ALBANY, NEW YORK

June 23, 1994

12:09 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

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

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

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

(A moment of silence was observed.)

Reading of the Journal.

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

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

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

Senator Libous.

SENATOR LIBOUS: Mr. President, I

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

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

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

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Yeah, I move that

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

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

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

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Present.

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

ACTING PRESIDENT KUHL: Senator Farley.

SENATOR FARLEY: Thank you, Senator Present.

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

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

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

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

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

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

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Present.

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

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

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

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

signify by saying aye.

Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT KUHL: All substitutions are ordered.

The Chair recognizes Senator Wright for a motion.

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

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

Senator Present.

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

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

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

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

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

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT KUHL: The bill's passed.

THE SECRETARY: Calendar Number 1164, by Senator Kuhl.

SENATOR GOLD: Lay aside, please.

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

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

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1243, by Senator Kuhl.

SENATOR GOLD: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR GOLD: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1255, by Senator Rath.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1257, by Senator Santiago.

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

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

THE SECRETARY: Calendar Number 1266, by Senator Stafford.

SENATOR GOLD: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1287, by Senator Rath.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

SENATOR GOLD: Lay aside, please.

ACTING PRESIDENT KUHL: Lay the

bill aside.

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

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 33.

ACTING PRESIDENT KUHL: The bill is passed.

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

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 33.

ACTING PRESIDENT KUHL: The bill is passed.

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

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 33.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1295, by Senator Kuhl.

SENATOR GOLD: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

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

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 33.

ACTING PRESIDENT KUHL: The bill is passed.

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

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

ACTING PRESIDENT KUHL: Lay the

bill aside.

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

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 33.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results.

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

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 33.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 33.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1306, by Senator -

SENATOR COOK: Star the bill.

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

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

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

Finance Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

ACTING PRESIDENT KUHL: There's a

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

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

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1314, by Senator -

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

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

THE SECRETARY: Calendar Number 1315.

SENATOR GOLD: Lay it aside for Senator Galiber.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

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

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

SENATOR PRESENT: And lay 1315

aside for the day.

ACTING PRESIDENT KUHL: 1316 aside for the day, Senator Present?

SENATOR PRESENT: And 1315.

ACTING PRESIDENT KUHL: And 1315 aside for the day.

SENATOR GOLD: Hold on one second. Thank you very much.

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

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

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

SENATOR GOLD: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT KUHL: The bill

is passed.

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

SENATOR SALAND: Lay aside for the day, please.

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

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1323, by the Senate Committee on Rules.

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

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

Senator Present, that completes the non-controversial calendar.

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

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar.

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

SENATOR GOLD: Yes.

ACTING PRESIDENT SPANO: Senator Gold.

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

SENATOR PRESENT: Lay it aside temporarily.

SENATOR LIBOUS: Lay aside temporarily, very temporarily.

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

ACTING PRESIDENT SPANO: Lay it aside temporarily.

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

ACTING PRESIDENT SPANO: Senator Gold.

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

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

SENATOR KUHL: I yield, Senator.

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

SENATOR KUHL: That's correct.

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

SENATOR KUHL: That's correct, Senator.

SENATOR GOLD: Would you tell me why?

SENATOR KUHL: If you let me find the bill.

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

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

treated doesn't apply to this particular system.

SENATOR GOLD: Senator yield to one last question?

SENATOR KUHL: Sure.

ACTING PRESIDENT SPANO: Senator yields.

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

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

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

the situation here.

SENATOR GOLD: All right.

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

SENATOR GOLD: Right.

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

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

ACTING PRESIDENT SPANO: Senator Gold on the bill.

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

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

ACTING PRESIDENT SPANO: Senator Dollinger.

SENATOR DOLLINGER: Will the sponsor yield to a question?

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

SENATOR KUHL: Certainly.

ACTING PRESIDENT SPANO: Senator Kuhl yields.

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

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

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

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

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

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

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

SENATOR KUHL: I continue to yield.

ACTING PRESIDENT SPANO: Senator Dollinger.

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

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

SENATOR KUHL: Yes.

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

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

SENATOR DOLLINGER: The cash is already in the system.

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

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

ACTING PRESIDENT SPANO: Senator Dollinger, on the bill.

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

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

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

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

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT SPANO: The bill is passed.

Senator Gold.

SENATOR GOLD: Yes, Senator Leichter.

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

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

ACTING PRESIDENT SPANO: The bill is passed.

Senator Present.

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

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

1993, amending the Vehicle and Traffic Law.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT SPANO: Senator Wright.

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

ACTING PRESIDENT SPANO: Senator

Galiber.

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT SPANO: Senator Wright.

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

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

SENATOR GALIBER: Well, Senator.

ACTING PRESIDENT SPANO: Senator Galiber.

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

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

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

ACTING PRESIDENT SPANO: Senator Galiber.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT SPANO: Senator Tully.

SENATOR TULLY: Would Senator Galiber yield to a question?

ACTING PRESIDENT SPANO: Senator Galiber, will you yield?

SENATOR GALIBER: Et tu, Tully?

Yes. No problem.

ACTING PRESIDENT SPANO: Senator Galiber yields.

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

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

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

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

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

SENATOR TULLY: Senator Wright?

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

SENATOR TULLY: Senator Levy.

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

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

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT SPANO: Senator Gold.

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

SENATOR ONORATO: Thank you, Senator.

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

SENATOR WRIGHT: Certainly, Mr. President.

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

SENATOR WRIGHT: It applies to

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

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

SENATOR WRIGHT: That's correct.

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

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

SENATOR ONORATO: Only drug, thank you.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT SPANO: Senator Gold.

SENATOR GOLD: Yes, Mr. President.

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

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

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

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

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

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

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

SENATOR GOLD: All right. Thank you.

Senator Wright, will you yield to a question now?

ACTING PRESIDENT SPANO: Senator Wright yields.

SENATOR WRIGHT: Yes.

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

SENATOR WRIGHT: That's correct.

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

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

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

SENATOR GOLD: Thank you. On the bill.

ACTING PRESIDENT SPANO: Senator Gold, on the bill.

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

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

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

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

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

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

ACTING PRESIDENT KUHL: Secretary will read.

Senator Wright.

SENATOR WRIGHT: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Wright, on the bill.

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

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

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

ACTING PRESIDENT KUHL: Senator

Galiber.

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

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

ACTING PRESIDENT KUHL: Senator

Wright.

SENATOR WRIGHT: Will you yield to a question?

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

SENATOR WRIGHT: Senator, following that -

SENATOR GALIBER: The answer is yes.

ACTING PRESIDENT KUHL: Senator Galiber yields, Senator Wright.

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

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

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

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

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

Governor, I can't speak for him.

SENATOR WRIGHT: I can appreciate that, Senator.

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

SENATOR WRIGHT: Thank you.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce

the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1254 are Senators Connor, Espada, Galiber, Gold, Ohrenstein, Paterson and Smith. Ayes 43, nays 7.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

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

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

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

ACTING PRESIDENT KUHL: Senator Galiber.

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

ACTING PRESIDENT KUHL: Senator

Libous, Senator Galiber has asked for an explanation.

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

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

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

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

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

The system, as Senator Leichter

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

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

ACTING PRESIDENT KUHL: Senator Galiber.

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

SENATOR LIBOUS: Yes, sir.

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

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

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

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

SENATOR LIBOUS: Yes.

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

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

SENATOR LIBOUS: As we stand here now -

SENATOR GALIBER: Yeah.

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

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

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

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

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

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

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

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

SENATOR LIBOUS: Mr. President,

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

SENATOR GALIBER: Just one fast last question, Senator.

SENATOR LIBOUS: Sure.

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

SENATOR LIBOUS: Mr. President.

SENATOR GALIBER: Doesn't balance out.

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

ACTING PRESIDENT KUHL: The Chair recognizes Senator Espada.

SENATOR ESPADA: Thank you, Mr. President.

Will the sponsor yield to a question, please?

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

SENATOR LIBOUS: Yes, I will.

ACTING PRESIDENT KUHL: Senator Libous yields.

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

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

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

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

the situation.

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

ACTING PRESIDENT KUHL: Senator continue to yield?

SENATOR LIBOUS: Yes, sir.

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

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

SENATOR ESPADA: On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Espada, on the bill.

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

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

When we bump into inadequate

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

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

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

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

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

commercials.

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

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

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

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

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

Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President.

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

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

SENATOR GOLD: Mr. President.

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

SENATOR GOLD: Senator Leichter yield to a question?

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

Senator Gold.

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

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

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

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

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

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

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

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

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

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

It really doesn't make any sense

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

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

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

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

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

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

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

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

SENATOR LIBOUS: Will the Senator yield?

ACTING PRESIDENT KUHL: The Senator yields.

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

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

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

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

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

SENATOR LEICHTER: Thank you, Mr.

President.

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

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

if it's necessary, go into court.

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

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

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Yes, Senator Gold.

SENATOR GOLD: Mr. President -

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

Senator Gold.

SENATOR GOLD: Mr. President,

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

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

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

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

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

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

ACTING PRESIDENT KUHL: The Chair recognizes Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

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

every week buying the lottery ticket.

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

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

So, a big millionaire, and your

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

You have a bill here to answer a

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

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Waldon.

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

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

But I, too, play the lottery and

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

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

ACTING PRESIDENT KUHL: Senator Libous yields, Senator Waldon.

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

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

SENATOR LIBOUS: No.

SENATOR WALDON: So, in effect,

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

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

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

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

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

SENATOR LIBOUS: Yes, sir.

SENATOR WALDON: Is that when they

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

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

SENATOR WALDON: Beg your pardon, sir?

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

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

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

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

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

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

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

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

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

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

SENATOR LIBOUS: Yes, sir.

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

ACTING PRESIDENT KUHL: Senator continues to yield.

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

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

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

SENATOR WALDON: Well, if we do share that -

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

SENATOR WALDON: If I may, Mr. President.

SENATOR LIBOUS: Yes.

ACTING PRESIDENT KUHL: Senator yields.

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

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

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

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

ACTING PRESIDENT KUHL: Senator Waldon, on the bill.

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

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

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

Thank you Mr. President.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: When tabulated, announce the results.

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

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

ACTING PRESIDENT KUHL: The bill is passed.

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

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

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

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

SENATOR GOLD: Last section.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT KUHL: The bill the passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

SENATOR GOLD: Explanation.

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

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

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

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

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

ACTING PRESIDENT KUHL: Chair recognizes Senator Gold.

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

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

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

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

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

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

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1287, by Senator Rath.

SENATOR PRESENT: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

SENATOR GOLD: Explanation.

ACTING PRESIDENT KUHL: Senator

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

SENATOR SALAND: Thank you, Mr. President.

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

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

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

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

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

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

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

similarly victimized, and there was no huge outcry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

It's a bill that's always been

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

Thank you, Mr. President.

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

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

ACTING PRESIDENT KUHL: Senator yields.

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

Now, you've mentioned victims

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

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

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

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

SENATOR SALAND: Thank you, Senator.

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

The Chair recognizes Senator DeFrancisco.

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

I rise on one specific issue that

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

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

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

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

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

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

ACTING PRESIDENT KUHL: The Chair recognizes Senator Oppenheimer.

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

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

SENATOR SALAND: Certainly, Senator.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Saland yields. Senator Oppenheimer.

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

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

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

see that.

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

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

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

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

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

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

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

SENATOR SALAND: If the batterer comes -

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

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

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

ACTING PRESIDENT KUHL: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: I want to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Senator Saland?

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

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

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

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

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

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

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

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

I do recognize that that is a big improvement.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Dollinger.

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

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

SENATOR SALAND: Certainly, Mr. President.

ACTING PRESIDENT KUHL: Senator Saland yields.

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

better.

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

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

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

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

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

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

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

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

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

SENATOR DOLLINGER: Right.

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

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

ACTING PRESIDENT KUHL: Senator Saland continue to yield?

SENATOR SALAND: Certainly.

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

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

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

SENATOR DOLLINGER: O.K.

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

SENATOR DOLLINGER: O.K.

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

SENATOR DOLLINGER: O.K.

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

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

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

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

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR DOLLINGER: And it's my

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

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

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

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

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

SENATOR DOLLINGER: O.K. Again -

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

SENATOR DOLLINGER: Right.

SENATOR SALAND: Is there an outstanding order?

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

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

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

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

SENATOR DOLLINGER: Right.

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

received actual notice is good enough for him.

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

ACTING PRESIDENT KUHL: Senator Saland to yield.

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

SENATOR SALAND: Correct.

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

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

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

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

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

fact, present at that time.

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

SENATOR SALAND: Assumedly in a matter of seconds.

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

SENATOR SALAND: Correct.

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

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

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

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

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

SENATOR DOLLINGER: Right.

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

SENATOR DOLLINGER: O.K.

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

SENATOR DOLLINGER: Again through you, Mr. President.

ACTING PRESIDENT KUHL: Senator Saland continues to yield.

SENATOR DOLLINGER: Does this

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

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

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

ACTING PRESIDENT KUHL: Senator continues to yield.

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

Yet, the danger that's posed by

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

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

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

that's going to cut mustard.

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

SENATOR GALIBER: Will you -

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

SENATOR GALIBER: Just one question.

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

SENATOR GALIBER: Very rapidly.

SENATOR DOLLINGER: That's fine.

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

SENATOR DOLLINGER: No, Senator,

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

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

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

SENATOR GALIBER: I asked the

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

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

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

SENATOR GALIBER: Almost.

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

SENATOR DOLLINGER: Yes. All

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

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

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

ACTING PRESIDENT KUHL: Senator Saland yields.

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

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

ACTING PRESIDENT KUHL: Senator continues to yield.

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

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

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

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

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

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

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

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

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

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

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

SENATOR DOLLINGER: Okay.

SENATOR SALAND: But that, again,

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

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

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

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

ACTING PRESIDENT KUHL: Senator

Saland, do you yield?

SENATOR DOLLINGER: Another technical question -

ACTING PRESIDENT KUHL: The Senator yields.

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

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

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

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

ACTING PRESIDENT KUHL: Senator Saland.

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

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

raised in your prior question.

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

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

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

SENATOR SALAND: No.

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

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

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

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

SENATOR SALAND: Yes, Mr. President.

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

SENATOR SALAND: No. This is a

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

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

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

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

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

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

ACTING PRESIDENT KUHL: Senator -

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

SENATOR SALAND: We -- we are

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

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

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

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

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

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

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

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

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

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

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

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

SENATOR NOZZOLIO: Mr. President.

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

SENATOR NOZZOLIO: Will the Senator yield?

ACTING PRESIDENT KUHL: Senator Dollinger, do you yield?

SENATOR DOLLINGER: Absolutely, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields, Senator Nozzolio.

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

SENATOR DOLLINGER: No, I did not.

SENATOR NOZZOLIO: So you voted

against that appropriation, is that correct, Senator?

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

SENATOR NOZZOLIO: Thank you very much, Senator.

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

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

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

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

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

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

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

ACTING PRESIDENT KUHL: The Chair recognizes Senator Rath.

SENATOR RATH: Thank you, Mr. President.

Senator Saland, Assemblywoman

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

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

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

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

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

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

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

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

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

Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Goodman.

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

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

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

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

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

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

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

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

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

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

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

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

In 1990, some 45,000 cases of

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

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

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

Let's look at it from the vantage

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

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

half a billion dollars a year.

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

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

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

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

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

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

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

Mr. President, this morning on

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

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

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

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

ACTING PRESIDENT KUHL: The Chair recognizes Senator Jones.

SENATOR JONES: Yes, on the bill.

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

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

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

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

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

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

of these years.

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

I want to thank Senator Saland

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

ACTING PRESIDENT KUHL: The Chair recognizes Senator Nozzolio.

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

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

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

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

I sat in with Senator Saland in

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

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

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

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

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

ACTING PRESIDENT KUHL: The Chair

recognizes Senator Larkin.

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

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

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

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

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

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

and we want to address it."

Thank you very much.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President.

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

least most of which I absolutely agree with. We -- there is a need to do the kind of inter vention and prevention that I think will help to stem the tide of this very insidious problem that we are faced with, this kind of violence that occurs for reasons which I suppose most of us really don't know, certainly I don't understand, but it seems to happen in the context of a love relationship of some sort, whatever it is, and though the beginnings of the establishing of that kind of relationship is when we're young and how we learn to relate to another human being in an intimate way, I think against when we are at the point in our lives when that becomes a development -- a devel opmental stage that is appropriate and im portant, and I think that is early teen ages, and so, it occurs to me that I should remind my colleagues as we speak about domestic violence and the horrors of it, and the attempt to intervene in a way that saves lives, we should consider that adolescent health is extremely important and adolescent health services in -

that includes mental health services, and school-based health is extremely critical because therein is an opportunity for us to do the kind of intervention that would hopefully help teenagers to begin to understand how to establish intimate relationships that are healthy, that are based on respect, that are based on the values for another human being, that we want them to be able to carry into their adult lives and maintain.

So I applaud you, Senator Saland, and I certainly think that this is a monumental piece of legislation. I agree with Senator Jones, that it's an historical moment. I think it makes a statement to people who batter, that we will move on them without question and that they are no longer excused for such behavior and -- but I think at the same time, there is another important intervention that we must make, that we can make, and that for various political reasons, we have abdicated responsi bility in making and that is providing health care, health services and mental health services

for teens, pre-teens, especially in their schools where they are, along with health education, so that we can begin to address this in a preventive fashion.

So thank you, and I hope that the next step, Senator Saland, along with the other Senators in this house will be to push for the permanent -- the establishment of adolescent health care services and school-based health as a component of adolescent health care.

Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Olga Mendez.

SENATOR MENDEZ: Thank you, Mr. President.

I really do -- I also do want to join my colleagues in thanking Senator Saland and Assemblywoman Weinstein, and all the other Assemblymen and Senators who worked so hard in an effort to find a solution to a problem that has been devastating families, not only here in New York State but also throughout the country, and something with that problem is that once

there is a batterer in the home, he ends up not only battering his wife but battering his chil dren and battered children tend to eventually become also batterers when they grow into adulthood and enter into relationships as such.

I do have a couple of little questions that need clarification, and I wonder, Mr. President, if Senator Saland would be so kind -

ACTING PRESIDENT KUHL: Senator Saland, do you yield to a couple of questions from Senator Mendez?

SENATOR SALAND: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MENDEZ: The first one is, your bill covers -- protects women who are married or women who, even if they are not married, they do have children. However, it does not -- does it protect women who are living in a common law marriage without having children?

SENATOR SALAND: This bill does

not add to the protected class of people, anybody who is not currently protected. It deals with people who are married, people who are formerly married, people who have a child in common, people within a family living in a household. New York does not have a statute that recognizes common law marriages.

I would suggest to you that, if there were a common law marriage that were recognized in another state, so if somebody, for instance was common law married in a state that might recognize it, whichever state that might be, and then moved to New York, there would be an obligation in New York to recognize those people as married based on the acceptance, full faith and credit to the laws of another state. I don't know how many such people there are like that, but what people might think of as commonly being common law marriage where people who live here in New York, come and live together for a prolonged period of time, that would not be recognized as common law.

SENATOR MENDEZ: I know. So one

of the reasons why I ask that, Senator Saland, is because of the -- New York State does not recognize common law marriages. However, maybe in the area of domestic violence which is the most destructive force that the family -- the family as an institution do have to break up, so the reality is that they are wrong. Men and women, couples that are living for years and years without being married, maybe you could consider in the future having a bill that just in the area of domestic violence, that those relationships that could fall into this magnificent legislation that you have in, that we're hoping the Governor will sign.

The other question is, it is my understanding, July the 1st -- January the 1st of '95, that the bulk of the bill will take effect, correct, since at present there are so many women in New York State that do -- that are living that tragedy and that do have orders of protection, since your bill -- since your bill extends order of protection for three years, is there a way in which we could grandfather those

women that already have those orders of protec tions so that they would be more protected?

SENATOR SALAND: I think what you're asking me is whether they can get the benefit of the three-year order, whether the people who have pre-existing orders as of the effective date of this bill can get the benefit of three-year orders. Unfortunately, I can't tell you yes, because that's a judicial determination. The court will have to determine whether there are aggravating circumstances that warrant the expansion -- or the providing of the expanded order of up to three years.

SENATOR MENDEZ: Thank you, Senator Saland.

Mr. President.

ACTING PRESIDENT KUHL: Senator Mendez, on the bill.

SENATOR MENDEZ: Yes. I am really most grateful for the efforts, as I said before, of Senator Saland and the others who worked so hard on this bill. I have had in my district women -- three women who have been killed even

though they had orders of protection. It didn't -- it didn't matter to them and they are not alive any longer, sadly so. Because the -- of the comprehensive approach that this bill has, I am very hopeful, very hopeful, that -- all of us here are very hopeful that it will make a big difference -- that it will make a big difference in stemming the tide of that horrendous enemy of the family as an institution.

Thank you, Senator Saland. Thank you.

ACTING PRESIDENT KUHL: The Chair would note that the Assembly is waiting for the passage of this bill, and we have reached the last member on the list who's asked to speak, that's Senator Marchi. The Chair recognizes Senator Marchi on the bill.

SENATOR MARCHI: Thank you, Mr. President.

I was -- I think some of the things that I had intended to say were said by Senator Nozzolio and the feeling that all of us have experienced as a result of the events of

today and those that preceded it and made it possible.

I was going to ask a question with relevance -- with relation to the mandatory arrest and the time frame within which they might be resolved, that they are, in fact, on a fast track in terms of the intent of this legislation. I believe that it is. I'm not going to ask for an answer to that, because there are so many -- so many things that are involved in giving this life and effectiveness, the bill that has been presented today and a program that has been presented, some of which has been replicated and has -- or it was initiated earlier on in other states, and the other, whether they -- whether they produce the intended result, I think bears down very heavily on the investment that we make in this state in implementing it, because what has been provided here are the tools with which we can respond to something that is really stunning in the experience of each and every one of us, at least it is to me.

I have been here many years, and when I do some personal soul searching, here we tilt with so many evils in society, people who perpetrate crimes, and throughout all of this, the biggest wounds have been our self-inflicted wounds socially, so that so much will depend on the verb and the animation that we have in implementing the tools that have been provided.

Senator Jones made the observation that perhaps we had two majorities, the two majorities of the two houses as sponsors. I've always tried to stress in any - in any setting of the Senate, that this is an institution, and everyone in this house contributes to it. The contribution is there even -- even though at times there is a critique because it all goes to the formulation of the final policy statement and action that is undertaken.

I placed -- I compliment you, Senator Montgomery, on going into the long-range preparation of society in indulging and engaging and furthering the -- the spirit of respect,

love, compassion. This is a step that -- this is a matter that an enlightened society that likes to pride itself on being a moral society should attack very energetically, and I think you're absolutely correct. These are -- this is the formulation of the structure of society which avoids so many of these problems, but this has come out in a general discussion, and I reserve my -- my greatest praise, of course, because you, Senator Saland, have really -- this is -- you have -- in all the years I have been here, you can count on, well, anybody's short list of items of a profound nature, of a moral nature, and one that will serve society well if we accept it in the spirit in which you have tendered it. You have enriched me immeasurably by what you have done and what our colleague, Helene Weinstein, is going to do in the Assembly.

So I think it's a time for -- for taking stock and also thinking in terms of how we are going to use this valuable tool that you have fashioned with the help of so many and will

be at our -- sensitized as we are, that it will be used in a way that will benefit society commensurately.

ACTING PRESIDENT KUHL: Is there any other Senator who wishes to speak on this bill?

Senator Saland to close.

SENATOR SALAND: Thank you, Mr. President.

I would like to thank my colleagues who have been so gracious to me, really on this occasion, and I'm sure that I will be appropriately the subject of your criticisms and barbs at later dates and at other venues.

I would like to address, if I might, one issue that gnawed at me, and it was in response to comments by Senator Dollinger which had to do with the question of liability of hospitals and having the opportunity to look at the bill more closely. It basically is provided for -- there is no problem with the failure to give the notice unless, again, you

have a showing of gross negligence or willful misconduct, so I would not be particularly concerned with that.

Let me share with you, if I might, some people have asked me how is it that I've come to this issue and why is it that I ask to -- to have this issue become subject to the jurisdiction of the Children and Families Committee.

Probably some 20 years ago, I had the opportunity to serve as the attorney to my county's Social Service Department, in which, among my responsibilities, were handling abuse and neglect cases, and the first case that I handled was so far into me and so difficult for me to comprehend, that I truly assumed that it would be the last case that I would handle, and I found out in relatively short order that there were more cases than I could possibly handle by myself in my county.

It had quite an effect on me, and it didn't take very long to realize that nobody had cornered the market on violence within the

household. It knew no ethnic restraints. It knew no religious restraints. It knew no racial restraints. It knew no socio-economic re straints. There was enough to go around for everybody. And when I continued to serve in that capacity, I never quite could become hardened to it. I don't think you could handle any one of those cases and ever be hardened to it. I think it was forever indelibly burned upon my conscience, and it was sort of a relatively logical evolution to go from there, when I arrived in this institution as a member of the Assembly first and now the Senate, to be involved in issues not only of child abuse and neglect but also generally of family violence, domestic violence, and it was the opportunity to serve as the chairman of this committee that afforded me the ability to do something which I basically have wanted to do for a number of years, which is try and do an omnibus bill dealing with -- with the subject of domestic violence.

I thanked so many people

earlier. I won't repeat it. They were all instrumental, very big players in helping to put this thing together. I thank them profusely. This effort could not have been successful without them.

And for those of us, and we're all members of this body, we have those moments where we clash and sometimes those clashes are generally philosophical; sometimes those clashes may be more in the nature of things political, I think this is a crowning moment, and I say not for me, Steve Saland, for this institution. I think this legislation will make a difference, will make a major difference. It's the beginning of the change. It all has to get on board and be in place, and when it is there and it is operational, I think we will all be able to look back with pride. I think the system will have worked the way all of the people who you and I represent would want it to have worked. That's the way the hearing processes work and that's the way this will work.

I thank you, and I commend you as

well.

ACTING PRESIDENT KUHL: The Secretary will read the last section on Calendar Number 1289.

THE SECRETARY: Section 59. This be act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold to explain his vote.

SENATOR GOLD: Thank you.

Mr. President, I'll be very brief. I know that the Assembly is calling over for the bill, and the only point I want to make is, while I admire Senator Saland, who has, in fact, been in this for a while, I as a Democrat do not appreciate lectures from Republicans that make it sound like the people on this side of the aisle never heard of the issue until this bill with its Republican sponsorship came out here.

Mary Ellen Jones has had a bill

in for a long time. Senator Kruger has had a bill in, Senator Montgomery, Senator Mendez, Senator Galiber, all the way down the line.

So, I'm delighted, Senator Saland, that through your negotiation skills, you and Assemblywoman Weinstein were able to get a unibill, but you insult this issue. You don't help this issue; you insult this issue when you don't offer it around for co sponsorship by people who have worked harder than 90 percent of the Republican Party in this house to come to a solution. So let's get it out and get it on the table the way it ought to be.

Senator Saland, you always have my respect and other members too, but don't spend an hour and a half lecturing to the news media, the cameras, like people on this side of the aisle never heard of it. If it wasn't for this side of the aisle and Helene Weinstein and others, we wouldn't even be here today.

I vote yes.

ACTING PRESIDENT KUHL: Announce

the results.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Galiber -- withdraw the roll call. Senator Galiber to explain his vote.

SENATOR GALIBER: Please.

Senator Gold, again we're pretty close on the same wave length. Wouldn't it be nice, Senator, if we could use the same practice that we use with resolutions and say that everybody is on this bill unless they choose to be taken off?

I vote aye.

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary -- Senator Goodman.

SENATOR GOODMAN: May I ask, please, to be recorded in the negative on Senate Bill Number -- on Calendar Number 1301 passed earlier today?

ACTING PRESIDENT KUHL: Without objection, Senator Goodman will be recorded in the negative on Calendar Number 1301.

Senator Gold.

SENATOR GOLD: Yeah. Mr. President, with the consent of the Majority Leader, if we could return to motions and resolutions.

On page 29, on behalf of Senator Santiago, Calendar Number 1257, Print 112-A, I ask that the following amendments be made and the bill retain its place on the third reading.

ACTING PRESIDENT KUHL: The amendments are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President, I wish to call up for Senator Cook, bill Print Number 7871 recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: By Senator Cook, Senate Bill Number 7871, an act to amend the Education Law, in relation to efficiency study grants.

ACTING PRESIDENT KUHL: Senator DiCarlo.

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

ACTING PRESIDENT KUHL: Move to reconsider the vote by which this bill was passed. The house clerk -- the Secretary will read the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: Senator DiCarlo.

SENATOR DiCARLO: Mr. President, I now offer the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Larkin -- excuse me.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President, on page 43, on behalf of Senator Levy, I offer the following amendments to Calendar 1010, Senate Print 5679, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President, will you remove the star?

ACTING PRESIDENT KUHL: The star is removed.

SENATOR DiCARLO: On page 17, I offer the following amendments to Calendar 801, Senate Print 5406, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Larkin.

SENATOR LARKIN: Mr. President, on page 29, I offer the following amendments to Calendar Number 1261, Senate Print Number 1902-A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments are received and adopted. The bill will retain its place on the Third Reading Calendar.

The Secretary will continue to call the controversial calendar.

THE SECRETARY: On page 30, Calendar Number 1290, by Senator Stafford, Senate Bill Number 443, an act to amend the Environmental Conservation Law.

SENATOR GOLD: Could I ask the sponsor, could we put this over for the day, please?

SENATOR STAFFORD: No objection.

ACTING PRESIDENT KUHL: The bill is laid aside for the day.

THE SECRETARY: Calendar Number

1292, by Senator Marchi, Senate Bill Number 2456, an act to require the Department of Environmental Conservation to study the period of probable usefulness of landfills.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56, nays 1, Senator Goodman recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1295, by Senator Kuhl, Senate Bill Number 4140-A, providing to Thomas A. Cassidy credit for past service time lost because of extra ordinary budgetary problems.

ACTING PRESIDENT KUHL: Senator Gold. The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results.

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

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1297, by Senator Johnson, Senate Bill Number 4375-C, an act -

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1298, by Senator Marino, Senate -- Senate Bill Number 4569-B, allowing Pauline Ogus to receive service credit.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1311, by Senator Wright, Senate Bill Number

7942-A, an act to amend the Environmental Conservation Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Withdraw the roll call. An explanation has been asked for.

SENATOR PRESENT: Lay the bill aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

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

SENATOR GOLD: Hold on one second. Lay it aside.

SENATOR PRESENT: Lay the bill aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

Senator Present.

SENATOR PRESENT: Mr. President, before we leave the chamber, I don't know how many are aware that one of our colleagues is celebrating a birthday today, and we'll watch him blush a little bit. I don't want anybody to sing "Happy Birthday" to him, but I think we all should wish Senator Tully a happy birthday on June 23rd, 1994.

(Applause)

SENATOR GOLD: I understand he shoots his age on each nine.

(Laughter)

SENATOR PRESENT: Session will be tomorrow as scheduled. The staff will work through the week end on bills that must be considered prior to adjournment. The intention

is to finish the session and adjourn no later than Friday next week. Now, that's good news. Without your cooperation, that will be difficult, all of ours, so let's try and be in attendance when the session is called, whether it's 11:00 o'clock or 3:00 o'clock or 1:00 o'clock. Let's all try and be here and get under way.

Mr. Cornell, do you have any housekeeping, no one else? If not, Mr. President, there being no further business, I move that we adjourn until tomorrow at 11:00 a.m.

ACTING PRESIDENT KUHL: The Chair will remind those people to be present tomorrow at 11:00 a.m. sharp.

Without objection, the motion to adjourn is adopted. The Senate stands adjourned until tomorrow at 11:00 a.m. sharp.

(Whereupon at 3:58 p.m., the Senate adjourned.)