now
13 two and a half million, but assuming people
14 split a winning ticket, have to be paid out over
15 20 years. Go win a million dollars, you know,
16 take -- what would it work out to? Take 40
17 percent share in a ticket, you know, somebody
18 buys 60 percent, you buy 40 percent, you now won
19 a million dollars. You win a two and a half
20 million dollar prize. You will get fifty -
21 about \$50,000 a year, less taxes. You'll
22 collect about \$36,000 a year.

23 So, a big millionaire, and your

1 local reporters will say, "And here's
2 Binghamton's newest millionaire," he and his
3 friends won the lottery. Is he a millionaire
4 collecting 36- or \$37,000 a year? That's why the
5 whole Lotto thing, by the way, unless you hit a
6 \$20 million jackpot is a virtual fraud.

7 There was a story about a year
8 ago what happened to the lottery millionaires,
9 and they found a lot of them living in poverty
10 again. Why? So I won a million dollars in the
11 lottery, and you buy four new cars and a new
12 house and you suddenly realize, wait a minute,
13 you know, I won a million dollars. Gee whiz,
14 it's a nice income, \$50,000 a year for not
15 working, but you can't run four Mercedes and a
16 big brand new house in Florida and make the
17 payments.

18 So the fact of the matter is,
19 this bill is directed against people who won't
20 necessarily be so well off if they benefit the
21 odds of thirteen and a half million to one.

22 Now, if the odds of me or anyone
23 else buying a dollar ticket and winning a

1 million dollar or better jackpot in Lotto is
2 thirteen and a half million to one, what are the
3 odds that somebody who's not a particularly
4 lucky person, Mr. President -- if you've been on
5 welfare I wouldn't characterize you as Lady
6 Luck's -- Lady Luck's darling. You've had a lot
7 of bad luck in your life, if luck matters. What
8 are the odds of such an unlucky person, right?
9 who are -- one having the dollar to play and,
10 two, winning? I calculate it roughly at about
11 150 million to one that somebody on welfare
12 might win one of these jackpots, but for this we
13 need a law in case this very remote event, 150
14 to one odds occurs.

15 You know, we might as well pass a
16 bill telling the state what to do if the sky
17 falls. It's about as likely to happen as
18 someone who's been on welfare for ten years as
19 it is of winning a multi-million dollar
20 jackpot. That's a fact, Mr. President, and as
21 Senator Leichter pointed out, there is already a
22 law that deals with windfalls and people who
23 come into money who have been on welfare.

1 What Senator Libous' bill does -
2 doesn't deal with is, Well, what if somebody on
3 welfare in New York City takes the tubes over to
4 Jersey City and buys a \$3 million winner in the
5 New Jersey lottery, or what if somebody arrives
6 in New York, their luck changes immediately
7 because they've now arrived in the great Empire
8 State; they've been on welfare for ten years
9 some place else and now they hit the jackpot.
10 Oh, they can keep the money, because our Social
11 Services Department doesn't have a record on
12 them. So they hit New York, as has happened to
13 many people, their luck changes, they get to
14 keep it, but some person who gets lucky in New
15 York, well, they don't.

16 The other fallacy, this is the
17 million dollars. Senator Libous says, Oh, I
18 just picked a million dollars. The fact of the
19 matter is somebody who got a one-time hit in one
20 of the other lottery games for, say, \$800,000
21 gets it in one check, is -- check your financial
22 advisers -- a heck of a lot better off than the
23 guy who wins a million dollars and gets \$48,000

1 a year for the next 20 years, a lot better off.
2 Present value, present value of \$800,000 is
3 worth a lot more than the million dollars spread
4 over 20 years. The bill makes no sense.

5 But let's get real. What happens
6 on the street? Somebody -- you're tellin' me
7 somebody is going to win a million dollar
8 lottery, two million dollar prize and walk in
9 and say, "Here, it's me?" You don't have your
10 name on those tickets. They're bearer
11 instruments. They're going to get a friend or
12 relative to go in and claim it. Oh, yeah, they
13 may get the friend or relative may just take the
14 money and run, but I'll show you another one.

15 Bet it's never occurred to some
16 of the folks who don't know what it's really
17 like on the street. What did I say about
18 present value of money? There are, regrettably
19 people in our states and in our cities who have
20 a whole lot of cash, a whole lot of cash they
21 have to launder. They got it through the drug
22 trade or other illicit activities. O.K.? For
23 whatever reason, these people are more

1 accessible because they ply their illicit trades
2 disproportionately in poor neighborhoods and
3 feed off the misery of poor people.

4 So what do you do with your
5 million dollar winner, Senator Libous? Easy.
6 You find the flashy guy who lives in your
7 neighborhood who you know has suitcases full of
8 cash, who he can't take to the bank, he can't
9 clean up, he can't launder them in casinos any
10 more because now there's federal laws about
11 that. You go there with your winner; you say
12 this ticket is worth -- this ticket is worth
13 50,000 bucks a year but, if I hand it in, I've
14 been on welfare, they'll take the money away
15 from me and, believe me, some guy will give them
16 3-, 4-, \$500,000 cash on the barrelhead to take
17 that ticket, go in and now, in effect, launder
18 the money because the state Lottery will issue
19 that person who hasn't been on welfare the
20 money. That's how it really works.

21 This bill is a joke. It would
22 take people on the street about five minutes to
23 figure out how to get around this. I just gave

1 you the way, the obvious way. I got news for
2 you. There was a story in the New York Times a
3 few months ago about exactly how this is being
4 done today in New York City. The people who win
5 the lottery very often go, usually they get a
6 premium, usually they get a premium to launder
7 the money. They trade in the million dollar
8 ticket to a drug dealer who gives them \$1.1
9 million in present money, because now he's
10 cleaned up a million dollars of his money.

11 So this bill, Mr. President, is
12 not well thought out. It makes no sense. It's
13 an insult to the body to bring it out. It
14 simply doesn't address the problem. It doesn't
15 work in the real world, picks arbitrary
16 numbers.

17 What does it do? It addresses a
18 myth, a nasty dastardly myth that some people in
19 our state have, and that myth is that people on
20 welfare are indolent louts that hang around,
21 drink beer, play the lottery and gee, they win.
22 You know, talk to lottery players. Told you the
23 odds. Thirteen and a half million to one. Very

1 few people win the lottery. Millions play.
2 Very few win. What's the word? I've talked into
3 -- I've talked to people who win the lottery
4 regularly. Upstate you hear, Oh, it's always
5 somebody downstate wins; it's fixed. It's
6 always somebody in New York City wins, or Long
7 Island. You know, forget that 80 percent of the
8 tickets are sold down there. That's one myth.
9 That's why I don't win when I buy it in Albany;
10 it's always somebody downstate.

11 That's one myth, and the other
12 myth is it's always somebody else, somebody else
13 always gets. I don't win; somebody else gets.
14 Who? Well, somebody else, the people we like to
15 scapegoat. Somebody looks different than us,
16 lives somewhere different than us or is poor or
17 on welfare.

18 It is a myth, it is a simple myth
19 that mothers on AFDC are spending all their
20 money on lottery tickets? And winning? And
21 winning? Nobody's winning. It's just
22 scapegoating.

23 You have a bill here to answer a

1 myth of a couple of guys sitting around a barber
2 shop saying, "Aah," rippin' up their tickets, "I
3 didn't win either. Who won? Probably some guy
4 on welfare, bought himself a big Cadillac now
5 with this." That's what your bill is about.
6 It's petty, scapegoating. It addresses a
7 problem that doesn't exist. No one can even
8 point out one person on welfare who hit it big.
9 What I say is, if they did, God bless them.
10 About time they had some good luck.

11 Thank you, Mr. President.

12 ACTING PRESIDENT KUHL: The Chair
13 recognizes Senator Waldon.

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

16 I think all of the salient points
17 I wanted to make just about have been made, and
18 I applaud the previous speakers for being so
19 erudite in their approach to the subject matter.
20 I especially applaud Senator Pedro Espada, who I
21 thought was on the money in terms of the intent
22 -- excuse me -- of this proposal.

23 But I, too, play the lottery and

1 having played it since '76, I think -- I know
2 that they will not build a school in my name
3 because of what I've achieved here in these
4 Senate chambers, but maybe for the amount of
5 money that I've put into lottery tickets one day
6 they will name a school or classroom after me.

7 But, Senator Libous, if you would
8 just respond, Mr. President, if you would
9 approve, to a brief question or two to edify me
10 and perhaps some of our colleagues.

11 ACTING PRESIDENT KUHL: Senator
12 Libous yields, Senator Waldon.

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

15 Is there any proviso for one -
16 and I think Senator Connor addressed this, for
17 one who buys a ticket, for example, in
18 Australia? They have a big lottery there. They
19 have a lottery there, or in Germany, they have a
20 big lottery there, and they win. Is there a
21 proviso in your bill to cover those people?

22 SENATOR LIBOUS: No.

23 SENATOR WALDON: So, in effect,

1 you may chase people who are the welfare
2 recipients to other places to purchase tickets;
3 is that not a possibility from this legislation?

4 SENATOR LIBOUS: If they're using
5 welfare dollars to purchase lottery tickets and
6 they wish to purchase those tickets outside of
7 the state of New York, I guess they can do that,
8 yes.

9 SENATOR WALDON: Secondly, is
10 there any proviso in your bill for someone who
11 might really be shrewd and say, I'm not going to
12 buy a lottery ticket but what I'm going to do is
13 to buy several Pick 10 tickets which pay
14 \$500,000 per, and if I hit three that I've
15 purchased that's \$1,500,000 on one payout. Does
16 your bill cover that?

17 SENATOR LIBOUS: If it's a
18 million dollars, yes.

19 SENATOR WALDON: So all that is
20 necessary is that one go above the threshold of
21 a million dollars?

22 SENATOR LIBOUS: Yes, sir.

23 SENATOR WALDON: Is that when they

1 cash it in at at one time or over a period of
2 time, because you can buy the separate tickets
3 and cash them in up to a year at your will.

4 SENATOR LIBOUS: Mr. President,
5 if you win a million dollars in the lottery,
6 period.

7 SENATOR WALDON: Beg your pardon,
8 sir?

9 SENATOR LIBOUS: If you win a
10 million dollars. If you hit the lottery for a
11 million dollars.

12 SENATOR WALDON: Yeah, but you
13 say lottery. Pick 10 is not the generic
14 lottery. The four-number is not the generic
15 lottery, three-way number is not, Pick 10, Pick
16 5 is not the generic lottery. Someone could buy
17 several tickets, Mr. President, if I may
18 continue, and have an aggregate of over a
19 million dollars and not have to cash those
20 tickets in at one time.

21 SENATOR LIBOUS: Mr. President,
22 I'm having a difficult time hearing Senator
23 Waldon.

1 ACTING PRESIDENT KUHL: Your
2 point is well taken, Senator Libous. Could we
3 have a little order in the chamber, please.
4 Take the conversations outside the chamber,
5 please.

6 Senator Waldon, did you ask
7 Senator Libous to continue to yield?

8 SENATOR WALDON: Yes, I do, Mr.
9 President.

10 SENATOR LIBOUS: Mr. President,
11 now that I can hear Senator Waldon, I believe
12 that I can address his question.

13 I believe, Senator, that you have
14 to turn a lottery ticket in within a year of the
15 time it was purchased in order to redeem it so
16 that if your winnings would exceed a million
17 dollars within that period of time, then it
18 would fall under this bill.

19 SENATOR WALDON: So what you're
20 saying really is that, if I personally bought
21 three separate tickets on Pick 10, each one was
22 a winner; I cashed one in in April, one in July
23 and then one when we came for special session in

1 December, that because it would aggregate over a
2 million dollars, that I would qualify if I
3 happened to be on welfare?

4 SENATOR LIBOUS: Yes, sir.

5 SENATOR WALDON: O.K. Last -
6 last question. Aren't we in government -- Mr.
7 President, may I continue?

8 ACTING PRESIDENT KUHL: Senator
9 continues to yield.

10 SENATOR WALDON: In a
11 philosophical sense -- thank you, Mr.
12 President.

13 Senator Libous, aren't those of
14 us who toil here in this chamber in government,
15 who are the leaders of our respective communit
16 ies, we are the highest elected of the 300,000
17 people who represent community leader, aren't we
18 somehow philosophically bound to do the best
19 that we can for the least of those amongst us or
20 do you share that philosophical approach to
21 life?

22 SENATOR LIBOUS: Mr. President, I
23 know I do, yes.

1 SENATOR WALDON: Well, if we do
2 share that -

3 ACTING PRESIDENT KUHL: Senator
4 Libous, do you continue to yield?

5 SENATOR WALDON: If I may, Mr.
6 President.

7 SENATOR LIBOUS: Yes.

8 ACTING PRESIDENT KUHL: Senator
9 yields.

10 SENATOR WALDON: Wouldn't we
11 better spend our time, no pun intended, if we
12 were able to help those as best as we can who
13 are the least able by making it easier for them
14 to access a better way of life instead of
15 punishing them when they finally reach a better
16 way of life by winning the lottery?

17 SENATOR LIBOUS: Mr. President, I
18 think it just really is a matter of one's
19 opinion and judgment. There's no real way to
20 answer your question, Senator. There's 61
21 members of this house. We all try in our own
22 way to do everything we can to make New York
23 State a better state, and some of us have

1 different approaches. Some of us from upstate
2 have different approaches, some from downstate
3 have different approaches. So it is my belief
4 that everyone in this house in their own way
5 works extremely hard to try to make New York
6 State and the constituents that they represent a
7 better state, so I think that, Senator Waldon,
8 that statement is a true one.

9 SENATOR WALDON: Mr. President,
10 if I may, just briefly on the bill.

11 ACTING PRESIDENT KUHL: Senator
12 Waldon, on the bill.

13 SENATOR WALDON: I respect -- I
14 respect Senator Libous' explanation. As he just
15 stated, we are, I'm sure, all of us here working
16 as diligently as we know how in order to do what
17 we can for the people we represent and, in fact,
18 the whole state of New York.

19 I may say, Senator, on this issue
20 we differ. We differ with respect for each
21 other and for how we view the world, but I view
22 the world in a manner that -- in a Quixotic
23 sense. I'm here to chase windmills to help

1 people who are not able to help themselves, and
2 I think that in that regard, this is counter
3 productive to my philosophic approach and,
4 regrettably, I can not support you on this
5 issue.

6 Thank you Mr. President.

7 ACTING PRESIDENT KUHL: Is there
8 any other Senator wishing to be heard on this
9 bill? Hearing none, the Secretary will read the
10 last section.

11 THE SECRETARY: Section 3. This
12 act shall take effect on the first day of
13 January next succeeding the date on which it
14 shall have become a law.

15 ACTING PRESIDENT KUHL: Call the
16 roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT KUHL: When
19 tabulated, announce the results.

20 THE SECRETARY: Those recorded in
21 the negative on Calendar Number 1186 are Senat
22 ors Connor, Espada, Galiber, Gold, Leichter,
23 Mendez, Montgomery, Ohrenstein, Oppenheimer,

1 Paterson, Smith, Stavisky and Waldon. Ayes 43,
2 nays 13.

3 ACTING PRESIDENT KUHL: The bill
4 is passed.

5 Secretary will continue to call
6 the controversial calendar, regular order.

7 THE SECRETARY: Calendar Number
8 1255, by Senator Rath, Senate Bill Number 8604.

9 SENATOR PRESENT: Lay it aside
10 temporarily.

11 ACTING PRESIDENT KUHL: Lay the
12 bill aside temporarily.

13 THE SECRETARY: Calendar Number
14 1266, by Senator Stafford, Senate Bill Number
15 5387-A, an act to amend the Education Law.

16 SENATOR GOLD: Last section.

17 ACTING PRESIDENT KUHL: Secretary
18 will read the last section.

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

21 ACTING PRESIDENT KUHL: Call the
22 roll.

23 (The Secretary called the roll.)

1 THE SECRETARY: Ayes 55, nays
2 one, Senator Kruger recorded in the negative.

3 ACTING PRESIDENT KUHL: The bill
4 the passed.

5 THE SECRETARY: Calendar Number
6 1278, by member of the Assembly Harenberg,
7 Assembly Bill Number 10699, an act to amend the
8 Executive Law.

9 ACTING PRESIDENT KUHL: Secretary
10 will read the last section.

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

13 SENATOR GOLD: Explanation.

14 ACTING PRESIDENT KUHL: Senator
15 Johnson, an explanation has been asked by
16 Senator Gold of Calendar Number 1278.

17 SENATOR JOHNSON: Mr. President,
18 this is a bill which essentially says that -
19 it's similar to a bill which was vetoed last
20 year but is not identical.

21 This bill essentially says that
22 it will, as part of the Municipal Police
23 Training Council programs they will develop an

1 in-service training program for police officers
2 dealing with how to respond to crimes against
3 the elderly and procedures to be followed in
4 that case which are apparently a bit different
5 than in case of a crime against a younger
6 person.

7 This is an important bill for the
8 chairman of the Senior Citizen Committee in the
9 Assembly, Assemblyman Harenberg, and that's why
10 it's here today. It supplements the bill which
11 the Governor referred to last year, Chapter 111
12 of the Laws of 1983, and does not supplant it.

13 ACTING PRESIDENT KUHL: Chair
14 recognizes Senator Gold.

15 SENATOR GOLD: Yeah, Senator
16 Johnson, I just want to ask you one question.

17 ACTING PRESIDENT KUHL: Senator
18 Johnson, do you yield? Senator Johnson yields.

19 SENATOR GOLD: Senator, my only
20 question is, I notice that a number of years ago
21 there were problems between certain ethnic
22 groups in the city of New York, and I don't have
23 to mention them now, but what came out of those

1 problems was a question as to whether or not
2 each group understood certain -- how should I
3 say, mores, customs of the other group, and what
4 I'm just curious about is I think that dealing
5 with the elderly and all of that is very
6 important.

7 Are there any similar programs
8 that would make the police training more
9 sensitive when you have police officers that are
10 going into particular ethnic areas so that they
11 understand the -- the customs and the -- the
12 traditions of the people, so that they don't
13 misunderstand things that may be done which are
14 really not meant to be offensive, but which
15 basically are just custom?

16 SENATOR JOHNSON: Senator, I
17 don't know, but under the -- under the law which
18 I referred to which was passed last year it
19 certainly could be addressed in the training
20 program, and I think it should be. We don't
21 need a special bill and maybe the argument is we
22 don't need this. The reason I'm carrying this
23 is because the chairman in the other house wants

1 it. I agreed to carry it and, as I say, it
2 can't do any harm. Like chicken soup.

3 ACTING PRESIDENT KUHL: Secretary
4 will read the last section.

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

7 ACTING PRESIDENT KUHL: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 56.

11 ACTING PRESIDENT KUHL: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 1287, by Senator Rath.

15 SENATOR PRESENT: Lay aside.

16 ACTING PRESIDENT KUHL: Lay the
17 bill aside.

18 THE SECRETARY: Calendar Number
19 1289, by Senator Saland, Senate Bill Number
20 8642, an act to amend the Family Court Act, the
21 Executive Law and the Criminal Procedure Law.

22 SENATOR GOLD: Explanation.

23 ACTING PRESIDENT KUHL: Senator

1 Saland, an explanation has been asked for by
2 Senator Gold.

3 SENATOR SALAND: Thank you, Mr.
4 President.

5 Mr. President, this is the Family
6 Protection and Domestic Violence Intervention
7 Act of 1994. It is the culmination of some
8 extensive efforts on behalf of the Children and
9 Families Committee of the Senate.

10 It represents the product of some
11 seven hearings that have been conducted state
12 wide, in Buffalo, Rochester, Syracuse, Albany,
13 Poughkeepsie, Manhattan and Mineola. It repre
14 sents the product of the input of numerous
15 advocates, survivors, law enforcement personnel,
16 judges, people who quite literally walked on in
17 response to the notices that they received and
18 offered us testimony regarding the agonies that
19 they have had to endure as victims or survivors
20 of domestic violence.

21 It represents the end product of
22 efforts of myself, Assemblywoman Helene
23 Weinstein, the chair of the Judiciary Committee

1 in the Assembly, and I would like to thank
2 members of my staff, particularly Jules Kerness
3 and Gil Abramson, for their extensive efforts.

4 I would like to thank my many
5 colleagues who joined me at various hearings
6 throughout the state, offered their support,
7 their assistance, their expertise at various and
8 sundry points along this way.

9 This legislation is truly
10 landmark legislation. It basically represents
11 an entirely new framework by which New York is
12 going to deal with domestic violence.

13 Domestic violence is one of the
14 most ugliest of events that anybody can possibly
15 be forced to endure, and it's ugly not only by
16 reason of what occurs so frequently. There are
17 people who are maimed, people who are battered
18 and yes, people who are killed, and yes, we are
19 all aware, the focus of the nation has been
20 riveted by reason of the event in California
21 involving O.J. Simpson. But there are tens of
22 thousands of nameless, faceless people in this
23 state and throughout our country who have been

1 similarly victimized, and there was no huge
2 outcry.

3 This bill provides a framework, a
4 very aggressive framework, by which we're going
5 to create a new ethic in the state of New York
6 by which to deal with domestic violence. We are
7 going to create a mechanism that's going to
8 intervene earlier, and that intervention is
9 going to save lives and save people from
10 injury.

11 We're creating a means by which
12 New York will have, uniformly across this state,
13 a mandatory arrest policy. There will be
14 arrests that occur, because there has been a
15 felony committed between members of a family.
16 There will be arrests that will occur because of
17 the violation of an outstanding order of
18 protection; that is, a stay-away order of
19 protection. There will be arrests that will
20 occur by reason of the commission of
21 misdemeanors, certain misdemeanors those that
22 are currently family offenses, and this bill
23 will also add to those family offenses the

1 stalking crimes that have been created by this
2 Legislature during prior sessions.

3 In the case of those
4 misdemeanors, a victim will have the opportunity
5 unlike the instance of the felony, in which to
6 say, "I do not want that arrest to occur." We
7 are creating a mechanism whereby the current law
8 which provides for one-year orders of protection
9 can be expanded to three years on a finding of
10 aggravated circumstances. Those aggravated
11 circumstances can include acts of physical
12 violence, can include prior violations of orders
13 of protection, can include injury, can include
14 the presence of a weapon. That will be a
15 determination for the court. We have certainly
16 provided them with very broad parameters by
17 which to provide for those expanded orders of
18 protection.

19 The so-called right of election
20 or choice of forum, New York being the only
21 state left in the Union which requires a victim
22 to make a decision, in effect, giving that
23 person -- and again, 90 to 95 percent of the

1 time a woman -- only 72 hours in which to change
2 her mind and choose another forum, so that
3 currently the woman who goes to Family Court who
4 has perhaps been badly battered and decides
5 perhaps a week later that justice in her case
6 requires her being in a criminal court, is
7 barred forevermore from doing that under our
8 existing law. That will not be tolerated under
9 this new law. There will be concurrent
10 jurisdiction that will enable a victim, enable a
11 woman, enable a survivor, who has made
12 application or petitioned the Family Court, to
13 go to a criminal court, notwithstanding the fact
14 that she has been in a Family Court.

15 We are creating a statewide
16 registry for orders of protection. That becomes
17 very, very important particularly if we're going
18 to create the ability to arrest for the
19 violation of an order of protection. It will
20 contain information regarding outstanding
21 warrants, and outstanding orders of protection
22 and, much like the operation that occurs when a
23 policeman may stop somebody at the side of a

1 road, returns to his car, pushes whatever
2 buttons he has to push in his car to find out if
3 there is an outstanding warrant, police will be
4 able to do similarly with respect to orders of
5 protection.

6 When we passed the State
7 Operations Budget earlier this year, we provided
8 some \$500,000 for training money, training for
9 law enforcement personnel, including veteran
10 personnel who may have never received any
11 training with regard to the issues of domestic
12 violence, training for prosecutors and training
13 for judges, and we have been assured by the OCA
14 that they will participate in that training.

15 We had many, many dramatic
16 moments during these hearings, but I can well
17 recall particularly being on Long Island and I
18 believe at that time Senator Skelos, who was one
19 of those who were participating -- there were
20 others there -- there was a woman who, at the
21 conclusion of the regular testimony, asked if
22 she might speak and, as we did at all the
23 hearings, we certainly permitted those who

1 hadn't previously come forward, to have that
2 opportunity.

3 And she said, "I am the wife," or
4 she may have even said former wife, I can't
5 recall at this moment, "of a police officer."
6 She said, "I went through this ugly tragedy.
7 I'm a victim, I've been battered. I'm a
8 survivor. Everything I've heard during the
9 course of your comments today and the testimony
10 that's been offered by all those who have
11 testified, I couldn't agree more wholeheartedly
12 with, and were those things available to me when
13 I endured my plight, it certainly would have
14 made things easier for me. However,
15 notwithstanding all of those good things,
16 understand I gave up my home, my child, and I
17 left our home. I've given up my community and,
18 by reason of having to flee, I've been made
19 destitute. I bounced around the courts trying
20 to get a support order and it took me forever to
21 accomplish that."

22 Well, based upon that woman's
23 testimony and she, in effect, pleaded very

1 eloquently and very passionately, "Can you do
2 something about it? Can you give me a mechanism
3 by which myself or others like me can
4 immediately gain access to an order of support?"

5 Well, based on that testimony,
6 that woman's testimony, we created a mechanism
7 to accomplish that in this bill, so that
8 contemporaneously with making an application for
9 an order of protection, you will also be able to
10 make an application for an order of support.

11 There is a host of things in
12 here, and I think if there is one message that
13 we want to send out with passage of this
14 legislation -- and this legislation will pass in
15 the Assembly later today and we'll make every
16 effort to get it down to the Governor within
17 this day -- but if there is any effort that we
18 would like to be known for, it is that we're
19 saying, Enough is enough. We have not taken
20 domestic violence seriously enough. The
21 canards, the myths have basically perpetually
22 perpetuated domestic violence. We want a
23 proactive aggressive means of dealing with

1 domestic violence. We want people to know that
2 at every opportunity, if they choose to batter,
3 they're going to feel the weight of the criminal
4 law at each and every instance where that will
5 be available.

6 That new ethic is going to create
7 earlier intervention. It's going to create the
8 ability for people to gain access to support, to
9 gain access to shelter, to gain access to the
10 full force of the law more readily than has ever
11 occurred in the history of our state.

12 I take great pride in the efforts
13 that have brought us here today. I'm thankful
14 to so many, both within this house, in the other
15 house, members of staff, and especially thankful
16 for all of those who offered us their advice and
17 counsel, again the advocates, law enforcement,
18 the judges, and those who had the courage,
19 people who have suffered the greatest of in
20 dignities, to come forward, share those tragic
21 moments with us, and move us along in this
22 process.

23 It's a bill that's always been

1 right. It's a bill that's right today, right
2 tomorrow. This is going to become law in the
3 state of New York, and we all will consider this
4 to be a moment for which we can be proud.

5 Thank you, Mr. President.

6 ACTING PRESIDENT KUHL: Senator
7 Galiber, why do you rise?

8 SENATOR GALIBER: Yes, Senator, I
9 didn't want to interrupt. Would you yield for a
10 question?

11 ACTING PRESIDENT KUHL: Senator
12 yields.

13 SENATOR GALIBER: First off, I
14 want to take this opportunity, since I'm on my
15 feet, to congratulate you and your staff in the
16 fact that this is something that's been needed
17 for a long, long while, but one part of the
18 legislation, and one of the things that probably
19 motivated this legislation was the arbitrary and
20 perhaps capricious way that police officers and
21 law enforcement people -- not criticizing -
22 handled orders of protection.

23 Now, you've mentioned victims

1 throughout your bill, but in your presentation
2 you mentioned mostly women. Because of the
3 attitudinal factors involved with police
4 officers, does this bill also apply to those
5 persons of the -- male persons who find
6 themselves in the same position?

7 SENATOR SALAND: Yes, this -- as
8 I mentioned in my comments, the people who are
9 generally on the receiving end of domestic
10 violence, the victims or survivors, 90 to 95
11 percent of the time, are women. There are
12 certainly reported instances in which men are
13 the victims as well and I -- I regret if I was
14 not clear enough to address that, but it
15 certainly -- this is not -- this is gender
16 neutral. It's not -- it's not gender-specific.

17 SENATOR GALIBER: It was no
18 reflection on you, it was just the times here,
19 you know, that we find the reverse happening
20 with the attitudes of law enforcement, and
21 that's been one of my concerns about orders of
22 protection. The instant system will not issue
23 orders of protection, however ineffective they

1 are, to males. It's always been for the males
2 stay away from the wives or the other spouse.
3 That's why I wanted, in the course of the debate
4 on this historical piece of legislation for our
5 stated word to be the intent of the sponsor of
6 the bill and those of us who vote for it, that
7 it also includes other than females.

8 SENATOR SALAND: Thank you,
9 Senator.

10 ACTING PRESIDENT KUHL: For the
11 benefit of the members who intend to debate this
12 bill, there is a list going of the Chair which
13 is quite extensive at this point. The next
14 speaker will be Senator DeFrancisco, then
15 Senator Oppenheimer, then Senator Dollinger,
16 Senator Rath, Senator Goodman, Senator Jones,
17 Senator Nozzolio and Senator Larkin.

18 The Chair recognizes Senator
19 DeFrancisco.

20 SENATOR DeFRANCISCO: Thank you,
21 Mr. President. I think this is an extremely
22 important bill that I was happy to co-sponsor.

23 I rise on one specific issue that

1 I think is important. From time to time this
2 body gets criticized, sometimes fairly,
3 sometimes unfairly, and I've already seen a
4 series of releases, a series of reports
5 indicating that it's really too bad that it
6 takes a situation like the O.J. Simpson matter
7 to wake up the Legislature into doing what they
8 should have done a long time ago.

9 Now, maybe in some instances
10 that's correct, but I think it's extremely
11 important to point out and emphasize what
12 Senator Saland has already said, that this
13 didn't just happen last week. This just didn't
14 happen over the last few months. This has been
15 an ongoing process that he has taken the lead on
16 over the last year and a half to two years, and
17 I think that's important to emphasize.

18 He mentioned the hearings that
19 took place throughout the state. I had a group
20 of people in my area in Syracuse ask that
21 hearings be brought there as well. They weren't
22 originally scheduled in Syracuse, but Senator
23 Saland agreed to do that, and he heard some

1 testimony in Syracuse. There were numerous
2 bills out there with different good parts and
3 different bad parts that had to be put all
4 together to make one comprehensive bill that
5 resulted in the bill that we're now voting on
6 that took time and effort. There were technical
7 changes that I believe had to be made and we
8 were given the opportunity to present those
9 technical changes to Senator Saland for their
10 inclusion in this particular bill.

11 And there was a opportunity for
12 the bill to be improved by the people who
13 testified, which is -- which was given by the
14 example of Senator Saland of the Long Island
15 woman.

16 So I think it should be
17 emphasized that this simply is not a knee-jerk
18 reaction to an event that happened last week.
19 This has been a long process, a very thorough
20 process, a very thoughtful process, that
21 resulted in this bill, and I'm pleased to be a
22 co-sponsor and Senator Saland should be given
23 great credit for his leadership.

1 ACTING PRESIDENT KUHL: The Chair
2 recognizes Senator Oppenheimer.

3 SENATOR OPPENHEIMER: I think
4 it's absolutely remarkable that someone -- that
5 people out there are saying this is a response
6 to the O.J. Simpson case. This is an omnibus
7 bill and, if they think that the New York State
8 Legislature can act so quickly, they really
9 don't know anything about us, because we take a
10 lot of deliberation and careful thought before
11 we move anything, and this size bill doesn't
12 come out in one week.

13 I would like to ask Senator
14 Saland a question, if he would yield. Oh, I
15 have the floor. Senator Saland, would you
16 answer a question, please?

17 SENATOR SALAND: Certainly,
18 Senator.

19 ACTING PRESIDENT KUHL: Senator
20 Saland do you yield to a question of Senator
21 Oppenheimer?

22 SENATOR SALAND: Yes, Mr.
23 President.

1 ACTING PRESIDENT KUHL: Senator
2 Saland yields. Senator Oppenheimer.

3 SENATOR OPPENHEIMER: This is one
4 thing that is of concern to me. You were
5 saying, Enough is enough, and I certainly
6 concur. As you know, I've put in a lot of
7 effort on this issue of domestic violence too,
8 and I certainly hope I will be a co-sponsor of
9 the bill.

10 But when you say enough is enough
11 I was thinking in the sentencing, we really
12 haven't changed the sentencing, so that the
13 batterer could easily, after the few days in
14 jail, come out and shoot the woman which is like
15 90 to 95 percent of the cases, Senator Galiber.
16 Women are usually the ones that are being
17 battered, and that's 90 to 95 percent of all
18 cases.

19 But I was saying that they could
20 come and attack the -- the victim in the
21 apartment, in the court, shoot them before
22 there's ever an opportunity to address it, so
23 have we addressed the sentencing issue? I don't

1 see that.

2 SENATOR SALAND: Let me suggest
3 to you, Senator, that while I certainly consider
4 this to be a major victory in terms of the
5 battle against domestic violence, I'm not quite
6 prepared to tell you that the war is over. That
7 would be unrealistic.

8 There are things that we're doing
9 here, first and foremost. You're talking about
10 mandatory arrest. You're also talking about
11 somebody not getting a second bite out of the
12 apple in terms of a violation of an order of
13 protection where there's a stay-away provision,
14 and let me also add that where you have a
15 violation of an order of protection and you
16 injure -- cause injury to somebody, we're now
17 talking criminal contempt, an "E" felony. In
18 addition, if there was a prior outstanding order
19 of protection within the preceding five years,
20 you can be held accountable under that criminal
21 contempt section for any felony.

22 We've expanded the period of
23 orders of protection from one to three years or

1 the ability to do that, but what you have to
2 also understand is, as I said earlier, we're
3 trying to change the framework. We have changed
4 the framework, and more appropriately we're
5 changing the ethic, because we are going to be
6 training everybody who's involved in the
7 process, whether they're prosecutors, judges or
8 law enforcement personnel.

9 We are, I believe, here creating
10 an extraordinarily well tuned early intervention
11 mechanism. Is it all going to change as rapidly
12 as you or I would like? No, I couldn't, in all
13 honesty, say that, but it will change and it
14 will change fairly rapidly as we change
15 attitudes and as we, even within the ranks of
16 the professionals who are supposed to be admin
17 istering and enforcing these laws, and we're
18 also changing attitudes really in the general
19 public, that domestic violence is serious, it's
20 not a mere familial matter and it's not
21 something for the proverbial "walk around the
22 block, be a good boy, cool off; otherwise I'm
23 going back." We want intervention, we want it

1 early, we want it effective. We want to bring
2 the scourge of domestic violence to an end as
3 quickly as we can.

4 SENATOR OPPENHEIMER: Yes, and I
5 appreciate what you're saying, that this is
6 certainly a superb beginning. My fear is that
7 the batterer would come back after those few
8 days and the woman -

9 SENATOR SALAND: If the batterer
10 comes -

11 SENATOR OPPENHEIMER: -- and the
12 woman would be dead before -

13 SENATOR SALAND: If the batterer
14 comes back and the woman, assuming we're talking
15 again a woman here, picks up the telephone and
16 calls, unlike the current law, that person will
17 be arrested and in all likelihood will be
18 charged with a felony criminal contempt.

19 SENATOR OPPENHEIMER: Thank you,
20 Senator. On the bill.

21 ACTING PRESIDENT KUHL: Senator
22 Oppenheimer, on the bill.

23 SENATOR OPPENHEIMER: I want to

1 congratulate the Senator because this is an
2 excellent bill that has made many very important
3 and significant changes, and I think it's an
4 excellent criminal justice bill, and I think we
5 finally negotiated many issues that have been
6 around for years and years, and it is very re
7 warding to see that it is -- much of it is
8 encompassed in this bill.

9 As you know, the things that have
10 been mentioned by Senator Saland, I think almost
11 every one I would applaud, the pro-arrest policy
12 which is now called a mandatory arrest policy,
13 the repeal of the choice of forum, with the
14 concurrent jurisdiction, the no longer having a
15 72-hour window for victims, which was an absurd
16 situation, we were the only state in the entire
17 nation that had that.

18 I think the standard form
19 particularly is significant, and that the notice
20 to the victim will be in Spanish as well as
21 English, I think is an important understanding
22 of the composition of society in this state
23 now. The orders of protection from one to three

1 years length, that's excellent. The statewide
2 computerized registry of orders of protection
3 and arrest warrants, excellent. The mandated
4 training, superb.

5 I have one problem, and this one
6 area I hope that in the future we will be able
7 to correct, and that is the definition of
8 "family." I have think that the definition that
9 we are using in this bill does not really
10 reflect the composition of society as we know it
11 today in our state. The definition in the bill,
12 the -- is members of the same family or
13 household defined as persons related by blood or
14 marriage, current or former spouses, or persons
15 who have a child in common.

16 It would be humorous if it
17 weren't potentially tragic that a police could
18 enter a home and see a potential batterer, more
19 often than not a man, battering a woman and quiz
20 that couple, Are you married? Do you have a
21 child in common, if you are not married?

22 We have to take care of the crime
23 that's going on then or a person is battering

1 another person, and we do have in our Social
2 Services Law a definition of "family" which I
3 think exists and which I think should in the
4 future be looked at as an addition to this law
5 because it takes into account that many people
6 live together who are not married, who are
7 potentially being battered, where we ought to
8 intercede, and right now, if they do not meet
9 this definition, there is no opportunity for
10 this law to apply, and I think that is an
11 important change that I would hope to work
12 towards in the future.

13 Also, I would like to mention
14 that not in the area of the criminal justice
15 law, but in certainly related issues that I have
16 defined in a report that is coming out within
17 the next day or two from my Task Force on
18 Women's Issues, which deals with domestic
19 violence as a woman's health issue, and what
20 happens in that arena will -- the result of this
21 law is going to be felt in that arena.

22 We have to certainly provide
23 education for our youngsters so that they

1 understand the nature of domestic violence and
2 they find alternative methods to resolve violent
3 situations.

4 We need, most assuredly, to
5 increase the number of our shelter beds if this
6 law is going to protect battered women. Many
7 times they have to remove themselves from the
8 site, from the home. Presently, we are turning
9 away more people from our very limited shelters
10 than we are accepting. If we want to help these
11 women escape the battering situation, we simply
12 must do more. We must put money behind our
13 words, and we must provide more shelters for
14 these women.

15 In another arena, we know that,
16 in emergency rooms in hospitals, that about 25
17 to one-third -- 25 percent to 33 percent of the
18 women who come into emergency rooms are there
19 because of domestic violence. If we describe
20 the issue -- describe the situation as it is
21 seen, and many doctors know what they're seeing,
22 they know they're seeing domestic violence, but
23 instead they merely repair the broken arm or the

1 broken leg. One of the reasons they don't write
2 down what it is that they know to be the truth
3 is because they have no place to put this woman
4 who they see as battered, nor do they have any
5 social service worker in the emergency room to
6 assist them. If we do not do something about
7 this, there is no way that the woman coming into
8 the emergency room will find any respite, and
9 will have her needs taken care of because
10 setting the leg is not what her problem is.

11 Furthermore, we have seen and we
12 do believe now, as opposed to many years ago,
13 that domestic violence is a community problem.
14 It is not only an individual's problem. We have
15 in our state five batterers' programs. They're
16 non-residential. I would propose and, in my
17 report, I do propose and this is something that
18 I would like to look at for the session, I
19 propose that we create residential batterers'
20 programs, so that the woman and more often than
21 not the children with the woman will not have to
22 leave the home, but rather the batterer will be
23 required to leave the home and the children can

1 continue in their environment, in their school
2 setting, and the responsibility for leaving the
3 home site will not be the battered person, but
4 rather the batterer.

5 So these are things I think we
6 will have to consider, and we will have to put
7 funding behind them, and it probably will not be
8 inexpensive but, if we are going to protect
9 people, we have to give them alternatives and
10 that is what my report is about, and it will be
11 out next week.

12 Senator Saland?

13 ACTING PRESIDENT KUHL: Senator
14 Saland, why do you rise?

15 SENATOR SALAND: Mr. President,
16 if I might have the opportunity to respond to -
17 to -

18 ACTING PRESIDENT KUHL: Did you
19 want to ask a question, Senator Saland? We have
20 a list of probably eight more speakers?

21 SENATOR SALAND: Well, in
22 response, if I might, to Senator Oppenheimer's
23 concern about the availability of services at a

1 hospital or the number of people who go through
2 an emergency room, I would just like to point
3 out that the standardized notice form which has
4 been improved and expanded will be available at
5 hospitals under this bill and would be
6 distributed to emergency rooms to victims of
7 domestic violence.

8 ACTING PRESIDENT KUHL: The Chair
9 recognizes -- Senator Oppenheimer, are you done?

10 SENATOR OPPENHEIMER: Just to
11 respond if I might. Yes, and that's an
12 excellent step, and I applaud that step, Senator
13 Saland, but very often victims coming into
14 emergency rooms are very unsettled, very
15 nervous, very often unable to read what's placed
16 before them, and we try to encourage them to -
17 to read the pieces of paper that sometimes are
18 available now and we find that hasn't been very
19 successful.

20 What is successful is the
21 intervention of a social service person who will
22 talk to them and try and help them work through
23 the various alternatives that are available, but

1 I do recognize that that is a big improvement.

2 ACTING PRESIDENT KUHL: The Chair
3 recognizes Senator Dollinger.

4 SENATOR DOLLINGER: Thank you,
5 Mr. President. Would the sponsor yield to a
6 couple questions?

7 ACTING PRESIDENT KUHL: Senator
8 Saland, do you yield to Senator Dollinger?

9 SENATOR SALAND: Certainly, Mr.
10 President.

11 ACTING PRESIDENT KUHL: Senator
12 Saland yields.

13 SENATOR DOLLINGER: Senator, I
14 preface my questions with a commendation to you
15 and your Committee for what I think is a very
16 fine bill. Some of the questions that I have
17 today are meant to highlight for legislative
18 history purposes some of the issues that I think
19 a practitioner would look at in examining this
20 statute and I -- in other ways, they are just
21 suggestions for perhaps things that the
22 Committee could deal with in the future to
23 perhaps improve this bill and make it even

1 better.

2 Let me start, if I can, and I
3 apologize for being somewhat technical, but in a
4 couple areas, they're somewhat technical and in
5 other areas they're broader.

6 If we could, turn to page 4, line
7 46 and 47 in that area. It deals with the
8 advice in the notice to the victim, and it says
9 here, you may also seek -- the Family Court may
10 also order the payment of temporary child
11 support and award temporary custody of your
12 children.

13 One of the issues that I'm
14 concerned about is the economics of enforcing
15 this bill. How do you make it work? Because
16 one of the deterrents to someone going into a
17 courtroom is that they have to pay a lawyer to
18 be able to do it. Is it possible, did -- during
19 the deliberation on this bill, did you consider
20 the possibility of making it express that the
21 court would order attorney's fees at that point
22 or notifying them that they can get their
23 attorney's fees paid, both for the fees that

1 they incur in the petition and that they might
2 have to incur in the -- in the resolution of
3 this thing in the Family Court?

4 SENATOR SALAND: Would you
5 please? You're asking about the availability of
6 counsel fees?

7 SENATOR DOLLINGER: Correct. In
8 the notice, one of the deterrents in the Family
9 Court process is that often in these instances
10 when someone who is the victim encounters the
11 prospect of going into court to enforce an order
12 of protection or obtain an order of protection
13 there are significant counsel fees attached to
14 that.

15 My question is, was there a
16 discussion about, in the notice to the victim,
17 suggesting that you can get those counsel fees
18 paid or that you can get an order for counsel
19 fees both for the fees that you incur in getting
20 the original order of protection as well as any
21 other fees that you may run into in?

22 SENATOR SALAND: Most of -- well,
23 first, the reference to award of temporary

1 custody, that is really existing law. We've
2 done nothing to change existing law.

3 SENATOR DOLLINGER: Right.

4 SENATOR SALAND: Secondly, most
5 of your applications, if they happen to be in
6 your local criminal court, would either be pro
7 se or through the district attorney, so we're
8 really talking about Family Court and again, at
9 least at the initial appearance, your
10 application in all likelihood would be made pro
11 se.

12 SENATOR DOLLINGER: But, again
13 through you, Mr. President.

14 ACTING PRESIDENT KUHL: Senator
15 Saland continue to yield?

16 SENATOR SALAND: Certainly.

17 SENATOR DOLLINGER: Is it my
18 understanding if you went to the criminal court,
19 the district attorney would then be representing
20 you in your petition for temporary custody of
21 the children?

22 SENATOR SALAND: No, we're just
23 talking about the application for the order of

1 protection. There is nothing that we've done
2 here that changes anything dealing with how the
3 courts will treat applications for temporary
4 custody.

5 SENATOR DOLLINGER: O.K.

6 SENATOR SALAND: We've merely
7 included it in the notice provision.

8 SENATOR DOLLINGER: O.K.

9 SENATOR SALAND: We've done
10 nothing substantively to deal with the issue of
11 custody in this bill.

12 SENATOR DOLLINGER: O.K.

13 SENATOR SALAND: Just apprising
14 the person who will get the notice that this is
15 one of the things that he or sometimes she will
16 have the availability to make application for.

17 SENATOR DOLLINGER: O.K. And I
18 appreciate that. Now I understand that. I
19 would just urge the Committee if they could take
20 another look at this some time in the future, as
21 Senator Oppenheimer has done, to say not only do
22 you say that the Family Court can award you
23 temporary custody of the children, they can also

1 award you the temporary payment of child
2 support, but they can award you the temporary
3 order of counsel fees in the Family Court so you
4 can be represented by a private practitioner and
5 I understand that the courts have broad
6 discretion to do that in this state, but I think
7 it's important at this time when they're making
8 up their minds what are my options, what do I
9 do, to know that they also have the availability
10 of having their counsel costs covered during
11 that process, so I think that might be an
12 important thing to tuck into the notice at some
13 time in the future.

14 Let's turn, if we can, to the
15 mandatory arrest policy, again through you Mr.
16 President.

17 ACTING PRESIDENT KUHL: Senator
18 Saland, do you continue to yield?

19 SENATOR SALAND: Yes, Mr.
20 President.

21 ACTING PRESIDENT KUHL: Senator
22 continues to yield.

23 SENATOR DOLLINGER: And it's my

1 anticipation, Senator, and I would guess as it
2 is yours that this will be the area where you
3 will see a lot of litigation dealing with the
4 mandatory arrest provisions, and what I'd like
5 to do is again turn to, it's page 13, lines 46
6 through -- following.

7 It says that there will be an
8 arrest at such time, if there's a felony occurs,
9 or when a duly served order of protection is in
10 effect or an order of which the respondent and
11 defendant has actual notice because he was
12 present in the courtroom when such order was
13 issued.

14 How does the police officer on
15 the scene make that determination, that is when
16 the order has been issued, or excuse me, the
17 order has been applied from, it's been granted
18 by the court but nobody has actually got a copy
19 of it because we're in the stage where we're
20 waiting for the Family Court.

21 SENATOR SALAND: That is the
22 purpose of the central registry, and understand
23 the way this bill is timed by way of effective

1 date. The training component begins
2 immediately. The mandatory arrest component
3 begins on July 1 of '95. In the interim, we
4 have every expectation, as I said earlier, we've
5 been negotiating this bill for quite some time.
6 We also have spoken with people on the
7 Governor's staff. The central registry is not
8 going to be any problem, it will be on line in
9 advance of the mandatory arrest component.

10 SENATOR DOLLINGER: O.K. Again -

11 SENATOR SALAND: Oh, and again
12 using the example I gave you, it's critical to
13 this that, when someone goes to investigate,
14 that they have the ability to answer the
15 question that you want answered.

16 SENATOR DOLLINGER: Right.

17 SENATOR SALAND: Is there an
18 outstanding order?

19 SENATOR DOLLINGER: Right, and I
20 think again through you, Mr. President, if I may
21 be allowed to continue this colloquy.

22 ACTING PRESIDENT KUHL: Senator
23 Saland, do you continue to yield? Senator does.

1 SENATOR DOLLINGER: It's not just
2 that they know that there's an outstanding order
3 but if there is no order on file but yet it has
4 been granted by the court with the defendant
5 present, what I think this bill says is that, or
6 at least the way I read it, is that you not only
7 have to know that there is an order issued but
8 you have to know the defendant was there at the
9 time it was issued.

10 SENATOR SALAND: No, no, no, no.
11 What this bill does -- there's two things we're
12 attempting to accomplish with the notice.
13 Number one, we're attempting to make sure that,
14 if there's a predicate, a pre-existing order,
15 that the police have the ability to make that
16 determination.

17 SENATOR DOLLINGER: Right.

18 SENATOR SALAND: Also there has
19 to be, in order for this to be effective, the
20 respondent or the defendant has to be apprised
21 of the fact that there is an outstanding order
22 and what we're saying is the fact that that
23 respondent or defendant was present in court and

1 received actual notice is good enough for him.

2 SENATOR DOLLINGER: Right. I
3 understand that again through you, Mr.
4 President.

5 ACTING PRESIDENT KUHL: Senator
6 Saland to yield.

7 SENATOR DOLLINGER: But how do
8 you determine whether he's got actual notice at
9 the time you walk in? You know that the order
10 is on file with the registry, is that correct? I
11 mean we're putting the order on file with the
12 registry.

13 SENATOR SALAND: Correct.

14 SENATOR DOLLINGER: Is there
15 going to be something in the registry that says
16 that the defendant was present at the time that
17 order was issued?

18 SENATOR SALAND: It some -- it
19 will be a -- the order of protection filed in
20 the registry will be the predicate that enables
21 the investigating officer to make his arrest for
22 the violation of the prior stay-away order. The
23 defendant or the respondent, if he says, "I was

1 never served with a copy of that order," the
2 registry has him as the order having been
3 served. If he's going to deny that he was ever
4 served as a defense, the fact that he was
5 present in court and received notice in court is
6 not going to defeat that prior order of
7 protection being the predicate for the arrest.

8 SENATOR DOLLINGER: And again
9 through you, Mr. President, I see the logic of
10 that, and I think that's a good idea. My
11 question is, is there going to be anything in
12 the registry that tells the police at the time
13 they make this arrest that, even though the
14 order wasn't served, the defendant was
15 nonetheless present in the courtroom and,
16 therefore, as you properly point out, he does
17 have actual notice? He can't use the defense of
18 "I didn't get it."

19 SENATOR SALAND: The elements -
20 there will be as part and parcel of this bill,
21 there will be forms that will be put together to
22 be used in conjunction with the registry which
23 will incorporate whether the respondent was, in

1 fact, present at that time.

2 SENATOR DOLLINGER: O.K. So again
3 through you, Mr. President, what that says is
4 the registry by referring to the registry at the
5 time the police make the decision to intervene
6 or are involved in this domestic situation, they
7 will be able to check the computerized registry
8 and determine whether -

9 SENATOR SALAND: Assumedly in a
10 matter of seconds.

11 SENATOR DOLLINGER: O.K. But they
12 will know whether he's present or not.

13 SENATOR SALAND: Correct.

14 SENATOR DOLLINGER: O.K. That's
15 instructive as well. Just again through you,
16 Mr. President.

17 ACTING PRESIDENT KUHL: Senator
18 Saland, do you continue to yield? Senator
19 Saland continues to yield.

20 SENATOR DOLLINGER: It also talks
21 about the fact that there is an order of
22 protection in place and that there has been a
23 violation of that order and that becomes, under

1 this bill, a crime, is that correct? I mean
2 it's a -

3 SENATOR SALAND: The violation of
4 the stay-away provision -

5 SENATOR DOLLINGER: Right.

6 SENATOR SALAND: -- is in itself
7 grounds for the arrest depending on the nature
8 of the activity. It could be any one of a
9 number of crimes, but the mere -- the mere
10 violation of the stay-away provisions enough to
11 get you arrested.

12 SENATOR DOLLINGER: O.K.

13 SENATOR SALAND: And if in fact
14 in conjunction with that, you cause some injury,
15 then you're -- then you're going to be faced
16 with, I think it's one of the degrees of
17 criminal contempt I think it's an "E" felony, I
18 don't recall which.

19 SENATOR DOLLINGER: Again through
20 you, Mr. President.

21 ACTING PRESIDENT KUHL: Senator
22 Saland continues to yield.

23 SENATOR DOLLINGER: Does this

1 deal in any way with the standards for pre-trial
2 release of those who have been accused of these
3 crimes?

4 SENATOR SALAND: There's nothing
5 in here in which we've attempted to address at
6 all pre-trial release questions. Whatever the
7 existing law is vis-a-vis pre-trial release is
8 as applicable after the enactment of this bill
9 as it was before.

10 SENATOR DOLLINGER: O.K. Again
11 through you, Mr. President, and -

12 ACTING PRESIDENT KUHL: Senator
13 continues to yield.

14 SENATOR DOLLINGER: Senator, I'm
15 not a criminal practitioner, but I recall that
16 the standards for pre-trial release include a
17 number of things that also can be factors in
18 this determination, that is does someone have a
19 home, do they have roots in the community, do
20 they have a family in the community? All of
21 those are factors that would favor pre-trial
22 release.

23 Yet, the danger that's posed by

1 the presence of the family, it may run contrary
2 to what you're trying to accomplish. That is,
3 if I'm accused of a crime, I walk in the door
4 and say I'm entitled to pre-trial release
5 because I have a family, a house, I have a job,
6 all those things suggesting that I will stay in
7 the community.

8 At the same time that creates the
9 risk that those are the same factors that, as I
10 understand this bill, we're trying to address to
11 prevent the reoccurrence of violence. Is that
12 -- and again I don't want to -

13 SENATOR SALAND: I would think
14 that that would be readily addressed over the
15 course of training that will occur between now
16 and the effective date of the bill. It
17 certainly would fly in the face of everything
18 we're attempting to accomplish here, where on
19 the bare allegation that I've lived in this
20 community and you know, I'm -- I'm -- I have a
21 place of residence in this community. I promise
22 to be a good guy or a good gal and, you know,
23 I'll be back on the return date. I don't think

1 that's going to cut mustard.

2 You know, it's certainly going to
3 be a determination for the court and, as I
4 mentioned earlier, there will be training for
5 the judiciary. OCA has agreed that they are
6 going to participate in this, and I don't
7 expected that to be a problem of any
8 consequence.

9 SENATOR GALIBER: Will you -

10 ACTING PRESIDENT KUHL: Senator
11 Galiber, why do you rise?

12 SENATOR GALIBER: Just one
13 question.

14 SENATOR DOLLINGER: Yes, I'll
15 yield, Mr. President. I have a couple other
16 questions for the Senator.

17 SENATOR GALIBER: Very rapidly.

18 SENATOR DOLLINGER: That's fine.

19 SENATOR GALIBER: Senator, I'm
20 almost sure of the answer. You're not
21 suggesting preventive detention here that that
22 be built into this piece of legislation?

23 SENATOR DOLLINGER: No, Senator,

1 what I was trying to find out was what the -
2 how this bill affects the issue of pre-trial
3 release because, as I understand the standards
4 and my recollection is very rusty, the question
5 is, you get arrested for this offense and when
6 the judge sits down and says, What am I going to
7 do, there's a crime, you've been charged with a
8 crime, you have no other prior criminal record,
9 you pose no danger to society at large, and
10 they're trying to figure out, determine the
11 standards for pre-trial release, my question is,
12 how does this -- how does a court sitting down
13 trying to deal with this particular problem,
14 that is domestic violence, how does that affect
15 the calculation of their pre-trial release?

16 And I -- that's why this -- and I
17 think Senator Saland has told me.

18 SENATOR SALAND: I'm sorry. I
19 couldn't -- I was looking at the bill. I
20 thought you were still speaking with Senator
21 Galiber. If you addressed that to me, I
22 apologize.

23 SENATOR GALIBER: I asked the

1 question of both of you because historically
2 we've been concerned with this notion of
3 preventive detention which is a horrible
4 concept, and we've walked through federal
5 guidelines and a couple of other areas where
6 they've actually done this.

7 I would not like to see and I'm
8 sure -- I'm almost sure that neither you nor
9 Senator Dollinger would suggest that we have
10 soot vehicle through which we can use this bad
11 situation for preventive detention to keep
12 people out of society because someone
13 arbitrarily makes a decision that they're a
14 threat to society and just keep them in. That's
15 all.

16 ACTING PRESIDENT KUHL: Senator
17 Galiber, did Senator Dollinger answer your
18 question adequately?

19 SENATOR GALIBER: Almost.

20 ACTING PRESIDENT KUHL: All
21 right. Senator Dollinger, you still have the
22 floor.

23 SENATOR DOLLINGER: Yes. All

1 right. Again, Mr. President, I just have a
2 couple questions.

3 ACTING PRESIDENT KUHL: Senator
4 Saland, do you continue to yield?

5 SENATOR SALAND: Yes, Mr.
6 President. Let me, if I might, just -

7 ACTING PRESIDENT KUHL: Senator
8 Saland yields.

9 SENATOR SALAND: Thanks to
10 learned counsel, let me just modify something
11 that I said previously. With respect to the CPL
12 we do nothing about pre-release. There is a
13 provision in here that deals with bail and bail
14 hearings in the Family Court, and also -- and
15 establishes standards for the manner in which
16 the court will conduct those hearings, and I
17 call your attention to page 6, paragraph 4,
18 beginning at line 41.

19 SENATOR DOLLINGER: O.K. Again,
20 through you, Mr. President. I think, Senator,
21 the point I was trying to make -

22 ACTING PRESIDENT KUHL: Senator
23 continues to yield.

1 SENATOR DOLLINGER: Mr.
2 President. The points I'm trying to make, how
3 do you balance the standards for pre-trial
4 release with your need with trying to avoid the
5 repetition?

6 Let me just ask a couple
7 questions. On page 14 -- these really deal with
8 the way that this law will affect liability of
9 the police departments, and specifically I think
10 on page 14, line 16 through 20 -- again, I
11 apologize for being so, what apparently may be
12 picky to you, but I want to make sure we
13 establish the record about what we intend
14 through all of this. It says here that "no
15 cause of action for damages shall arise in favor
16 of any person by reason of any arrest made by a
17 police officer pursuant to sub... this
18 subdivision."

19 My question is, do we intend that
20 provision to also apply, that no liability
21 clause, that exemption from liability to apply
22 if there's a failure to make the mandatory
23 arrest in this -- that's required by this law?

1 SENATOR SALAND: We are doing
2 nothing that modifies existing law. We thought
3 it important that we restate the various
4 immunity sections that are currently in
5 statute. There are several of them that are
6 mentioned there. They are basically intended to
7 make it clear that the obligation or requirement
8 of mandatory arrest also clothes the officer
9 with immunity provided that they are acting
10 according to the responsibility of their office,
11 acting in good faith, not grossly or willfully
12 negligent and that, in essence, is what those
13 several sections say. We are not taking away
14 any liability. We are not adding any liability.

15 SENATOR DOLLINGER: Again through
16 you, Mr. President. But if we have a mandatory
17 arrest policy, we're putting the police in a
18 situation where they're going to have to do more
19 because now we're telling them, "You have to
20 make an arrest." If they fail to make an arrest
21 for whatever reason -

22 SENATOR SALAND: There's
23 currently case law -- there's currently case law

1 that deals with the subject of municipal
2 liability. Not a very easy task for someone
3 alleging a violation thereof to prove. There
4 have been cases that have been decided by the
5 Court of Appeals that make the -- the failure to
6 have arrested somebody where it would have
7 appeared appropriate, perhaps to you or I for
8 that arrest to occur, as a very, very difficult
9 case to impose liability on a municipality or a
10 police department for. That is not touched in
11 this legislation. That's an entirely different
12 and separate issue.

13 The existing law which, as I
14 said, is case law is what will continue to
15 govern in this area. This merely is a
16 restatement so as to avoid any confusion that
17 while there is the obligation to arrest, there
18 is freedom from liability as long as you don't
19 engage in grossly wanton or grossly negligent
20 misconduct.

21 SENATOR DOLLINGER: Right.
22 That's my concern -- through you, Mr. President
23 -- is that by making the arrest mandatory,

1 we're telling all the law enforcement officials
2 in this state, if you arrive at a domestic -- a
3 situation of domestic violence, that you have to
4 arrest. My concern is, if for some reason they
5 don't -- they don't follow that mandatory
6 command, are we setting our -- are we putting
7 our municipalities in a position in which they
8 will be sued if something happens because of the
9 failure to arrest or -- and I just ask this as
10 part of the corollary of the response -- or the
11 failure to give the notice?

12 SENATOR SALAND: Let me suggest
13 to you, and I am not an active practitioner any
14 longer, if I could make out a case for some
15 gross misconduct on the part of a law
16 enforcement official, I would certainly think it
17 likely that that case would wind up in a court
18 and the issue would be one of fact. Was the
19 conduct so gross as to take the officer beyond
20 the limit of the liability that is set forth in
21 those several existing statutes?

22 SENATOR DOLLINGER: Okay.

23 SENATOR SALAND: But that, again,

1 would turn on the facts and would be determined
2 by the existing case law. There's nothing, I
3 believe, statutorily that deals with that.

4 SENATOR DOLLINGER: But -- I
5 think you've answered my question. Just so I'm
6 clear on the record. The intention is that you
7 would have to show a gross failure to comply
8 with the mandatory arrest provision in order to
9 recover against a municipality. We're not -
10 our intention here is not to expand the
11 municipal liability of police departments with
12 respect to arrest even though we're saying that
13 you have to arrest in these instances.

14 SENATOR SALAND: There is nothing
15 in this bill that deals with, in any way, shape
16 or form, any effort to expand municipal
17 liability. Existing law controls. Merely
18 restates the issue of freedom from liability as
19 statutorily previously set forth in law.

20 SENATOR DOLLINGER: Okay. Just
21 one other very -- again through you, Mr.
22 President.

23 ACTING PRESIDENT KUHL: Senator

1 Saland, do you yield?

2 SENATOR DOLLINGER: Another
3 technical question -

4 ACTING PRESIDENT KUHL: The
5 Senator yields.

6 SENATOR DOLLINGER: -- because I
7 think that's the area where you might see
8 litigation, and that's in -- on page 14, line 9
9 and 10, where it talks about a misdemeanor, in
10 other words, the officer walks in, becomes aware
11 that there's been a misdemeanor that's been
12 committed, and unless the victim requests
13 otherwise -- now, I assume that means that the
14 victim requested there be no arrest for that
15 misdemeanor.

16 SENATOR SALAND: That was a -
17 that was a very interesting subject in a number
18 of the hearings. There was probably some
19 division in the testimony and the positions of
20 the advocates, but on the whole, the testimony
21 and the comments were, at least in certain
22 instances, a victim should have the opportunity
23 to determine whether or not that arrest should

1 be made. I was, in all candor, more comfortable
2 with straight across the board mandatory arrest,
3 but in deference to some of the experts who
4 testified, we felt that in the situation of a
5 misdemeanor, as long as the law enforcement
6 person did not say, "Hey, we don't have to do
7 this," that if the victim said, "I don't want
8 this," that there would be no requirement for
9 mandatory arrest.

10 SENATOR DOLLINGER: Okay. And
11 again through you, Mr. President.

12 ACTING PRESIDENT KUHL: Senator
13 Saland.

14 SENATOR DOLLINGER: My question
15 really deals with that issue of, what do you do
16 if the police officer does tell them that?
17 We're prohibiting the officer from saying -
18 from asking the victim "Do you want me to
19 arrest this person?" I just don't know how that
20 works.

21 SENATOR SALAND: I would suspect
22 that, were that the case, you might run into
23 some of the very liability questions that you

1 raised in your prior question.

2 SENATOR DOLLINGER: Right. And
3 that's really one of my concerns.

4 SENATOR SALAND: And hopefully,
5 the training component will certainly make it
6 clear that that's not the way we expect law
7 enforcement personnel to respond to these
8 situations.

9 SENATOR DOLLINGER: Again,
10 through you, Mr. President. Is there anything
11 in the notice that's to be provided in these
12 instances which discusses that issue about if
13 it's only a misdemeanor, you have the option to
14 say you don't want an arrest, but the officer
15 can't tell you that you've got that option?

16 SENATOR SALAND: No.

17 SENATOR DOLLINGER: Again, I
18 would -- I'm not quite sure how to deal with it,
19 but it's a troubling issue and a difficult
20 issue, because I think in the practicality of
21 these situations, the police officers are
22 talking to both sides, trying to figure out what
23 to do. He's going to have to do it, make an

1 arrest. Those are ticklish situations. I get
2 the sense that that sentence was added on as
3 part of the legislative compromise, but I just
4 wonder whether it's a compromise that may be
5 difficult to hold.

6 I have one other area -- two
7 other areas of questions; I'll go through them
8 very quickly, Mr. President.

9 ACTING PRESIDENT KUHL: Senator
10 Saland, do you continue to yield?

11 SENATOR SALAND: Yes, Mr.
12 President.

13 SENATOR DOLLINGER: And that
14 deals with page 21 in the hospital requirement
15 that the hospital provide the notice, and my
16 question is, there is no exculpatory clause for
17 the hospitals if they fail to give the notice.
18 Is it the intention of this statute to create a
19 liability on the part of hospitals if they fail
20 to give the notice, they become an insurer for
21 future damages or future batterings of whomever
22 from the family?

23 SENATOR SALAND: No. This is a

1 mere extension of venues within which the notice
2 shall be provided. There is assumedly no reason
3 to assume that hospitals will not provide the
4 notice. If that, in fact, should turn to be a
5 problem -- turn out to be a problem, we will
6 certainly make every effort to address it.

7 SENATOR DOLLINGER: Okay. I just
8 caution again, I understand the complexity of
9 this dealing, but it seems to me that what we're
10 doing is setting a standard of care for the
11 hospitals.

12 SENATOR SALAND: There is no
13 effort to try and impose upon the hospitals at
14 this point any -- any liability or any -- any
15 additional liability other than that which they
16 currently have that's purely a desire to provide
17 additional notice, and if we find out that
18 there's a problem, then we would have to revisit
19 it.

20 SENATOR DOLLINGER: I would just
21 add, Mr. President, for purposes of any future
22 drafting, that a provision exculpatory clause
23 that says, "We want the hospitals to give them

1 notice," I think you're setting a standard of
2 care here. I think you're requiring hospitals
3 to do it as a matter of statute. I would simply
4 suggest that you hold them to a gross negligence
5 or a reckless standard that -- otherwise you're
6 increasing the hospital's liability for
7 everybody who walks in the door who has a minor,
8 what appears to be a domestic violence injury.
9 You may find yourself with a significant
10 liability foisted on the hospital in these very
11 difficult situations. I think that's something
12 that the committee should look at.

13 My final question, again through
14 you, Mr. President -

15 ACTING PRESIDENT KUHL:

16 Senator -

17 SENATOR DOLLINGER: -- deals with
18 the issue of an appropriation, Senator. Was
19 there ever a consideration given to attaching a
20 very significant appropriation to this bill to
21 provide for the additional police resources that
22 this bill will require?

23 SENATOR SALAND: We -- we are

1 providing -- in the state purposes budget, we
2 have provided \$500,000 for purposes of
3 training. There will be monies available for
4 the central registry and we certainly will, in
5 the course of next year's budget, if it's deemed
6 appropriate, determine whether there should be
7 additional resources to be provided. Again,
8 that mandatory arrest component does not kick in
9 until July of '95.

10 SENATOR DOLLINGER: Again,
11 through you, Mr. President, one final question
12 on that score.

13 Is it possible, again, in view of
14 the tremendous work that's been done to this
15 date, to hold this bill for a day so we could
16 put an appropriation on it; if we could find
17 that money, for example, use the reappropria
18 tions from the Senate and Assembly so that we
19 could put the money that we would otherwise use
20 to buy pens and pencils into a fund so we could
21 fund several hundred additional police officers
22 in this state to deal with the extra capacity
23 that this is going to put on the system?

1 SENATOR SALAND: I -- I
2 appreciate your -- your concern and your offer
3 of assistance or your recommendation. This bill
4 will pass today and I think I mentioned earlier,
5 it's going to pass in the Assembly -- Assembly
6 woman Weinstein will be moving the bill in the
7 Assembly as well, and I hope to have it on the
8 Governor's desk today.

9 SENATOR DOLLINGER: Okay. Mr.
10 President, just on the bill and I will be brief.

11 ACTING PRESIDENT KUHL: Senator
12 Dollinger, on the bill.

13 SENATOR DOLLINGER: I'm going to
14 support this measure. I commend, as I started
15 off, both Assemblywoman Weinstein and Senator
16 Saland for their work, but I think that the one
17 thing that's missing from this bill are the
18 funds to really make it happen. I think if you
19 look at the \$500,000 in training, that's about
20 \$10,000 a county. If you take the major
21 population centers, that's going to be less than
22 \$10,000 available for Monroe County to train not
23 only district attorneys, but judges and police

1 as well. I think we're going to fall far short
2 of the money that we really need to train the
3 whole criminal justice system.

4 My other concern is that I think
5 that there's a potential that we will raise the
6 hopes of women around this state that we're
7 going to really do something about domestic
8 violence when we're not going to have the police
9 resources to do it. As I see the police in our
10 community, they're not standing around twiddling
11 their thumbs; they're out doing the other things
12 that we told them were important. They're
13 detecting crimes; they're going after drugs;
14 they're dealing with drug houses; they're trying
15 to rebuild our neighborhoods and communities.
16 Certainly they're doing that in the city of
17 Rochester, and yet we're now going to tell them,
18 rightfully so, that this is a big priority in
19 this state, that we have to send a message that
20 that type of violence won't be tolerated, but if
21 we don't put our money where our mouth is, if we
22 don't follow through on that commitment by
23 saying we will allocate 40- or \$50 million to

1 local communities to hire the police to be able
2 to deal with these complicated issues, to have
3 more officers out in the field so they can go
4 about not only detecting the violence but making
5 sure that women who are battered get the right
6 advice at the time of arrest or the time of
7 choice, I think there's a danger that those
8 women will look at us as somewhat cynically and
9 say, "Gee, the state Legislature was more
10 interested in spending \$40 million on its
11 reappropriations for pens and pencils and staff
12 than giving the money to the women of this state
13 so that they can be freed from domestic
14 violence."

15 I know we talked about this at
16 the time of the budget; when we passed the
17 budget, Senator Leichter and I proposed an
18 itemized budget which would reduce the cost,
19 free up money, reduce the reappropriations. My
20 best estimate is we had \$30 million -- \$30
21 million in reappropriations that we keep for
22 ourselves. If we gave it to the women of this
23 state, we could hire as many as 400 new police

1 officers to go out in our communities to begin
2 the process of providing police to deal with
3 this.

4 SENATOR NOZZOLIO: Mr. President.

5 ACTING PRESIDENT KUHL: Senator
6 Nozzolio, why do you rise?

7 SENATOR NOZZOLIO: Will the
8 Senator yield?

9 ACTING PRESIDENT KUHL: Senator
10 Dollinger, do you yield?

11 SENATOR DOLLINGER: Absolutely,
12 Mr. President.

13 ACTING PRESIDENT KUHL: The
14 Senator yields, Senator Nozzolio.

15 SENATOR NOZZOLIO: Senator, as I
16 understand it, there was \$500,000 in the State
17 Purposes Budget for retraining of law enforce
18 ment officers for this very purpose. Did you
19 support that? Did you vote in favor of the
20 State Purposes Budget, Senator?

21 SENATOR DOLLINGER: No, I did
22 not.

23 SENATOR NOZZOLIO: So you voted

1 against that appropriation, is that correct,
2 Senator?

3 SENATOR DOLLINGER: Yes, that and
4 among -- about \$20 billion worth in
5 appropriations.

6 SENATOR NOZZOLIO: Thank you very
7 much, Senator.

8 SENATOR DOLLINGER: I would still
9 vote against it, Mr. President.

10 ACTING PRESIDENT KUHL: Senator
11 Dollinger, on the bill.

12 SENATOR DOLLINGER: On the bill.
13 Just seems to me that putting the money where we
14 need it to make it happen is absolutely
15 essential. We can talk all we want about doing
16 all these great things, and this is a very good
17 bill, but it doesn't seem to me to move in the
18 direction of really making it happen. We need
19 more police to deal with this issue.

20 I'll close on a more
21 philosophical note, Mr. President. And to this
22 again, I extend my commendation to those who
23 worked on this bill. I'm amazed I guess that

1 what's happened somehow in this civilization is
2 that merely because you say "I do" at the altar
3 means for a group of men in my gender, that I
4 can do anything I want to to my wife or my
5 spouse, and it seems to me that this is a sad
6 state of affairs that this bill is necessary,
7 but, nonetheless, reality dictates that we do
8 this.

9 My view is that this is a good
10 bill. It moves in the right direction. I would
11 like to see other things done, but what we've
12 done here and what this bill does is raise the
13 consequences to those who deal with the silly
14 notion that men can beat up women with
15 impunity.

16 I commend Senator Saland, as I
17 have a number of times, for sending the message
18 in this state that that's no longer permitted.

19 ACTING PRESIDENT KUHL: The Chair
20 recognizes Senator Rath.

21 SENATOR RATH: Thank you, Mr.
22 President.

23 Senator Saland, Assemblywoman

1 Weinstein, I don't think you're in the chamber,
2 my sincerest congratulations on the hard work of
3 you and your staff, your several staffs in
4 putting together a piece of legislation that is
5 long overdue and very welcome to all of the
6 people, men and women, all of the people of the
7 state of New York.

8 I hold up a newspaper, probably
9 see it, big headline, Williamsville Community
10 News, town of Amherst, county of Erie, state of
11 New York -- that's where I live -- June 19,
12 1994, subheadline, "Stop the Violence. Poster
13 Sponsors are Sought." The Amherst Police
14 Department Domestic Violence Task Force -- with
15 all due respect, there are a few police
16 departments that are into this, ahead of the
17 game -- is, in conjunction with the Am... is in
18 conjunction with the Amherst Police Department
19 Family Offense Unit, seeking corporate sponsors
20 to help finance the cost of the newly designed
21 anti-domestic violence posters. The posters are
22 themed, quote, "You have the right not to remain
23 silence -- silent. Family violence is against

1 the law." The posters have been designed to
2 educate the public on the behaviors which
3 constitute family violence and publicize the
4 Family Offense Unit. This is where I live.

5 Like many of you, I worked hard
6 to get out of school, to have a home, a family,
7 move to the suburbs. This is the suburbs 30
8 years ago. It doesn't look very suburban any
9 more, but it was the suburbs. Lawns to take
10 care of, school board meetings to go to,
11 children to raise. I tell you this because this
12 is where the American dream in many cases has
13 become the American nightmare in the last number
14 of years.

15 In preparing my remarks for the
16 floor today, I learned that in my hometown, in
17 Amherst, over 1200 domestic violence complaints
18 were filed in 1993. In the ten years preceding
19 1992, there were no murders connected with
20 domestic violence. In 1992, there were five.
21 In 1993, there was one. We know domestic
22 violence does not respect city or town lines,
23 ethnic or socio-economic conditions, but let us

1 be frank about what it is. It's a condition
2 that so many women are ashamed to admit. Now,
3 many times has someone said, "I tripped and fell
4 into the edge of the dresser" and you know
5 exactly what happened, and you know a year later
6 when divorce papers are filed, why they were
7 filed. Let's be honest about it.

8 For some, it's very difficult to
9 understand why a victim of domestic violence
10 just doesn't leave home and seek police
11 intervention or fight back, but it's not that
12 simple. Some victims of domestic violence are
13 subject not only to psychological manipulations,
14 but the verbal threats which are just as bad as
15 any fist or blow to the head with a sharp
16 instrument. Many are fearful not only of the
17 physical strength of their spouses, but they're
18 also concerned because they have no financial
19 resources to leave home, and they believe they
20 cannot make it on their own, and others sadly
21 think that their place is there. They've done
22 something wrong; it's their fault, and they hope
23 for a fundamental change in behavior.

1 We as a society talk about family
2 violence, domestic violence, violence in the
3 schools, violence on the television. We have
4 become, I guess, a violent society. But we do
5 not tolerate physical violence or assault when
6 it occurs in our streets between two strangers
7 and today, in New York State, legislation is
8 going to pass that will make the opportunity for
9 that same statement when it happens in domestic
10 violence between two people who are living in
11 the same household.

12 The broad support that we see
13 here today and in the other chamber and I'm
14 hopeful from the Governor, show that this bill
15 will give the tools to the law enforcement
16 community, the legal community and other service
17 agencies, the tools that will carve out the
18 beginnings to the solution of domestic violence,
19 and I congratulate Senator Saland and Assembly
20 woman Weinstein.

21 Thank you.

22 ACTING PRESIDENT KUHL: The Chair
23 recognizes Senator Goodman.

1 SENATOR GOODMAN: Mr. President,
2 first, a very warm appreciative salute to
3 Senator Saland, to our colleague, Assemblywoman
4 Weinstein, for a superb job that has been done
5 in connection with this matter.

6 Lest there be any question in
7 anyone's mind as to the timing of the
8 Legislature's interest in this matter, I would
9 produce respectfully one small piece of graphic
10 evidence indicating that the first work that I'm
11 aware of that was done in this area was done by
12 the Senate Investigations Committee in the fall
13 of 1991, at which time there were a series of
14 hearings and the issuance of a report called
15 "Domestic Violence: The Hidden Crime."
16 Interestingly, the graphics department in
17 preparing the cover for this report showed the
18 eyes of a woman, one of which is deeply bruised
19 and the other of which is shedding a tear.

20 I personally became aware of this
21 problem, Mr. President, in a rather direct and
22 personal manner. A secretary who's on my staff,
23 my senior secretary some years ago, was wont to

1 wearing sunglasses, and she did so on one
2 particularly dark day, and I said to her, "I
3 haven't really been aware of your habit of
4 wearing sunglasses, but I would like to know why
5 you're wearing them today when it's so dark
6 outside." She was reluctant to respond and she
7 finally removed her sunglasses to reveal heavy
8 bruising of her face and eye and nose and other
9 parts of her physiognomy.

10 Mr. President, I inquired of her
11 what this meant and she said, "I have not ever
12 wanted to discuss this with you. It's really a
13 personal matter, but my husband's a wife
14 batterer," and I asked her to come into the
15 office and we spent the better part of two hours
16 in a very candid discussion of the experience
17 which she had had, and it was both poignant and
18 enormously tragic in its implications.

19 First of all, there was an
20 underlying theme in this discussion which made
21 it very clear that she still very much loved her
22 husband and could not believe that the man she
23 married actually was creating a situation which

1 endangered her life. He was an alcoholic and
2 virtually every time he became inebriated he
3 would beat up on his wife and at a certain point
4 within an inch of her life.

5 I asked her why she did not seek
6 relief and she said that she felt the moment had
7 come when she really must, and with some
8 encouragement from me, she in the fullness of
9 time did get help, was able to divorce her
10 husband and start a new life, happily remarried
11 now with a new family and a new outlook on her
12 future.

13 But, Mr. President, in listening
14 to this poignant story, I was profoundly
15 impressed with the complexity of domestic
16 violence in particular because it invariably
17 involves an ambiguity, on the one hand, the
18 yearning and the wish for a return to the
19 earliest bonds of matrimony when a marriage was
20 something sacred and deeply to be enjoyed and
21 revered, and on the other hand, the harsh and
22 impending continuous reality of dangers because
23 of a spouse out of control.

1 The work which the Senate
2 Committee on Investigation has done in this
3 area, I think, bears some brief reference in
4 today's discussion. I would like to share with
5 you some of our findings which run as follows,
6 and this dates back to the issuance of the
7 report I just mentioned in 1992.

8 Half the women in the United
9 States will be victims of family violence at
10 some point in their lives. According to the U.
11 S. Surgeon General, domestic violence is the
12 single greatest cause of injury to American
13 women. An estimated 3- to 4 million American
14 women are the victims of domestic violence
15 annually and that figure is estimated because a
16 substantial number of the cases actually go
17 unreported.

18 According to the New York State
19 Children and Family Trust Fund, women are more
20 likely to be assaulted, injured, raped or killed
21 by a husband or by a boy friend than by a
22 stranger.

23 In 1990, some 45,000 cases of

1 domestic violence were reported in New York City
2 and 88,000 in the state of New York.

3 Approximately 275 new domestic
4 violence cases come into the Manhattan District
5 Attorney's Office each month.

6 Let me look at this in a slightly
7 different perspective. What is the cost of
8 domestic violence? In terms of employment,
9 domestic violence leads to lower work
10 productivity, higher turnover and greater
11 absenteeism, an estimated average of 18 days per
12 year per employee, an annual cost of \$250
13 million to New York City employers alone. In
14 terms of health, 35 percent of the women in
15 emergency rooms are there because of injuries
16 inflicted by a batterer; that's better than one
17 in three women in emergency rooms the victims of
18 being beaten up, in many cases by their own
19 spouses. On an average of \$250 per emergency
20 room visit, domestic violence adds \$78 million a
21 year to emergency room costs at the hospitals in
22 New York City alone.

23 Let's look at it from the vantage

1 point of criminal justice. The New York City
2 Police Department made 12,000 domestic violence
3 arrests in 1990 on an average cost of about
4 \$3200 per arrest. \$41 million was added to
5 police court and detention in New York City
6 alone due to domestic violence. What does this
7 mean in terms of shelter? 21 percent of
8 homeless families and up to 40 percent of
9 homeless women in New York City are homeless
10 because of domestic violence. On an average
11 cost of \$90 a day, Mr. President, and \$40 a day
12 for a single person, the additional expense to
13 the city is a minimum of \$40 million a year
14 annually, simply for shelter.

15 Domestic violence also affects
16 children, obviously very heavily affects them.
17 40 percent of the children in New York City's
18 foster care system come from families that are
19 suffering from domestic violence. On an average
20 of \$14,000 per child annually, the placements
21 cost the city \$72 million a year. A simple
22 total of these extra expenses indicates that
23 domestic violence costs the city of New York a

1 half a billion dollars a year.

2 Mr. President, I would just like
3 to conclude by citing to you one or two quotes
4 from the women who have appeared before our
5 committee to testify. Let me say, by the way, I
6 attended one of Senator Saland's hearings and I
7 appreciated tremendously his sensitivity and his
8 total dedication to lengthy involvement with the
9 individual victims who came before him.

10 To speak of our own experience,
11 one woman said to us, "Before all this happened
12 to me, I thought there was a particular type of
13 woman who was a victim of domestic violence.
14 I'm not talking about economic class or race.
15 I'm talking about the type of character, weak,
16 low esteem, unaware, unassertive, but now I know
17 this isn't true because I've had this problem
18 and I am not one of the people who is described
19 by any of these characteristics."

20 Another woman said, "The police
21 came to my door. They wanted to take my
22 children away from me, and I said to them, 'Wait
23 a minute. What's happening here?' They came in

1 to get them and I'm saying, 'Why are you taking
2 them with you?' And they said, 'Because if you
3 can't protect yourself, how are you going to
4 protect your children?' I said, 'But I'm asking
5 you to give me this order of protection and now
6 you go after my children.' I had to bring all
7 my kids to the courtroom and keep them from
8 taking them away from me."

9 Another woman said, "I want to
10 talk a little bit about shame" -- and
11 incidentally, the majority of the women who came
12 before us asked to have their identities hidden,
13 and they came in wearing hoods so that their
14 spouses or their people who had battered them
15 would not recognize them and seek vengeance
16 against them. One said, "I want to talk a
17 little bit about shame, the shame I felt because
18 of my experience. Today, I'm not wearing a
19 black hood because I felt that to do so would
20 too closely resemble this feeling of shame.
21 There's a metaphor for the shame I've experi
22 enced. You can't understand the sort of shame
23 until you experience it. I didn't want to leave

1 the house or face neighbors. You probably heard
2 screams coming from my apartment and probably
3 had an idea what was going on. I didn't want to
4 face family or friends who would see bruises or
5 a black eye. I didn't tell anyone what was
6 happening."

7 And finally, another battered
8 woman said she wanted to believe in her
9 marriage. "Domestic violence is humiliating.
10 The abuse makes you believe at least that you
11 know that you're nothing, puts you in a position
12 where you don't want to get out and do anything
13 about it. Then you get scared because if you're
14 leaving all that you built up that you were
15 going through -- he said he loved me and all
16 that, and I thought he was going to make
17 everything better and he didn't. Well, when I
18 did leave -- we have been together for a lot of
19 years, and there had been good times before and
20 I went back and the judge asked, 'Why do you go
21 back', because again, obviously I thought he was
22 going to make it better."

23 Mr. President, this morning on

1 CNN, those of us who had an opportunity to
2 listen to the latest newscast were exposed to a
3 911 tape recording which happened to be the tape
4 recording or one of a series that were recorded
5 in connection with the Simpson tragedy, and the
6 circumstances of this were quite apart from any
7 judgment whatsoever with regard to the murder
8 matter which is pending on which none of us has
9 any right to assume at the moment anything but
10 innocence. This tape involved a woman calling
11 the police and saying, "He has just broken down
12 the door and he's coming after me, and now he's
13 just broken down my children's door and he's
14 going after them, and I beg you to come to my
15 rescue."

16 The reason I mention this is not
17 to reflect on the current situation which has
18 very little to do with the extent of the
19 Senate's involvement in this matter; it is
20 simply to try to capture in a brief snapshot,
21 the feeling of in describable terror which a
22 spouse feels when she is being attacked by
23 either a husband or a former husband, seeking

1 whatever it may be, revenge or an opportunity to
2 act out. This is utter helplessness and
3 indefensibility unless the law can provide
4 protection, and it is precisely because of that
5 that the work done by Senator Saland in bringing
6 this bill to the floor for action today is so
7 highly significant.

8 Ladies and gentlemen, there are
9 not that many occasions in our careers as
10 legislators when we can intervene and actually
11 make a difference in trying to provide direct
12 physical and mental protection to those who are
13 being harassed and battered. This is one of
14 those instances and it's precisely because of
15 its significance that I urge every member of
16 this house to vote affirmatively for this bill,
17 to pass it into law and to allow its protective
18 provisions to assist those so greatly in need in
19 the immediate future.

20 ACTING PRESIDENT KUHL: The Chair
21 recognizes Senator Jones.

22 SENATOR JONES: Yes, on the
23 bill.

1 I'm certainly not going to
2 discuss with you any technical things or any
3 thing that could be wrong or corrected in the
4 bill. I'm sure greater minds than mine will
5 deal with that. I'm just pleased that it's
6 here. But I guess I wouldn't feel right just
7 because I'm a woman if I sat here and said
8 nothing today. The fact that I'm here and can
9 actually speak in the New York State Senate for
10 a woman of my generation is something that every
11 morning of my life I'm grateful for because it
12 wasn't even a dream for somebody that grew up
13 when I did.

14 Thank God I never needed a court
15 to respond because of battering, but I can tell
16 you that I needed a Family Court to respond to
17 help me obtain support for my children and
18 things that I needed, and I found it unre-
19 sponsive back in those days.

20 Fortunately, my own personal
21 strength and effort managed to help my children
22 and I survive, but I've always known that
23 there's many women out there that can't do it by

1 themselves and they need certainly bodies of
2 legislatures like this to help them.

3 Just from looking on the outside
4 of society, it's always seemed to me that we've
5 always been there to help our children, and
6 rightfully so, because it's obvious they're
7 defensive -- defenseless and they need us.

8 We've even been there to help the
9 elderly because, if you look at them, they don't
10 have the physical means sometimes to defend
11 themselves or even the economic assets, but I
12 think there's always been this other group out
13 there and we know it now, that didn't have any
14 advocates and certainly didn't have any special
15 laws to help them, because even I have learned
16 this just in recent times, on the surface, they
17 certainly appear physically fit, and many of
18 them are economically sound and living in the
19 great -- as Senator Rath pointed out, the nice
20 suburban homes, so maybe that's why we missed
21 it, but now at least behind this facade we see
22 this fear and actual physical pain and emotional
23 pain that these women have been living with all

1 of these years.

2 I'm saddened here today to think
3 that it's too late. I certainly watch TV and
4 hear all the things that you do, and certainly I
5 can't help but feel sad that it's too late for
6 society to help the Nicole Simpsons and the
7 nameless people that Senator Saland referred to,
8 but I feel very good that it's not too late for
9 our daughters and our granddaughters who, God
10 forbid, should ever find themselves in the
11 situation of needing this kind of help, but I -
12 perhaps in thinking about this, maybe we've done
13 something even more than protect the woman.
14 Maybe we forced the perpetrators to look
15 themselves in the mirror and realize that they
16 need help, that their behavior is not
17 acceptable, not only to the women that they're
18 inflicting it on but to society as well, and
19 maybe it will drive them to go get the help that
20 they need to change this behavior and do the
21 right thing by their wives or partners or
22 whoever is part of their lives.

23 I want to thank Senator Saland

1 and Assemblyperson Weinstein and all the others
2 who helped, but I also want to thank the people
3 on this side of the aisle who I know do not care
4 any less and didn't work any less hard, and I
5 would say the same thing about the Republicans
6 in the other house. I think this would have
7 been a great time -- whose names, let me just
8 say, can't be identified on this piece of
9 legislation because of where they sit, but I
10 would like to say what a good opportunity this
11 would have been for a truly bipartisan piece of
12 legislation, where maybe we can send the message
13 to these women that we are all united and
14 wanting to help. So I thank you and I'm just
15 happy that I was here today to be a part of
16 this.

17 ACTING PRESIDENT KUHL: The Chair
18 recognizes Senator Nozzolio.

19 SENATOR NOZZOLIO: Thank you, Mr.
20 President. On the bill.

21 Mr. President, my colleagues, I
22 rise in support of this legislation with great
23 sadness -- sadness because of its necessity.

1 Cited today the acts of domestic violence
2 killing more than ten American women every day,
3 injuring more women than car accidents, muggings
4 and rapes combined, certainly causes great
5 sadness, as does the fact that domestic violence
6 is the leading cause of death and injury among
7 women in the United States. At least one in
8 four women will at some time be assaulted by a
9 domestic partner and a very sobering fact that
10 in every 15 seconds of this debate this
11 afternoon, another woman will fall prey to
12 domestic violence in America.

13 What this legislation does is
14 balance the need to discourage domestic violence
15 through harsher sentencing with a need also for
16 protection and counseling of those who are
17 subjected to the abuse and for those who are
18 abusers. In my view, it is legislation at its
19 best, dealing with a problem at its worst, this
20 legislation created in most part by Senator
21 Saland who is to be congratulate and praised for
22 his efforts.

23 I sat in with Senator Saland in

1 three of the hearings where he went across the
2 state, in this case, Rochester, Syracuse and
3 Albany, and I saw Senator Saland deal with this
4 issue in a way that is a model for all
5 legislators to deal with legislative matters.
6 He took the bill as he had drafted, shared it
7 with individuals across the state, talked in
8 painstaking ways with prosecutors, police,
9 counselors, prevention advocates, and in a
10 line-by-line review, discussed the bill.

11 Senator Saland, thank you for
12 that effort. Thank you, as I saw a willingness
13 to hear firsthand the concerns of people, to
14 hear firsthand of their individual concerns with
15 the legislation, to hear firsthand from those
16 who are dealing with the problem and those who
17 are victims of the problem.

18 Senator, in the days of instant
19 food, instant coffee, instant legislation, it's
20 the trials and convictions on television. This
21 type of legislative response, I believe, should
22 be held up as a beacon for all of us to follow.
23 Thank you for your efforts.

1 I sincerely hope that this bill
2 will go a long way in stopping the problem that
3 we see in society. The scars of domestic
4 violence linger long after the wounds have
5 healed. The scars are passed along to future
6 generations, to children who are also faced with
7 trauma in the home, who carry those scars into
8 future generations of abuse and abusers. It is
9 a problem of enormous proportion and one that
10 permeates into -- far beyond the battering, into
11 other aspects of society, creating other
12 societal problems of other crime, of other
13 delinquency, of other types of cost that is so
14 immeasurable that we cannot even put a dollar
15 figure on it.

16 Thank you for all who partici
17 pated in putting together this legislation.
18 Thank you to those who testified, particularly
19 to the victims who we listened to, and thank you
20 again, Senator Saland, for crafting this
21 legislation so that we can take a giant step
22 forward in solving this very important problem.

23 ACTING PRESIDENT KUHL: The Chair

1 recognizes Senator Larkin.

2 SENATOR LARKIN: Mr. President, I
3 rise in support of this legislation.

4 New York has taken a milestone, a
5 major step forward in addressing an issue that
6 has clearly not just surfaced in the last two
7 weeks, but as those who testified in front of
8 committees that Steve has held across this
9 state, clearly said to us that we have a problem
10 and you're not listening to us.

11 I can recall in July of 1949, a
12 domestic disturbance in a military unit in Japan
13 where the military police went to this unit,
14 calmed the families down and said to the
15 sergeant, "Tomorrow morning be in front of the
16 company commander. Lady, go upstairs and go to
17 bed. Nothing will happen."

18 At 4:30 in the morning, I was
19 called at my quarters to come down, that one of
20 my enlisted men had stabbed his wife to death.
21 Maybe had we removed him, maybe had we done
22 something positive somebody would have been
23 alive, but as we heard in the testimony that was

1 taken and when we look at what we're trying to
2 do here today, we're trying to send a message
3 that there's a problem out there and we need to
4 address it. We need to get everybody involved.
5 People say, "Well, remember, if it's a domestic
6 disturbance tomorrow morning, they'll hate you
7 for being in the middle of it." No, they won't.
8 Tomorrow, as many people told Steve at the
9 hearings, we need your help, we need your
10 guidance. This legislation addresses that.
11 Some will say, "Well, the police shouldn't be
12 involved as they are." Yes, they should be and
13 the funding is there for the training, the
14 training of all people.

15 We owe a debt of gratitude to
16 you, Senator Saland, because during the past 18
17 months since you have been the chair of that
18 committee, you made a commitment not only to the
19 people of the state, but to us as legislators
20 who work with you that this was an issue that
21 you would follow through and you've guided us,
22 you've helped us, and now we have something in
23 front of us today that says, "There is a crisis,

1 and we want to address it."

2 Thank you very much.

3 ACTING PRESIDENT KUHL: The Chair
4 recognizes Senator Montgomery.

5 SENATOR MONTGOMERY: Thank you,
6 Mr. President.

7 I just, first of all, want to
8 join my colleagues in congratulating ourselves,
9 but especially Senator Saland and Assemblywoman
10 Weinstein and their committees in both houses
11 for bringing this legislation forth, and I guess
12 in his death cell, so to speak, we can, to some
13 extent, thank O.J. Simpson for making it once
14 and for all, very clear to us that this is an
15 issue of a criminal act, it is not an act that
16 we should view in light of who did it or why
17 they did it, but the fact that there has been
18 violence that often -- too often results even in
19 death, and most of the time, of a woman, and I
20 want to just say that there's one issue that I
21 would like to raise with my colleagues in
22 addition to all of the considerations that have
23 been spoken about today, all of which are -- at

1 least most of which I absolutely agree with. We
2 -- there is a need to do the kind of inter
3 vention and prevention that I think will help to
4 stem the tide of this very insidious problem
5 that we are faced with, this kind of violence
6 that occurs for reasons which I suppose most of
7 us really don't know, certainly I don't
8 understand, but it seems to happen in the
9 context of a love relationship of some sort,
10 whatever it is, and though the beginnings of the
11 establishing of that kind of relationship is
12 when we're young and how we learn to relate to
13 another human being in an intimate way, I think
14 against when we are at the point in our lives
15 when that becomes a development -- a devel
16 opmental stage that is appropriate and im
17 portant, and I think that is early teen ages,
18 and so, it occurs to me that I should remind my
19 colleagues as we speak about domestic violence
20 and the horrors of it, and the attempt to
21 intervene in a way that saves lives, we should
22 consider that adolescent health is extremely
23 important and adolescent health services in -

1 that includes mental health services, and
2 school-based health is extremely critical
3 because therein is an opportunity for us to do
4 the kind of intervention that would hopefully
5 help teenagers to begin to understand how to
6 establish intimate relationships that are
7 healthy, that are based on respect, that are
8 based on the values for another human being,
9 that we want them to be able to carry into their
10 adult lives and maintain.

11 So I applaud you, Senator Saland,
12 and I certainly think that this is a monumental
13 piece of legislation. I agree with Senator
14 Jones, that it's an historical moment. I think
15 it makes a statement to people who batter, that
16 we will move on them without question and that
17 they are no longer excused for such behavior and
18 -- but I think at the same time, there is
19 another important intervention that we must
20 make, that we can make, and that for various
21 political reasons, we have abdicated responsi
22 bility in making and that is providing health
23 care, health services and mental health services

1 for teens, pre-teens, especially in their
2 schools where they are, along with health
3 education, so that we can begin to address this
4 in a preventive fashion.

5 So thank you, and I hope that the
6 next step, Senator Saland, along with the other
7 Senators in this house will be to push for the
8 permanent -- the establishment of adolescent
9 health care services and school-based health as
10 a component of adolescent health care.

11 Thank you.

12 ACTING PRESIDENT KUHL: The Chair
13 recognizes Senator Olga Mendez.

14 SENATOR MENDEZ: Thank you, Mr.
15 President.

16 I really do -- I also do want to
17 join my colleagues in thanking Senator Saland
18 and Assemblywoman Weinstein, and all the other
19 Assemblymen and Senators who worked so hard in
20 an effort to find a solution to a problem that
21 has been devastating families, not only here in
22 New York State but also throughout the country,
23 and something with that problem is that once

1 there is a batterer in the home, he ends up not
2 only battering his wife but battering his chil
3 dren and battered children tend to eventually
4 become also batterers when they grow into
5 adulthood and enter into relationships as such.

6 I do have a couple of little
7 questions that need clarification, and I wonder,
8 Mr. President, if Senator Saland would be so
9 kind -

10 ACTING PRESIDENT KUHL: Senator
11 Saland, do you yield to a couple of questions
12 from Senator Mendez?

13 SENATOR SALAND: Yes.

14 ACTING PRESIDENT KUHL: The
15 Senator yields.

16 SENATOR MENDEZ: The first one
17 is, your bill covers -- protects women who are
18 married or women who, even if they are not
19 married, they do have children. However, it
20 does not -- does it protect women who are living
21 in a common law marriage without having
22 children?

23 SENATOR SALAND: This bill does

1 not add to the protected class of people,
2 anybody who is not currently protected. It
3 deals with people who are married, people who
4 are formerly married, people who have a child in
5 common, people within a family living in a
6 household. New York does not have a statute
7 that recognizes common law marriages.

8 I would suggest to you that, if
9 there were a common law marriage that were
10 recognized in another state, so if somebody, for
11 instance was common law married in a state that
12 might recognize it, whichever state that might
13 be, and then moved to New York, there would be
14 an obligation in New York to recognize those
15 people as married based on the acceptance, full
16 faith and credit to the laws of another state.
17 I don't know how many such people there are like
18 that, but what people might think of as commonly
19 being common law marriage where people who live
20 here in New York, come and live together for a
21 prolonged period of time, that would not be
22 recognized as common law.

23 SENATOR MENDEZ: I know. So one

1 of the reasons why I ask that, Senator Saland,
2 is because of the -- New York State does not
3 recognize common law marriages. However, maybe
4 in the area of domestic violence which is the
5 most destructive force that the family -- the
6 family as an institution do have to break up, so
7 the reality is that they are wrong. Men and
8 women, couples that are living for years and
9 years without being married, maybe you could
10 consider in the future having a bill that just
11 in the area of domestic violence, that those
12 relationships that could fall into this
13 magnificent legislation that you have in, that
14 we're hoping the Governor will sign.

15 The other question is, it is my
16 understanding, July the 1st -- January the 1st
17 of '95, that the bulk of the bill will take
18 effect, correct, since at present there are so
19 many women in New York State that do -- that are
20 living that tragedy and that do have orders of
21 protection, since your bill -- since your bill
22 extends order of protection for three years, is
23 there a way in which we could grandfather those

1 women that already have those orders of protec
2 tions so that they would be more protected?

3 SENATOR SALAND: I think what
4 you're asking me is whether they can get the
5 benefit of the three-year order, whether the
6 people who have pre-existing orders as of the
7 effective date of this bill can get the benefit
8 of three-year orders. Unfortunately, I can't
9 tell you yes, because that's a judicial
10 determination. The court will have to determine
11 whether there are aggravating circumstances that
12 warrant the expansion -- or the providing of the
13 expanded order of up to three years.

14 SENATOR MENDEZ: Thank you,
15 Senator Saland.

16 Mr. President.

17 ACTING PRESIDENT KUHL: Senator
18 Mendez, on the bill.

19 SENATOR MENDEZ: Yes. I am really
20 most grateful for the efforts, as I said before,
21 of Senator Saland and the others who worked so
22 hard on this bill. I have had in my district
23 women -- three women who have been killed even

1 though they had orders of protection. It didn't
2 -- it didn't matter to them and they are not
3 alive any longer, sadly so. Because the -- of
4 the comprehensive approach that this bill has, I
5 am very hopeful, very hopeful, that -- all of us
6 here are very hopeful that it will make a big
7 difference -- that it will make a big difference
8 in stemming the tide of that horrendous enemy of
9 the family as an institution.

10 Thank you, Senator Saland. Thank
11 you.

12 ACTING PRESIDENT KUHL: The Chair
13 would note that the Assembly is waiting for the
14 passage of this bill, and we have reached the
15 last member on the list who's asked to speak,
16 that's Senator Marchi. The Chair recognizes
17 Senator Marchi on the bill.

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

20 I was -- I think some of the
21 things that I had intended to say were said by
22 Senator Nozzolio and the feeling that all of us
23 have experienced as a result of the events of

1 today and those that preceded it and made it
2 possible.

3 I was going to ask a question
4 with relevance -- with relation to the mandatory
5 arrest and the time frame within which they
6 might be resolved, that they are, in fact, on a
7 fast track in terms of the intent of this
8 legislation. I believe that it is. I'm not
9 going to ask for an answer to that, because
10 there are so many -- so many things that are
11 involved in giving this life and effectiveness,
12 the bill that has been presented today and a
13 program that has been presented, some of which
14 has been replicated and has -- or it was
15 initiated earlier on in other states, and the
16 other, whether they -- whether they produce the
17 intended result, I think bears down very heavily
18 on the investment that we make in this state in
19 implementing it, because what has been provided
20 here are the tools with which we can respond to
21 something that is really stunning in the
22 experience of each and every one of us, at least
23 it is to me.

1 I have been here many years, and
2 when I do some personal soul searching, here we
3 tilt with so many evils in society, people who
4 perpetrate crimes, and throughout all of this,
5 the biggest wounds have been our self-inflicted
6 wounds socially, so that so much will depend on
7 the verb and the animation that we have in
8 implementing the tools that have been provided.

9 Senator Jones made the
10 observation that perhaps we had two majorities,
11 the two majorities of the two houses as
12 sponsors. I've always tried to stress in any -
13 in any setting of the Senate, that this is an
14 institution, and everyone in this house
15 contributes to it. The contribution is there
16 even -- even though at times there is a critique
17 because it all goes to the formulation of the
18 final policy statement and action that is
19 undertaken.

20 I placed -- I compliment you,
21 Senator Montgomery, on going into the long-range
22 preparation of society in indulging and engaging
23 and furthering the -- the spirit of respect,

1 love, compassion. This is a step that -- this
2 is a matter that an enlightened society that
3 likes to pride itself on being a moral society
4 should attack very energetically, and I think
5 you're absolutely correct. These are -- this is
6 the formulation of the structure of society
7 which avoids so many of these problems, but this
8 has come out in a general discussion, and I
9 reserve my -- my greatest praise, of course,
10 because you, Senator Saland, have really -- this
11 is -- you have -- in all the years I have been
12 here, you can count on, well, anybody's short
13 list of items of a profound nature, of a moral
14 nature, and one that will serve society well if
15 we accept it in the spirit in which you have
16 tendered it. You have enriched me immeasurably
17 by what you have done and what our colleague,
18 Helene Weinstein, is going to do in the
19 Assembly.

20 So I think it's a time for -- for
21 taking stock and also thinking in terms of how
22 we are going to use this valuable tool that you
23 have fashioned with the help of so many and will

1 be at our -- sensitized as we are, that it will
2 be used in a way that will benefit society
3 commensurately.

4 ACTING PRESIDENT KUHL: Is there
5 any other Senator who wishes to speak on this
6 bill?

7 Senator Saland to close.

8 SENATOR SALAND: Thank you, Mr.
9 President.

10 I would like to thank my
11 colleagues who have been so gracious to me,
12 really on this occasion, and I'm sure that I
13 will be appropriately the subject of your
14 criticisms and barbs at later dates and at other
15 venues.

16 I would like to address, if I
17 might, one issue that gnawed at me, and it was
18 in response to comments by Senator Dollinger
19 which had to do with the question of liability
20 of hospitals and having the opportunity to look
21 at the bill more closely. It basically is
22 provided for -- there is no problem with the
23 failure to give the notice unless, again, you

1 have a showing of gross negligence or willful
2 misconduct, so I would not be particularly
3 concerned with that.

4 Let me share with you, if I
5 might, some people have asked me how is it that
6 I've come to this issue and why is it that I ask
7 to -- to have this issue become subject to the
8 jurisdiction of the Children and Families
9 Committee.

10 Probably some 20 years ago, I had
11 the opportunity to serve as the attorney to my
12 county's Social Service Department, in which,
13 among my responsibilities, were handling abuse
14 and neglect cases, and the first case that I
15 handled was so far into me and so difficult for
16 me to comprehend, that I truly assumed that it
17 would be the last case that I would handle, and
18 I found out in relatively short order that there
19 were more cases than I could possibly handle by
20 myself in my county.

21 It had quite an effect on me, and
22 it didn't take very long to realize that nobody
23 had cornered the market on violence within the

1 household. It knew no ethnic restraints. It
2 knew no religious restraints. It knew no racial
3 restraints. It knew no socio-economic re
4 straints. There was enough to go around for
5 everybody. And when I continued to serve in
6 that capacity, I never quite could become
7 hardened to it. I don't think you could handle
8 any one of those cases and ever be hardened to
9 it. I think it was forever indelibly burned
10 upon my conscience, and it was sort of a
11 relatively logical evolution to go from there,
12 when I arrived in this institution as a member
13 of the Assembly first and now the Senate, to be
14 involved in issues not only of child abuse and
15 neglect but also generally of family violence,
16 domestic violence, and it was the opportunity to
17 serve as the chairman of this committee that
18 afforded me the ability to do something which I
19 basically have wanted to do for a number of
20 years, which is try and do an omnibus bill
21 dealing with -- with the subject of domestic
22 violence.

23 I thanked so many people

1 earlier. I won't repeat it. They were all
2 instrumental, very big players in helping to put
3 this thing together. I thank them profusely.
4 This effort could not have been successful
5 without them.

6 And for those of us, and we're
7 all members of this body, we have those moments
8 where we clash and sometimes those clashes are
9 generally philosophical; sometimes those clashes
10 may be more in the nature of things political, I
11 think this is a crowning moment, and I say not
12 for me, Steve Saland, for this institution. I
13 think this legislation will make a difference,
14 will make a major difference. It's the
15 beginning of the change. It all has to get on
16 board and be in place, and when it is there and
17 it is operational, I think we will all be able
18 to look back with pride. I think the system
19 will have worked the way all of the people who
20 you and I represent would want it to have
21 worked. That's the way the hearing processes
22 work and that's the way this will work.

23 I thank you, and I commend you as

1 well.

2 ACTING PRESIDENT KUHL: The
3 Secretary will read the last section on Calendar
4 Number 1289.

5 THE SECRETARY: Section 59. This
6 be act shall take effect immediately.

7 ACTING PRESIDENT KUHL: Call the
8 roll.

9 SENATOR GOLD: Mr. President.

10 ACTING PRESIDENT KUHL: Senator
11 Gold to explain his vote.

12 SENATOR GOLD: Thank you.

13 Mr. President, I'll be very
14 brief. I know that the Assembly is calling over
15 for the bill, and the only point I want to make
16 is, while I admire Senator Saland, who has, in
17 fact, been in this for a while, I as a Democrat
18 do not appreciate lectures from Republicans that
19 make it sound like the people on this side of
20 the aisle never heard of the issue until this
21 bill with its Republican sponsorship came out
22 here.

23 Mary Ellen Jones has had a bill

1 in for a long time. Senator Kruger has had a
2 bill in, Senator Montgomery, Senator Mendez,
3 Senator Galiber, all the way down the line.

4 So, I'm delighted, Senator
5 Saland, that through your negotiation skills,
6 you and Assemblywoman Weinstein were able to get
7 a unibill, but you insult this issue. You
8 don't help this issue; you insult this issue
9 when you don't offer it around for co
10 sponsorship by people who have worked harder
11 than 90 percent of the Republican Party in this
12 house to come to a solution. So let's get it
13 out and get it on the table the way it ought to
14 be.

15 Senator Saland, you always have
16 my respect and other members too, but don't
17 spend an hour and a half lecturing to the news
18 media, the cameras, like people on this side of
19 the aisle never heard of it. If it wasn't for
20 this side of the aisle and Helene Weinstein and
21 others, we wouldn't even be here today.

22 I vote yes.

23 ACTING PRESIDENT KUHL: Announce

1 the results.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT KUHL: Senator
4 Galiber -- withdraw the roll call. Senator
5 Galiber to explain his vote.

6 SENATOR GALIBER: Please.

7 Senator Gold, again we're pretty
8 close on the same wave length. Wouldn't it be
9 nice, Senator, if we could use the same practice
10 that we use with resolutions and say that
11 everybody is on this bill unless they choose to
12 be taken off?

13 I vote aye.

14 ACTING PRESIDENT KUHL: Announce
15 the results.

16 THE SECRETARY: Ayes 57.

17 ACTING PRESIDENT KUHL: The bill
18 is passed.

19 The Secretary -- Senator Goodman.

20 SENATOR GOODMAN: May I ask,
21 please, to be recorded in the negative on Senate
22 Bill Number -- on Calendar Number 1301 passed
23 earlier today?

1 ACTING PRESIDENT KUHL: Without
2 objection, Senator Goodman will be recorded in
3 the negative on Calendar Number 1301.

4 Senator Gold.

5 SENATOR GOLD: Yeah. Mr.
6 President, with the consent of the Majority
7 Leader, if we could return to motions and
8 resolutions.

9 On page 29, on behalf of Senator
10 Santiago, Calendar Number 1257, Print 112-A, I
11 ask that the following amendments be made and
12 the bill retain its place on the third reading.

13 ACTING PRESIDENT KUHL: The
14 amendments are received and adopted. The bill
15 will retain its place on the Third Reading
16 Calendar.

17 Senator DiCarlo.

18 SENATOR DiCARLO: Mr. President,
19 I wish to call up for Senator Cook, bill Print
20 Number 7871 recalled from the Assembly which is
21 now at the desk.

22 ACTING PRESIDENT KUHL: The
23 Secretary will read.

1 THE SECRETARY: By Senator Cook,
2 Senate Bill Number 7871, an act to amend the
3 Education Law, in relation to efficiency study
4 grants.

5 ACTING PRESIDENT KUHL: Senator
6 DiCarlo.

7 SENATOR DiCARLO: Mr. President,
8 I now move to reconsider the vote by which this
9 bill was passed.

10 ACTING PRESIDENT KUHL: Move to
11 reconsider the vote by which this bill was
12 passed. The house clerk -- the Secretary will
13 read the roll on reconsideration.

14 (The Secretary called the roll on
15 reconsideration.)

16 THE SECRETARY: Ayes 57.

17 ACTING PRESIDENT KUHL: Senator
18 DiCarlo.

19 SENATOR DiCARLO: Mr. President,
20 I now offer the following amendments.

21 ACTING PRESIDENT KUHL: The
22 amendments are received and adopted.

23 Senator Larkin -- excuse me.

1 Senator DiCarlo.

2 SENATOR DiCARLO: Mr. President,
3 on page 43, on behalf of Senator Levy, I offer
4 the following amendments to Calendar 1010,
5 Senate Print 5679, and ask that said bill retain
6 its place on the Third Reading Calendar.

7 ACTING PRESIDENT KUHL: The
8 amendments are received and adopted. The bill
9 will retain its place on the Third Reading
10 Calendar.

11 Senator DiCarlo.

12 SENATOR DiCARLO: Mr. President,
13 will you remove the star?

14 ACTING PRESIDENT KUHL: The star
15 is removed.

16 SENATOR DiCARLO: On page 17, I
17 offer the following amendments to Calendar 801,
18 Senate Print 5406, and ask that said bill retain
19 its place on the Third Reading Calendar.

20 ACTING PRESIDENT KUHL: The
21 amendments are received and adopted. The bill
22 will retain its place on the Third Reading
23 Calendar.

1 Senator Larkin.

2 SENATOR LARKIN: Mr. President,
3 on page 29, I offer the following amendments to
4 Calendar Number 1261, Senate Print Number
5 1902-A, and ask that said bill retain its place
6 on the Third Reading Calendar.

7 ACTING PRESIDENT KUHL: The
8 amendments are received and adopted. The bill
9 will retain its place on the Third Reading
10 Calendar.

11 The Secretary will continue to
12 call the controversial calendar.

13 THE SECRETARY: On page 30,
14 Calendar Number 1290, by Senator Stafford,
15 Senate Bill Number 443, an act to amend the
16 Environmental Conservation Law.

17 SENATOR GOLD: Could I ask the
18 sponsor, could we put this over for the day,
19 please?

20 SENATOR STAFFORD: No objection.

21 ACTING PRESIDENT KUHL: The bill
22 is laid aside for the day.

23 THE SECRETARY: Calendar Number

1 1292, by Senator Marchi, Senate Bill Number
2 2456, an act to require the Department of
3 Environmental Conservation to study the period
4 of probable usefulness of landfills.

5 ACTING PRESIDENT KUHL: The
6 Secretary will read the last section.

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

9 ACTING PRESIDENT KUHL: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes 56, nays 1,
13 Senator Goodman recorded in the negative.

14 ACTING PRESIDENT KUHL: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 1295, by Senator Kuhl, Senate Bill Number
18 4140-A, providing to Thomas A. Cassidy credit
19 for past service time lost because of extra
20 ordinary budgetary problems.

21 ACTING PRESIDENT KUHL: Senator
22 Gold. The Secretary will read the last
23 section.

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

3 ACTING PRESIDENT KUHL: Call the
4 roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT KUHL: Announce
7 the results.

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

11 ACTING PRESIDENT KUHL: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 1297, by Senator Johnson, Senate Bill Number
15 4375-C, an act -

16 ACTING PRESIDENT KUHL: There's a
17 home rule message at the desk. The Secretary
18 will read the last section.

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

21 ACTING PRESIDENT KUHL: Call the
22 roll.

23 (The Secretary called the roll.)

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

4 ACTING PRESIDENT KUHL: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 1298, by Senator Marino, Senate -- Senate Bill
8 Number 4569-B, allowing Pauline Ogus to receive
9 service credit.

10 ACTING PRESIDENT KUHL: The
11 Secretary will read the last section.

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

14 ACTING PRESIDENT KUHL: Call the
15 roll.

16 (The Secretary called the roll.)

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

20 ACTING PRESIDENT KUHL: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 1311, by Senator Wright, Senate Bill Number

1 7942-A, an act to amend the Environmental
2 Conservation Law.

3 ACTING PRESIDENT KUHL: The
4 Secretary will read the last section.

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

7 ACTING PRESIDENT KUHL: Call the
8 roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT KUHL: Withdraw
11 the roll call. An explanation has been asked
12 for.

13 SENATOR PRESENT: Lay the bill
14 aside.

15 ACTING PRESIDENT KUHL: Lay the
16 bill aside.

17 THE SECRETARY: Calendar Number
18 1317, by the Senate Committee on Rules, Senate
19 Bill Number 8528, an act to amend the General
20 Municipal Law.

21 ACTING PRESIDENT KUHL: There's a
22 home rule message at the desk. The Secretary
23 will read the last section.

1 SENATOR GOLD: Hold on one
2 second. Lay it aside.

3 SENATOR PRESENT: Lay the bill
4 aside.

5 ACTING PRESIDENT KUHL: Lay the
6 bill aside.

7 Senator Present.

8 SENATOR PRESENT: Mr. President,
9 before we leave the chamber, I don't know how
10 many are aware that one of our colleagues is
11 celebrating a birthday today, and we'll watch
12 him blush a little bit. I don't want anybody to
13 sing "Happy Birthday" to him, but I think we all
14 should wish Senator Tully a happy birthday on
15 June 23rd, 1994.

16 (Applause)

17 SENATOR GOLD: I understand he
18 shoots his age on each nine.

19 (Laughter)

20 SENATOR PRESENT: Session will be
21 tomorrow as scheduled. The staff will work
22 through the week end on bills that must be
23 considered prior to adjournment. The intention

1 is to finish the session and adjourn no later
2 than Friday next week. Now, that's good news.
3 Without your cooperation, that will be
4 difficult, all of ours, so let's try and be in
5 attendance when the session is called, whether
6 it's 11:00 o'clock or 3:00 o'clock or 1:00
7 o'clock. Let's all try and be here and get
8 under way.

9 Mr. Cornell, do you have any
10 housekeeping, no one else? If not, Mr.
11 President, there being no further business, I
12 move that we adjourn until tomorrow at 11:00
13 a.m.

14 ACTING PRESIDENT KUHL: The Chair
15 will remind those people to be present tomorrow
16 at 11:00 a.m. sharp.

17 Without objection, the motion to
18 adjourn is adopted. The Senate stands adjourned
19 until tomorrow at 11:00 a.m. sharp.

20 (Whereupon at 3:58 p.m., the
21 Senate adjourned.)

22
23