ALBANY, NEW YORK

June 29, 1994

11:33 a.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: Senate will come do order. Ask the members to find their places. Staff will find their places. Ask the visitors in the gallery to rise and join us as we say the Pledge of Allegiance to the Flag.

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

We're happy to be joined today by a constituent of Senator Jones, Father Otto Vogt of St. Paul of the Cross Roman Catholic Church in Honeoye Falls, New York.

Father Vogt.

FATHER VOGT: I pray in the Senate chamber that is hallowed by the voices and labors of the yesteryears. I pray in the presence of all of you who yearn to fulfill the hopes of our tomorrows.

Lord, we lift our hearts and minds to You in this gathering where decisions and laws are written. May we, Lord, be wise with the wisdom that comes from experience and

insight, a wisdom that is just in judgments, a wisdom and knowledge with the clarity of vision, informed discussion and debate. May laws be formed and fashioned for the common good and respect the hopes and values of those we represent.

Lord, renew again in us the dignity and seriousness of our sacred office and the challenging responsibilities of each day. May we not be discouraged when the best is rejected and when opposition is strong. May we have the courage to be persistent in our work when the rush of our daily tasks are distracting to us.

Give us the blessing of a smile and a sense of humor. Bless all who labor with us, each Senator and their staff, those who record our words, those who sit behind typewriters and computers and FAX machines, those who make our labors less burdensome. Bless our loved ones who await our coming home.

We pray that in the decisions and laws that we protect the security and needs of

the young, the ill, the needy, the homeless, the elderly. Guide and direct us to find the best of answers to the painful concerns of our time, crime in the home and crime in the streets, the use of illegal drugs, domestic violence and infidelity, the pain of the minorities, unemployment, broken family life, people alone. In these days of instant progress, instant communication, highly technical research and knowledge, we ask for discernment that our decisions and our laws protect the rights, the well-being and the labors of men and women and our youth.

May we remember always that life is precious at every moment of its existence. May we remember and defend the dignity and worth of every human person. Help us, Lord, to see the good things in the unexpected places and events, discover talents in unexpected persons, in our busy moments to take time for prayer and reflection.

I pray that we more deeply may know that whatever we do God has a mark on it

and is always with us. Let us love and serve the Lord in his creation. May God our Father bless us. May God the Son, who lived our human life, be our example. May God the Holy Spirit abide with us in our service to our beloved people of our beloved state of New York.

Amen.

ACTING PRESIDENT KUHL: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, June 28. The Senate met pursuant to adjournment. Senator Kuhl in the chair upon designation of the Temporary President. The Journal of Monday, June 27, 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 Farley.

SENATOR FARLEY: Thank you, Mr. President. On behalf of Senator Skelos, I wish toi call up his bill, Calendar Number 967, Assembly Print 9409A.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: An act to amend the Executive Law, in relation to extending the statute of limitations for certain actions and proceedings.

SENATOR FARLEY: I now move to reconsider the vote by this Assembly bill was substituted for Senator Skelos' bill, Senate Print 6733B on 6-27.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator Farley.

SENATOR FARLEY: I now move that the Assembly Bill, Number 9409A, be recommitted to the Committee on Rules, and Senator Skelos' bill be restored to the order of Third Reading Calendar, and I offer the following amendments to that.

ACTING PRESIDENT KUHL: The Assembly bill will be recommitted. The Senate bill will be substituted. The amendments will be received and adopted.

Senator Farley.

SENATOR FARLEY: Mr. President. Also on behalf Senator Skelos, on page 46, I offer the following amendments to Calendar Number 769, Senate Print 7012, and I ask that that 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 Farley.

SENATOR FARLEY: On behalf of Senator Volker, on page 8, I offer the following amendments to Calendar Number 389, Senate Print 2629, and I ask that that 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.

Secretary will call the substitution or read the substitutions.

THE SECRETARY: On page 6 of today's calendar, Senator Johnson moves to discharge the Committee on Rules from Assembly Bill Number 6901B and substitute it for the identical Calendar Number 195.

On page 35, Senator Holland moves to discharge the Committee on Social Services from Assembly Bill Number 9264 and substitute it for the identical Calendar Number 1390.

On page 36, Senator Lack moves to

discharge the Committee on Rules from Assembly Bill Number 11660 and substitute it for the identical Calendar Number 1399.

On page 36, Senator Mendez moves to discharge the Committee on Rules from Assembly Bill Number 11813 and substitute it for the identical Calendar Number 1405.

On page 38, Senator Gonzalez moves to discharge the Committee on Rules from Assembly Bill Number 8213A and substitute it for the identical Calendar Number 1416.

On page 38, Senator Velella moves to discharge the Committee on Judiciary from Assembly Bill Number 8125A and substitute it for the identical Third Reading 1417.

Also on page 38, Senator Pataki moves to discharge the Committee on Rules from Assembly Bill Number 11451B and substitute it for the identical Calendar Number 1419.

On page 39, Senator Seward moves to discharge the Committee on Rules from Assembly Bill Number 9275A and substitute it for the identical Third Reading 1422.

On page 39, Senator Seward moves to discharge the Committee on Rules from Assembly Bill Number 9524 and substitute it for the identical Third Reading 1423.

On page 39, Senator Farley moves to discharge the Committee on Rules from Assembly Bill Number 11603A and substitute it for the identical Third Reading 1426.

On page 40, Senator Holland moves to discharge the Committee on Rules from Assembly Bill Number 11407 and substitute it for the identical Third Reading 1413.

On page 40, Senator Johnson moves to discharge the Committee on Rules from Assembly Bill Number 11546 and substitute it for the identical Third Reading 1433.

On page 41, Senator Paterson moves to discharge the Committee on Rules from Assembly Bill Number 9459 and substitute it for the identical Third Reading 1438.

ACTING PRESIDENT KUHL: All substitutions are ordered.

Chair recognizes Senator

LaValle.

SENATOR LAVALLE: Mr. President. Let the record show that had I been in the chamber when Calendar -- on Tuesday, June the 28th, when Calendar Number 1357, Senate Bill Number 3674, was voted upon, I would have voted in the negative.

ACTING PRESIDENT KUHL: The calendar will reflect, Senator LaValle, that had you been in the chamber on Tuesday, that you would have voted in the negative on Calendar Number 1357.

Senator Present.

SENATOR PRESENT: Would you recognize Senator Daly, please?

ACTING PRESIDENT KUHL: Chair recognizes Senator Daly.

SENATOR DALY: Mr. President. Do you have a privileged resolution at the desk? Would you read the title, please?

ACTING PRESIDENT KUHL: Senator Daly, we do. I will ask the Secretary - Senator Daly, we have a resolution, 4076, at the

desk. Would you like the title read?

SENATOR DALY: Yes, please. Just the title.

ACTING PRESIDENT KUHL: Secretary will read the title of resolution 4076.

THE SECRETARY: Legislative resolution, by Senator Daly, memorializing Governor Mario M. Cuomo to recognize Labor Day, September 5, 1994, as "Help Yourself, Buy American Day" in the State of New York.

ACTING PRESIDENT KUHL: Senator Daly on the resolution.

SENATOR DALY: Mr. President. This is becoming an annual occurrence, and I won't take too much of my colleagues' time today; but since the purpose of this bill is to heighten and renew the awareness of the importance of giving preference to buying products made in America, I will take some of your time.

I stand before you, my colleagues, bedecked in dazzling garb, a picture of sartorial splendor with clothes all that are

made, of course, in the United States, and very proud of it.

In fact, my suit was made in Rochester, if you remember; and my shirt was made in the mighty metropolis of Medina, which happens to be in the heart of my district in Monroe County -- Monroe -- Orleans County, Senator Padavan, and so on and so.

And, very frankly, my colleagues, I rise to ask your support and to open up the resolution to all of you who wish to join me. As I said, this is something we do annually, again, to keep before -- to try to keep before the minds of the people of the state the importance of giving preference to American products when we go to purchase products at the store.

The fact that we would pay attention to whether or not a product is made in America has a definite impact on the sales of those products and, most importantly, on the jobs of Americans. And that is the major thrust of this legislation, to keep before the people

of the State of New York the thought that they can help their fellow workers in this state and in this nation by giving preference to American-made products.

Now, hopefully, we'll be able to get the Governor involved this year. He has been somewhat recalcitrant in the last two years of becoming too involved. We think it's a good idea. What we try to do is to surround -- I should say surround Labor Day with this thought and put together with the Governor, hopefully, a program which will cross the state, which will be seen and heard in every city and town in this state so that the people of the state, again, will remember that when they go to buy products, please, let's give preference to those products made by American workers.

And, my colleagues, I would hope that you would all join me on this resolution. And, Mr. President, if you would keep this resolution open at the desk so my colleagues can join me in this resolution, I would appreciate it.

ACTING PRESIDENT KUHL: Senator Daly, we will ask the Secretary to keep the sponsorship open for the members that indicate that they would like to add their names to the list, or, Senator Present, is there a desire to put everybody on?

SENATOR PRESENT: I would suggest that we follow the past procedures. When the sponsorship is open, we include everyone except those who decline.

ACTING PRESIDENT KUHL: Senator Daly, everybody in the chamber will be placed as a sponsor except those individuals who indicate to the Secretary that they don't wish to have their name included as a sponsor.

The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Present, that concludes

the housekeeping at the desk. That brings us to the calendar.

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

ACTING PRESIDENT KUHL: Secretary will read the noncontroversial calendar.

THE SECRETARY: On page 9, Calendar Number 432, by Senator Levy, Senate Bill Number 79C, an act to amend the Transportation Law.

ACTING PRESIDENT KUHL: There is a local fiscal impact note at the desk.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Lay the bill aside.

Secretary will continue to calling the noncontroversial calendar.

THE SECRETARY: Calendar Number 560, by Senator Lack, Senate Bill Number 7207,

an act to amend the Judiciary Law and the New York City Civil Court Act.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 606, by Member of the Assembly Lafayette, Assembly Bill Number 1302A, an act to amend the General Business Law.

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

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

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 715, by Senator Daly.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 853, by Member of the Assembly Sanders, Assembly Bill Number 10877A, an act to amend the Mental Hygiene 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.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 868, by Senator Spano, Senate Bill Number 3354A, an act to amend the Retirement and Social Security 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.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1010, by Senator Levy, Senate Bill Number 5679A, an act to amend the Vehicle and Traffic 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.)

THE SECRETARY: Ayes 33. Nays 1. Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1106, by Senator Stafford, Senate Bill Number 8030A, proposing an amendment to the Constitution.

SENATOR GOLD: Can we get a day on this?

SENATOR LIBOUS: Sure.

ACTING PRESIDENT KUHL: Lay the

bill aside.

THE SECRETARY: Calendar number 1247, by Senator Wright, Senate Bill Number 8571A, an act to amend the Public Authorities 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.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1287, by Senator Rath, Senate Bill Number 8605, an act to amend the State Administrative Procedure Act.

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 35.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1290, by Senator -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

Senator Present.

SENATOR PRESENT: May I recall 1287, reconsider the vote by which the bill passed?

ACTING PRESIDENT KUHL: The motion is to reconsider the vote by which Calendar 1287 passed the house.

The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator Present.

SENATOR PRESENT: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1316, by Senator Tully, Senate Bill Number 8392, an act to amend the Public Health Law, in relation to establishing a state plan for hospice care.

SENATOR PRESENT: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1321, by Member of the Assembly Lopez, Assembly Bill Number 3490, an act to amend the Family Court Act.

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 35.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1323, by the Senate Committee on -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1326, by Senator Cook, Senate Bill Number 1995B, Education Law, in relation to enacting the School Property Tax Reduction Act.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1330, by Senator Seward, Senate Bill Number 4262A, an act to amend the Tax Law and the Public Service Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1344, by Senator Saland, Senate Bill Number 8440, an act to amend the Family Court Act.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1358, by Senator Saland, Senate Bill Number 5499A, an act to amend the Social Services 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.)

THE SECRETARY: Ayes 35. Nays 1. Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1359, by Senator Padavan, Senate Bill Number 5571, an act to amend the Public Authorities 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.)

THE SECRETARY: Ayes 35. Nays 1. Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1363, by Member of the Assembly Casale, Assembly Bill Number 9832A, an act to amend the Election 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.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1364, by Senator Johnson, Senate Bill Number 7015, an act to amend the General Municipal Law.

ACTING PRESIDENT KUHL: There is a local fiscal impact note 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 36.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1365, by Senator Lack, Senate Bill Number 70 -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1374, by Senator Present.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1376, by Senator Daly, Senate Bill Number 8398 -

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1378, by Senator Sears, Senate Bill Number 8520, an act to authorize the Town of Massena, St. Lawrence County, to construct office facilities.

ACTING PRESIDENT KUHL: There is 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 36.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1382, by Senator Daly, Senate Bill Number 8684, authorize the sale or lease of real property at the Rochester Psychiatric Center.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1383, by Senator Saland, Senate Bill Number 8694, Environmental Conservation Law.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

SENATOR OPPENHEIMER: Lay it aside.

THE SECRETARY: Calendar Number 1385, by Senator Holland, Senate Bill Number

8704, Social Services 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.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1386, by Senator Tully, Senate Bill Number 8739.

SENATOR COOK: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1387, by Senator Holland, Senate Bill Number 737, an act to amend the Social Services Law.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

1388, by Senator Present, Senate Bill Number 1064, an act to amend the Tax 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.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1389, by Senator Volker, Senate Bill Number 4629C, to provide service credit in the New York State Employees Retirement System.

ACTING PRESIDENT KUHL: There is 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.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 35. Nays 2. Senators Gold and Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1390, substituted earlier today, by Member of the Assembly Eve, Assembly Bill Number 9264, an act to amend the Social Services 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.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1391, by Senator Present, Senate Bill Number 6537, an act to amend the Tax Law.

ACTING PRESIDENT KUHL: There is a local fiscal impact note 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 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1392, by Senator Hannon, Senate Bill Number 6789B, an act to amend the Tax 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.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1393, by Senator Holland, Senate Bill Number 6970A, in relation to creating the Local Cost Containment Incentive Program.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1394, by Senator Trunzo, Senate Bill Number 7056A, Administrative Code of the City of New York.

ACTING PRESIDENT KUHL: There is 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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1398, by Senator Tully, Senate Bill Number 8080A, an act to amend the Public Health 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.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1399, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 11006.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the

bill aside.

THE SECRETARY: Calendar Number 1400, by Senator Galiber, Senate Bill Number 8197, relating to retroactive granting of the senior citizen exemption in certain circumstances.

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 39.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1401, by Senator Velella, Senate Bill Number 8417A, an act to amend the Insurance 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.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1402, by Senator Sears, Senate Bill Number 8494, to allow Joanne A. Taurisano credit in the New York State and Local Employees Retirement system.

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: Announce the results.

THE SECRETARY: Ayes 36. Nays 3. Senators Dollinger, Gold and Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1403, by Senator Velella, Senate Bill Number 8538, Administrative Code of the City of New York.

ACTING PRESIDENT KUHL: There is no home rule message at the desk, so the bill will be laid aside.

THE SECRETARY: Calendar Number 1404, by Senator DiCarlo, Senate Bill Number 8552A, an act to amend the Executive 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.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1405, substituted earlier today, by the Assembly Committee on Rules, City of New York to reconvey its interest in certain real property.

ACTING PRESIDENT KUHL: There is 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 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1406, by Senator Johnson, Senate Bill Number 8584, in relation to providing a retirement incentive for certain public employees.

ACTING PRESIDENT KUHL: There is 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 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1407, by Senator Volker, Senate Bill Number 8606, establish a moratorium on requiring any disconnection from the Letchworth State Park waterline.

SENATOR PRESENT: Lay it aside -

ACTING PRESIDENT KUHL: Lay the bill aside.

SENATOR PRESENT: -- for the day.

ACTING PRESIDENT KUHL: For the day.

THE SECRETARY: Calendar Number 1408, by Senator Padavan, Senate Bill Number 8625.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1409, by Senator Volker, Senate Bill Number 8630, an act to amend the Penal Law.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1410, by Senator Stafford.

SENATOR PRESENT: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1411, by Senator Libous, Senate Bill Number 8662, an act to amend the Tax 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.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1412, by the Senate Committee on Rules, Senate Bill Number 8680, Administrative Code of the City of New York.

ACTING PRESIDENT KUHL: There is 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 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1413, by Senator Maltese, Senate Bill Number 8681, an act to amend the Correction Law.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1415, by Senator Johnson, Senate Bill Number 5178C, restoring Emil G. Pavlik, Jr. to Tier II.

ACTING PRESIDENT KUHL: There is a home rule message at the desk.

Secretary will read the last section.

SENATOR LEICHTER: Can you hold that please? No problem.

ACTING PRESIDENT KUHL: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1416, substituted earlier today, by the Assembly Committee on Rules, 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.

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 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1417, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 8125A, an act to amend the General Obligations 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.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1418, by Senator Johnson, Senate Bill Number 6693, Domestic Relations 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.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1419, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 11451B, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39. Nays 1. Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1420, by Senator Bruno, Senate Bill Number 7494B, an act to amend the Economic Development Law.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1423, substituted earlier today, by Member of the Assembly Luster, Assembly Bill Number 9524, Civil Rights 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.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1424, by Senator Kuhl, Senate Bill Number 7588, an act to amend the Workers' Compensation Law.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1427, by Senator Pataki, Senate Bill Number 7807, an act to amend the Criminal Procedure Law.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1428, by Senator Pataki, Senate Bill Number 7808, an act to amend the Criminal Procedure Law.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the

bill aside.

THE SECRETARY: Calendar Number 1429, by Senator Saland, Senate Bill Number 7910, authorizing the Commissioner of General Services to sell land to the city of Beacon.

ACTING PRESIDENT KUHL: There is a home rule message at the desk.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1430, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 11407, Uniform Justice Court Act.

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 42.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1431, by Senator Pataki -

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1433, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 11546, an act to amend the County 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.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1436, by Senator Farley, Senate Bill Number 8556, an act to amend the Education Law.

ACTING PRESIDENT KUHL: There is a local fiscal impact note 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 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1438, substituted earlier today, by Member of the Assembly Wright, Assembly Bill Number 9459, City of New York to reconvey its interest in certain real property.

ACTING PRESIDENT KUHL: There is 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 42.

ACTING PRESIDENT KUHL: The bill is passed.

ACTING PRESIDENT KUHL: Senator Present, that completes the noncontroversial calendar. What is your pleasure, sir?

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

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar.

THE SECRETARY: On page 9, Calendar Number 432, by Senator Levy, Senate Bill Number 79C, an act to amend the Transportation Law and the Education 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: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 432 are Senators Cook, Daly, DeFrancisco, DiCarlo, Dollinger, Kuhl, Libous, Maltese, Sears, and Wright, also Senator Johnson. Ayes 32. Nays 11.

ACTING PRESIDENT KUHL: There is a formal fiscal impact note at the desk. The bill is passed.

THE SECRETARY: Calendar Number 560, by Senator Lack, Senate Bill Number 7207, an act to amend the Judiciary Law and the New York City Civil Court Act.

SENATOR GOLD: Explanation.

ACTING PRESIDENT KUHL: Senator Present, an explanation has been asked of Calendar Number 560. Senator Lack is not in the chamber, at least he doesn't appear to me to be in the chamber -

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 606, by Member of the Assembly Lafayette, Assembly Bill Number 1302A, an act to amend the General Business Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

Senator Gold, did you have an objection on this bill?

SENATOR GOLD: Go ahead. I'm sorry.

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 43.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: In relation to the last bill, Calendar Number 606: Ayes 42. Nays 1. Senator Wright recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 715, by Senator Daly, Senate Bill Number 1093C, Environmental Conservation Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT KUHL: Senator Daly, an explanation of Calendar Number 715 has been asked for by Senator Gold.

SENATOR DALY: Mr. President. This is a bill that has passed this house before, as you recall, as we were negotiating with the Assembly.

Basically, the bill requires DEC to include additional financial information in its annual remedial plan update, The Annual Plan. This bill has been around now for two or three years. We have been trying to work out a

final agreement with DEC and with the other house. We passed this bill this year, brought it back at the request of the Assembly, amended it, added the word "contractual" in a certain paragraph, sent it back to the Assembly. DEC then decided they didn't want that word in, so the bill was sent back here and, in fact, has been taken out.

The bill is pretty much in the same form it was when it passed the Senate in the first place. The Assembly is on board and expects to pass the bill and hopefully it will pass this house.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. Just very briefly on the bill.

ACTING PRESIDENT KUHL: Senator Leichter on the bill.

SENATOR LEICHTER: As Senator Daly stated, we have seen this bill before. And I think we've pointed out some of the problems that we have with this bill.

Basically, it again imposes very extensive reporting requirements on the Department of Environmental Conservation, doesn't provide a single penny to the Department to do this job. I mean there is a limit to what the Department can do with the resources that it has when we keep on piling on this reporting requirement, that reporting requirement. We want them to do that.

And my objection is to the other side of the aisle that loves to ask for these reports and audits and other activities on the part of governmental agencies but never wants to pay for it. It's a wonderful world where we can get government to do more and more at the same time that we say that we want less government, but we never have to pay for it. Well, in the real world, you can't do that.

I also think that the information required here is onerous. It's really not necessary. It's not helpful or beneficial. There are reporting requirements now where we receive the information.

You pass this bill, the Department, instead of working to cleanup these sites, is going to be spending all their time doing paperwork for Senator Daly. I think it's an unwise bill.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: I'd just like to reaffirm what Senator Leichter has said.

The number of sites that would be -- have required extensive reporting on them by the DEC is approximately 1,000 sites. To require quarterly reporting on 1,000 sites, seems to me a very inefficient way to deliver service.

SENATOR DALY: Mr. President.

ACTING PRESIDENT KUHL: Senator Daly.

SENATOR DALY: Senator, are you aware that we dropped the site-specific requirement in one of the older bills, the A version? That is no longer required in this

legislation, so they would not have to report on the 1,000 sites.

SENATOR OPPENHEIMER: Would the Senator yield for a question?

SENATOR DALY: No. I'm asking you a question. Do you realize that the site-specific requirement is no longer in this bill? We took the bill out, and we took that requirement out when we negotiated with the Assembly.

SENATOR OPPENHEIMER: Well, I'm happy to hear that, Senator. Now, if you will will yield to a question, please?

ACTING PRESIDENT KUHL: Senator Daly, do you yield to a question from Senator Oppenheimer?

SENATOR DALY: Certainly.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR OPPENHEIMER: Senator, will you be good enough to tell me about how many sites you think will be required to report?

SENATOR DALY: It is not a report on individual sites. What we're trying to do with this legislation, all we're asking is for DEC to take information they already have to gather. They are the ones that manage the Super Fund. Now, we're told by DEC that the Super Fund -- we're running out of money. Now, that's something to be concerned about, and I think the Senate and the Assembly should be aware of how close we're coming before we run out of money.

So all we're doing is saying, take the information you already have and put it in your annual report so we can have, at least on an annual basis, an idea of how much money we're spending to remediate the sites that require remediation in this state and how soon will we use up that $1.2 billion, the bond issue that was passed by the voters back in 1986.

Now, if we're concerned -- if we're concerned about having the wherewithal to clean up these sites, then shouldn't we know how much money we've got in the pot to do it? And that's all this bill does. They don't have to

go out and -

I must say, Senator Leichter's description of the bill was in my opinion somewhat hyperbolic, somewhat exaggerated. The information is there. This bill, as I said, has been amended several times. If you look, it's a C version. And even the original version was amended from the first version two years ago.

SENATOR OPPENHEIMER: Thank you, Senator.

SENATOR DALY: So there really is not that much of a requirement, but I think it's important that we stay on top of how much money we have in the Super Fund, how much money we're using up, because if we're getting close to using up, then we might want to take action if we still have sites which must be remediated under the Super Fund.

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

ACTING PRESIDENT KUHL: Senator Oppenheimer on the bill.

SENATOR OPPENHEIMER: The fear of

the DEC is that it's very difficult to estimate how much of the site is remediated before the final remediation of the site is complete. I think they are concerned that it's hard to acertain what portion is and what portion is not remediated.

Thank you, Senator Daly.

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 when tabulated.

THE SECRETARY: Ayes 41. Nays 2. Senators Gold and Leichter recorded in the negative, also Senator Oppenheimer in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1106, by Senator Stafford, Senate Bill Number 8030A, proposing an amendment to the Constitution, in relation to the exchange of certain forest preserve land.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: I think we're on -

SENATOR GOLD: Is this 1105?

ACTING PRESIDENT KUHL: Senator Gold, this is Calendar Number 1106 we're on.

SENATOR OPPENHEIMER: I'm on the wrong bill at the moment.

ACTING PRESIDENT KUHL: Senator Oppenheimer passes. Senator Gold has asked for an explanation.

SENATOR GOLD: Yes.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number

1287, by Senator Rath, Senate Bill Number 8605, State Administrative Procedure Act.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

SENATOR LEICHTER: Explanation.

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

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1323, by the Senate Committee on Rules, Senate Bill Number 8641, an act to amend the Insurance Law.

SENATOR SOLOMON: Explanation.

SENATOR GOLD: Explanation for Senator Solomon.

SENATOR PRESENT: Lay it aside

temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1326, by Senator Cook, Senate Bill 1995B, an act to amend the Education Law.

ACTING PRESIDENT KUHL: Senator Cook, an explanation has been asked for by Senator Dollinger.

SENATOR COOK: Mr. President. As we deal with the need to refashion our schools moving into the 21st century, the question of financing continues to rise up and, in fact, overshadows all the other discussions to the point where we are confronted with the reality that if we're ever going to do some things that we need to do in the education system we have to put to rest some of these issues as they relate to funding.

The property tax has become oppressive for many people in this state, not just senior citizens on fixed incomes which is what we hear of often but even young families

who are trying to establish their families and their homes; that real property tax has reached the point where people simply will not be able to pay it much longer if it continues to increase.

Furthermore, the atmosphere of dialogue within communities where we should be talking about how to improve the quality of education is overwhelmed constantly by the battle over taxes. We have this controversy that is constantly before us with people who are just good people just so overwhelmed with taxes that they simply are not going to stand for any more expenditures in the area of education. We clearly have to do something, something to lift that burden of property taxes from people in this state.

We have done a great deal this year in terms of the tax burden on a lot of people. State taxes have been substantially relieved. But aside from the additions of state aid of various kinds that we have put in place, there's really been nothing affirmative that the

property taxpayer can look at and think that relief is on the way.

Yes.

SENATOR LEICHTER: If you would yield, but if you care to finish your explanation -- I thought it was an appropriate time to ask a question.

ACTING PRESIDENT KUHL: Senator Cook, do you yield?

SENATOR COOK: Okay.

ACTING PRESIDENT KUHL: Senator Cook yields, Senator Leichter.

SENATOR LEICHTER: Senator, I think many of us for sometime have been saying that we are very concerned about the reliance on the real property tax, and we know instances in other states -- I think Michigan was one - sought to get way from the real property tax, and it's not a good way to finance education or to rely on it to the extent we do, and I agree with you.

But what I'm concerned about, Senator, and I don't see in the bill, is how

we're going to provide the additional funds that the state is going to have to provide. You point out in your fiscal implication note that the next year if we go into this system, if school districts, the voters opt for this particular means of financing that the cost to the state is going to be $400 million, which I think is probably a somewhat optimistic view. I think it will be more.

SENATOR COOK: It's three-quarter, Senator. In a full year, it will about $6 million -- $600 million.

SENATOR LEICHTER: All right. Maybe that's why I'm off, but let me accept your figure, whether it's 400 million or 600 million. How are we going to raise your money? Are you going to vote for increased statewide taxes, income tax, sales tax, estate taxes, to make up for this loss of real estate tax.

SENATOR COOK: Mr. President. Can I answer that in about three different ways? The first is that this year, Senator, our increase in aid to education was in excess of

$600 million, so there was enough money appropriated this year in and of itself that would have funded this program.

The second point is -- and I think that perhaps it's the real telling point, and, frankly since I've become chairman of the Education Committee, I have become more sensitized to this -- is that frankly, I'm a little offended that nobody asks the question of, "What kind of taxes are you going to impose to pay for welfare?" or "What kind of taxes are you going to impose to pay for the prison system?" But when it comes to funding the schools, "What kind of taxes are you going to impose to pay for the schools?" that becomes the first question that people ask.

The time has come for us to change our priorities in this state. School aid and education has become the last thing that we look at. The crums that are under the table get sent back to the school districts. We have got to place this as a priority; and, frankly, that's what this bill does. It says it's right

up there with welfare; it's right up there with prisons; it's right up there with state operations.

It's one of those things that we're going to have to put into the fiscal plan of this state, and we're going to have to do it in whatever the fiscal plan may be. I don't want to say that we're going to impose another tax for education. If you want to say, "Are we going to impose another tax to pay for welfare?" then we can say that if you want to say that.

But the point is we have had $1-1/4 billion increase in state revenues on an annualized basis since 1982. There is no reason that in our fiscal planning we can't set aside half of that annual increase in state revenues and dedicate it to education. And I think that that's what we ought to be doing up front.

SENATOR LEICHTER: Senator, let me just -

ACTING PRESIDENT KUHL: Senator Leichter, are you asking Senator Cook to continue to yield?

SENATOR LEICHTER: If you would yield?

ACTING PRESIDENT KUHL: Senator Cook, do you yield?

SENATOR COOK: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: Senator, the distinction between -- if we would say about targeting a specific tax whether it's for Welfare or Correction and so on, I think that the example that you set forth isn't in point.

If we said, okay, we're going to change the system of funding welfare. We're going to take, let's say, the burden off the localities, we're going to do this and that, then I think it makes sense for somebody to say, "Wait a second. How are you going to pay for it? You are going to need additional revenue. Then you would have a example that fits what you are doing in in bill for education.

You are changing the whole system of financing education, and what I'm concerned

about, Senator, is that we've got another thing which -- and I don't say this derogatorily, but I've referred to it at various times as the "Cook magic wand," which is, you can ask government to do all sorts of things; you can promise people all sorts of things; but you never, never, never vote for taxes.

And I'm afraid, Senator, that we may be going down this path, and I haven't found that the Cook magic wand really does what I wish it could do. We all wish we could wave a magic wand. But the time comes when we've got to have political fortitude to put money into the programs that we're espousing.

And my question to you is, Senator, if we find that we're going to have to raise more money because now we find more and more school systems opting into your system, getting away from the real estate taxes, are you going to vote to increase businesses tax? Are you going to vote to increase income taxes? Are you going to vote to increase sales taxes?

SENATOR COOK: Mr. President.

First, Senator Leichter, thank you for that statement that I've never voted to increase taxes. I certainly will be using that in appropriate places this fall, because that's a great testimony, and I appreciate that greatly.

The point that I am trying to make, Senator, and that this bill makes is simply this. We establish welfare as an entitlement program. We have debt service which is an entitlement program that we have to pay. We know that we have to maintain the prison system, the mental health system. And all those things are worked into the budget into the fiscal plan of the state. But education we don't handle that way.

This is the leftover program. And I am saying we give education the same standing in the fiscal planning of the state as we do all these other programs. And, Senator, if we have to tailor programs to fit the amount of money available, we should do it. But we have not been doing that.

We have been letting the

entitlement programs continue to grow, and we have been letting education take the crumbs that were left over, and I'm saying that is not acceptable.

The time has come to put education in there as an entitlement, as having equal priority to everything else; that that $1-1/4 billion growth in revenue that we're having every year should be as much entitled to education as it is to anything else.

SENATOR SOLOMON: Mr. President.

ACTING PRESIDENT KUHL: Senator Solomon.

SENATOR SOLOMON: Mr. President. Will Senator Cook yield, please?

SENATOR COOK: Yes.

ACTING PRESIDENT KUHL: Senator Cook yields.

SENATOR SOLOMON: Senator, do you have any idea what the state gave in aid to education this year.

SENATOR COOK: It's about $600 million.

SENATOR SOLOMON: Total. Mr. President. Will Senator Cook yield to another question?

SENATOR COOK: Yes.

ACTING PRESIDENT KUHL: Senator Cook yields to another question.

SENATOR SOLOMON: Senator, over this period of time where you've cited the increase in revenue as $1-1/2 billion, do you know what the percentage increase for aid to education has been?

SENATOR COOK: Senator, I don't have that precise number. We do know that the percentage of the budget dedicated to education has dropped from 27 percent back to about 21 percent, which, again, is right in line with what I was saying. It is not given very much priority.

So in point of fact, our aid to education has not increased at the same rate as expenditures for other purposes.

SENATOR SOLOMON: Mr. President. Will Senator Cook yield?

SENATOR COOK: Yes.

SENATOR SOLOMON: But the amount of money for aid to education has increased substantially over the last few years, has it not?

SENATOR COOK: Oh, of course. It has. Which is exactly the point, Senator, but it has not done it in any organized way, and that's the second aspect of this bill because the school districts will now know what their education money will be from year to year, and they can actually plan into the future, which is something they are not able to do at the present time.

SENATOR SOLOMON: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger.

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

SENATOR COOK: Yes.

ACTING PRESIDENT KUHL: Senator

Cook yields.

SENATOR DOLLINGER: Just explain this if I -- to me, if I can, so I understand it. How does the bill work? A local community has an election, and there is a ballot proposition in which they elect to join this program, and then they slowly begin to phase out their dependence on property taxes; is that correct?

SENATOR COOK: Correct.

SENATOR DOLLINGER: What happens to the role of the local school board in setting school fiscal policy in the community, then, if they are elected? What's their role in this if there are going to be optimal -

SENATOR COOK: Their role, Senator, is that they will have an amount of money within which they will have to function. There will be a finite amount of money. This is not unlike state department, not unlike State University, not unlike everybody else that we appropriate funds to, that there would be an amount of money that would be that amount that

was set aside, and they would know in advance what that was going to be.

SENATOR DOLLINGER: Okay. Mr. President. Again if Senator Cook will yield.

SENATOR COOK: Yes.

ACTING PRESIDENT KUHL: Senator Cook yields.

SENATOR DOLLINGER: Is there a portion of this bill that allows local school districts to elect to spend more than they get from the state.

SENATOR COOK: Senator, no, there is not, and let me tell you why. We are facing a situation where in a number of states, Washington, Michigan, Texas, to name a few, there have been lawsuits in fact that have challenged that very point that we are not providing equal educational opportunities from district to district. And that when states have a constitutional responsibility for education of children that that means that they have to provide equal educational opportunity from district to district.

So, in fact, the first portion of this bill is treated as a transition period. I can also tell you that based on information that we have, the federal Congress is very apt shortly to pass legislation which is going to not only leave that in the area of the courts but, in fact, may be be affirmatively inspecting the states to find out if they are following that provision of equal educational opportunity.

So the whole point of this phase-in period is to move us toward the second phase, which is the point where the state will provide for an equal educational opportunity for every student in this state, and that is the reason why those local options are not permitted in the bill.

SENATOR DOLLINGER: Again through you, Mr. President.

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

SENATOR DOLLINGER: How does this bill handle the variation in school districts?

For example, school district A has a high number of high-achieving students that they want to give advanced placement courses to and accelerated courses. School district B has a large number of handicapping students that need special education. The school district C has a large number of students who are, for some reason, at the local level of educational functioning and need more remediation and more effort in those areas.

How does this bill address those differences which are now under our current system left to local school districts to preserve local decision making by locally elected officials to decide those issues?

SENATOR COOK: Mr. President. I might take exception to your statement that it's now left to localities because, as a matter of fact, in most of the areas except in the gifted and handicapped areas, there is very little local discretion. They, as a matter of fact, are pretty well mandated to provide those services.

This does not cover mandated services of that type, and the reason that it doesn't is for the very reason that you stated. There are vast variations from district to district in terms of special needs students that are expenditure driven. Those things are outside this bill. That is a different portion of the budget.

SENATOR DOLLINGER: Again through you, Mr. President.

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

SENATOR DOLLINGER: Where would the school district get the funds to pay for those extra services?

SENATOR COOK: Yes. Senator, that portion of the funding, which is approximately perhaps 25 percent of the budget, that stays outside this bill. This does not affect those categorical things that are funded in that way.

Now, I can tell you that I would expect another phase at some point to bring that

all into total state funding, but, frankly, because some of what -- the concerns that are being expressed here relative to the cost of this, we are sensitive to that, and we are trying to make this bill workable so we did not lump everything totally into this bill in the first place.

And the second thing is because of the variables all over the state relative to the very things that you were talking about, they have been left outside this particular cap.

SENATOR DOLLINGER: Okay. Just a final question, Mr. President.

ACTING PRESIDENT KUHL: Senator Cook continues to yield.

SENATOR DOLLINGER: Describe for me the role of a local school board if this system becomes effective, where most of the money for funding the schools as I understand it will be coming from the state.

SENATOR COOK: Yes.

SENATOR DOLLINGER: What I heard, at least in my district, is we have too much

state involvement in education, anyway, and it inhibits innovation and inhibits local decision making. What's your vision of the role of that locally elected group right from the community that have been running the schools for years? What do they do when this system takes effect?

SENATOR COOK: Mr. President. The role of the local school board will be to determine the apportionment or the manner in which they are going to utilize this funding. We have not written -- tried to write the second piece of this, will is what happens when the state is final totally funding the districts.

But, as I envision it, it would be a formula that would basically say that there would be so many dollars provided for each students provided every place in the state, or perhaps there would be regional variations. Those are things that are going to have to be worked out probably over a two-year period because that's when we'd start getting the first districts phased into here. But it would be the role of the local district to say, well, we got

a million dollars; we're going spend so much on this program, and so much -- you know, salaries, supplies, library, et cetera, et cetera. Those are the kind of things that they would be making their decision at the local level.

SENATOR DOLLINGER: On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

SENATOR DOLLINGER: I appreciate Senator Cook sharing his vision with us about what this would look like in the final end result. Frankly, I'm not sure what to do about it because I share portions of that vision, but I think as a practical matter if you talk to a local school board today what they would tell you is, when the state money arrives, it comes with so many strings attached to it that the local ability to spend it as they see fit is extremely minimal. We tell them what to spend. The money comes from us.

We have a tendency -- whether directly through our own statutes or through

regulation, we tend to tell them exactly what to do with the money, and the local options disappear. The idea that we have 700 school districts this state who are all out there experimenting, trying different things, trying different approaches to education, trying different programs, I think that that ability to have a whole bunch of educational laboratories out there experimenting with education has some value.

I do also think that the tendency to rely extremely heavily on the property tax to do it is something that is troubling. But it seems to me the better approach would be to look to a system of financing state education in which we convert it really to educational revenue sharing, where we give them the money and allow them to experiment with it, to allow them to innovate, allow them to address that A, B and C school district that I mentioned a minute ago. If there's a large number of gifted and talented students, if there are a large number of handicapped students, a large number

of students for English as a second language, all of those districts should have the ability locally to try to figure out what's the best solution, to use their own money locally and devise their own programs.

I see the trend in trying to achieve the goal of reducing reliance on property taxes as leading to the potential problem of having Albany make all the decisions about education and the experimentation, innovation that we need in our school systems in this state, which we ought to be encouraging, we will actually discharge.

So I understand the vision that's attached to this. I think this is an early step. I hope if this bill passes this house that it may come back, and there may be more information next time. But at least at this state, I see it as defeating local control of education and defeating local experimentation, which I think is the area which holds the best promise for educational advancement in this state.

ACTING PRESIDENT KUHL: Chair recognizes Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President. I rise in support of the bill this morning. I would like to take the opportunity to commend Senator Cook in his initiatives as chairman of the Education Committee in the last two years.

If you take a look at what occurred in last year's budget and again in this year's budget, you are saw that under Senator Cook's leadership there were significant initiatives to changing the formula as it relates to funding education, and that they were positive changes particularly for our Upstate areas of the state, assuring that there was some equity in that distribution.

And I see this legislation as moving one further step in that same direction under Senator Cook's leadership. Reducing the dependency on property taxes is one of the most significant issues in education throughout this state particularly in the rural areas of Upstate

New York. When you look at the requirements being placed on the local property tax base, that is not expanding and in fact, if anything, is further eroding. And erosion of that revenue stream only further restricts. Does not enhance the local decision making of the school boards but, in fact, restricts them because, in many instances, the new dollars that are coming are only state dollars, and they do not have the capacity some of the larger areas of the state have to draw upon their property tax base.

So it's extremely important that we start to relieve those districts from the additional fiscal burdens of property tax increases, and make that transition to the state funding. And I think the Senator has recognized the best way to do that is to transition it, do it over a period of time, and have the state say, "Yes, education is a priority. We will fund it with the broad-based state taxes to ensure that there is equity for the children of this state, regardless of whether they are from rural areas, regardless of whether they are from

metropolitan areas. They will access the same broad state tax basis in ensuring that there is funding and equity within education."

I think that's very clearly a step in the right direction, a very important step in the right direction for New York State to say, "We, number 1, will relieve the burden on property taxpayers," and the requirement I think is a legitimate requirement, that half of those dollars in increased state aid be directed toward that property tax reduction, and then the other half is available for those priorities as the localities set aside.

I think that is particularly important. And in terms of my school districts, it's clearly a step in the right direction, and I think you'll see a majority of the school districts throughout the state positively impacted by this initiative, and I want to commend Senator Cook in the direction he's taken and encourage my colleagues to support the bill.

ACTING PRESIDENT KUHL: Chair recognizes Senator Leichter.

SENATOR LEICHTER: Mr. President. Would Senator Cook yield, please?

SENATOR COOK: Yes.

ACTING PRESIDENT KUHL: Senator Cook yields.

SENATOR LEICHTER: Senator, I wonder if you would be so kind as to walk us through how this would work for the City of New York? You provide for vote by the school district. We don't have any procedure now whereby school districts in the New York vote.

SENATOR COOK: Senator, it would be the same in each respective school district because there are other cities, small cities, for example, that have a different procedure. Utilize whatever the procedure is currently for adopting their budget. So that where you have the city board of education adopting a budget, it would be at their request that this would be the manner of funding that they would receive.

SENATOR LEICHTER: All right. So if I understand it, the board of education in the City of New York would have a vote, and they

would make the request for this optional form of taxation -- I'm sorry -- optional form of receipt of state aid.

Now, you provide that during the transition period, when a school district has certified to the Commissioner that the district has elected to enter the optional system, the school district will receive -- I can't find the language at the moment, but it's a 10 percent increase?

SENATOR COOK: Yes.

SENATOR LEICHTER: So if we do this in New York City we will get a 10 percent increase in our operational aid?

SENATOR COOK: In your operating aid.

SENATOR LEICHTER: Now, I don't know what our operating aid in New York City was last year, but I think it was in the hundreds and hundreds of million of dollars.

SENATOR COOK: It would be in the billions I would suspect, Senator.

SENATOR LEICHTER: I would

suspect it would be in the billion, so we do this. We get a 10 percent increase. I have difficulty, then, in understanding, Senator, how you come at the figure of 600 million. Is that because you phase it in over a period of years?

SENATOR COOK: No, it's because -- yeah, over a period of time. That is 600 million per year, Senator, of growth. It's not, you know, a flat $600 million.

SENATOR LEICHTER: Mr. President. On the bill.

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: Mr. President. The nice thing about serving in the Legislature, it's about the only place where you can have your cake and eat it, too. You can promise all these wonderful things.

And let me say, Senator, I think what you are addressing is something that needs to be addressed. There is no question about it. Senator Wright is absolutely correct. The burden not only in rural areas but the suburban

areas, for that matter in the City of New York, the real property tax has really been extended to the point where it just can not bear any longer the demands that are put upon it.

But this means that you got to come up with an alternative system of financing and that's, indeed, what Michigan did. They put it to the voters, and the voters agreed to it. But where, Senator Cook, I think you are having your cake and eating it, too, is you are putting forward this program that obviously changes the whole manner in which revenue is raised not only locally but in the state, but you fail to address how are we going to raise what eventually is going to put a much greater burden on the State of New York, and I think it makes sense. I would like to do it, and I will promise you right here and now that I will vote for the revenue for it, but I would like to get that same promise from you and Senator Wright, and I suspect that that promise is not going to be forthcoming because it will be very nice to go to your district and say, "I'm going to

address the real property tax and I'm going to lower it," but you are not telling them what other taxes you are going to have to eventually increase, and I don't think you are going to do it.

You know, Senator Gold made an excellent proposal some years ago that we have- and it was a serious proposal -- that we have some ideas or notions that really not be put into a bill form but that they be put forward in the idea of concepts and so on, and yours is a concept and, furthermore, really ought to be more in the nature of what I think is going to be a press statement or press release; because as a bill, to say we're going to change the entire system of financing and then not tell us how we're going to do this, I think is not fair to the people of the state and it's misleading.

Let me say, we've had a lot of high level commissions that have looked into this, that have made recommendations. By the way, none of that -- none of those recommendations have ever been accepted by the

Majority here that would have addressed, at least in part, some of the problems of the excessive reliance on the property tax to finance education, also get rid of some of the other disparities.

So you really have to ask yourself, you know, how serious is this effort when we've had a chance to do it. When we've had the recommendations of very wise commissions that have studied this, we failed to do anything about it. As you know, there are court cases now that are going to challenge the financing system that we have for education. And probably, in this particular instance, I think the courts are going to do the right thing, and they are going say that the financing system that we have in this state is unconstitutional.

So let me say, Senator Cook, I really unfortunately can't take this very seriously. I think it's an expression of something that we would like to do, "Wouldn't it be wonderful if..." Yeah, I'll go along with that. It would be wonderful. But, Senator, I

would like to see the financing mechanism.

And what I need to see before I can support such a thing is to know that the majority in this house has the courage to vote for taxes. I don't think you do.

SENATOR COOK: Mr. President.

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

SENATOR COOK: I've served in the majority of this house for years -

ACTING PRESIDENT KUHL: Senator Cook, I have a list running.

SENATOR COOK: I beg your pardon.

ACTING PRESIDENT KUHL: Okay?

Senator Stachowski.

SENATOR STACHOWSKI: Will the sponsor yield for a couple of questions?

ACTING PRESIDENT KUHL: Senator Cook, do you yield?

SENATOR STACHOWSKI: Senator, I was listening to the debate earlier, and you said how this system will drive the various school districts to an equal form of educational

funding and that all students will then eventually be treated equal.

How long will it take before - for example, the students out West in Buffalo and Erie County maybe average about $6,000 per student in expenditures, while in Long Island let's say $12,000 for an example. How are we going to bring that together if they are all in the system? And is it fair while they first start out that they are still only getting half as much per student in, say, Western New York as they're getting in Long Island?

SENATOR COOK: Senator, we do not attempt to address that issue in an immediate way, because the practicality of it is that we would, if we tried to do that, have to do what Senator Leichter wants to do, which is double the state income tax.

But this transition period we recognize is a time that we're going to have to move toward that. The answer in regard to a specific school district, it depends on the school district. If it is a district that has a

relatively large, high operating aid formula, then it will happen faster than a district that has relatively low operating aid formula, because it's 10 percent on top of the status quo. So I really don't have an answer for you on that question.

SENATOR STACHOWSKI: Thank you.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: I have considerable concerns for the districts that I represent. It is true that our property tax is overburdened and that we have to look to alternatives, and it isn't that I don't applaud you for what you are trying to do, but it has to take into account those suburban districts where residents have been willing to tax themselves because they feel that the education quality is of such nature that they are willing to foot the cost even though, at this point, after many years of doing that, they are finding it increasingly burdensome.

But we have what we consider to

be some of the pilot districts of the state in my county, and we feel that they are leading the way in innovative education; and that were this to pass, we would see a leveling down of education rather than promoting a upward movement to funding education at a higher level and permitting all districts to try and rise to the quality that we believe many of my districts are at.

One thing that's very concerning to me is that school boards would appear to be losing some of their authority in this bill. Would you care to comment? Would you yield for that question, Senator?

ACTING PRESIDENT KUHL: Senator Cook, do you yield?

SENATOR OPPENHEIMER: Would school boards still have the kind of authority that they have now to determine the curriculum and the education?

SENATOR COOK: Senator, school boards would have all of the authority that they currently have with one caveat in that they

would have to do it. First, let's point out, as pointed out by Senator Leichter, there is an opt in provision, so the school district has the option of either joining this or not.

But to get directly to your question, assuming they did opt in, yes, they have all the options the they currently have except for one, and that is that they aren't going to be able to raise their property tax.

SENATOR OPPENHEIMER: Thank you, Senator.

ACTING PRESIDENT KUHL: Senator Cook, you are next on the list to speak if you wish at this time, sir.

SENATOR COOK: I'll pass.

ACTING PRESIDENT KUHL: Senator Cook waives, passes.

Senator Mendez is next month on the list.

SENATOR MENDEZ: Thank you, Mr. President. Will Senator Cook yield for a couple of questions?

SENATOR COOK: Sure.

SENATOR MENDEZ: Thank you. According to your vision if, in fact, you are saying that the inequality that exists in the funding throughout the state for the local schools if that is going to remain that you did not address that issue, then my question is isn't this magnificent plan a way to use education primarily to reduce property taxes?

SENATOR COOK: Senator -- is that a question, Mr. President?

Senator, it is indeed a means of reducing property taxes but I would also point out that as that district has reduced the property tax, it also has another five percent increase in expenditure. So that, for example, in the City of New York -- and I am now told that this would be about $150 million increase in the first year -- that that would be a net $75 million in increase for spending on education within the City of New York that would be guaranteed under this bill.

SENATOR MENDEZ: Uh-huh. Will the Senator yield to another question.

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

SENATOR COOK: Yes.

SENATOR MENDEZ: You mentioned - initially, when you were explaining your bill, you mentioned debt service.

SENATOR COOK: Correct.

SENATOR MENDEZ: And if I understand correctly, your premise is that in the same fashion that in state government there has been an increase in entitlement programs, however, education is not considered such. Am I correct?

SENATOR COOK: M-m h-m-m.

SENATOR MENDEZ: Aha! Therefore -- therefore, would you be advocating in terms of getting the monies to insure that this plan of yours gets on, would you be considering for the financing, let's say, increasing the debt service, whether it's through bonds or some kind of financial mechanism like that?

SENATOR COOK: Are you asking if I would consider doing what with the bonds?

SENATOR MENDEZ: Like, for example this transitional period would cost $400 million a year.

SENATOR COOK: Yes.

SENATOR MENDEZ: Since you did talk about debt service and you want to sort of elevate education at the same level of other entitlement programs -- right?

SENATOR COOK: Yes.

SENATOR MENDEZ: Would you be - to raise those $400 million, initially, or more eventually, would you consider like having the state increase its debt service through issuing bonds.

SENATOR COOK: No. No, I don't think that that would be a wise thing to do. Actually, we're talking about operating expenditures which are the actual cost of running the schools. Building aid is, incidentally, a categorical aid. That's not included in this, so debt service for that -

Senator, just to clarify. My point when I spoke of debt service was that

there are certain things that when the Governor sits down and writes his budget, proposes his budget to the Legislature, he knows he has to put in there. He knows he has to put debt service in there. He knows he has to put the money in for the entitlement programs. And this simply says he also is now going to know that he has to put money in there for education.

We have consistently seen budgets coming before us where governors have proposed $250 million, which is a pittance compared to what they were spending on everything else. This bill simply says to the governor, "Look, that is a priority that is equal to all the other priorities in the state; and when you write your budget, you are going to have to put it at the same level, give it the same priority as everything else."

SENATOR MENDEZ: Thank you, Senator Cook. On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Mendez on the bill.

SENATOR MENDEZ: I think this is

a very good idea. At this point, however, there are about -- as was mentioned earlier, there are about four cases in court that will probably come down with a decision that the way that we fund our public school system is unconstitutional.

So that at this point in time I will not be supporting this bill. I really want to congratulate Senator Cook because he has brought over an issue that everybody has been sweeping under the rug and that has to be taken up, and the idea deserves greater consideration or refinement.

So, but I will not be supporting it at this point, because what really bothers me is that I do not see in this transition period an easiness of the horrible inequality that exists in terms of how educational funds are distributed throughout the state. Even within my own district in the City of New York, in the southern part of my district, the schools do better than other areas, and I think that eventually that is one of the most crucial

problems that we have to deal with if we are positioning ourselves in looking closely at the realities that there is going to be a transformation in the world of work through technology and things of that sort. And if we do not place more monies to educate our kids, then our social programs could, in fact, grow more in unemployment. Who knows, maybe more in crime and all those other negative social problems that none of us like to have. So that education has to be the road to ensure that all children will be able to move up the socio economic level in our society and then contribute to the betterment of all.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

It's interesting to see this bill on the calendar today because, as I've mentioned to Senator Cook in the past, I have a very good friend in my district who is active in political

circles and whatever. Every now and then -- and in community circles -- and every now and then at the end of a meeting on some Brooklyn community issue, he will call me aside and he'll say, "Senator, would you talk to Senator Cook. I have a house in his district, and I'm getting killed on property taxes, and we just have to do something about it. It's just unreasonable."

So I sympathize with Senator Cook's concern for what's happened with property taxes in all the localities throughout New York State. I certainly am not going to say it's not a problem, but we have lots of problems, and they are related.

The cost of education obviously is what drives many of these local property taxes. But, you know, really, it's a complicated problem. It ought to be addressed. It ought to be thought out. It ought to be negotiated out. You have to give concern to the state fiscal situation. You have to recognize the tax burden that people in many localities are under, and you, above all, certainly have to

pay attention to the cost of education as well as the quality of education, and, more importantly, you have to look at equity in education.

All of the children our state, no matter where they reside, ought to be given a first-rate public education. Our constitution guarantees that. We haven't met that responsibility.

But we have been assured by the Majority Leader here that the session is rapidly coming to a close, or at least it's coming to a close, and this is much too big an issue to simply put a bill on the calendar in the closing days of the session, no real agreement with the other house or the executive, no real consensus throughout the state for revising the system property taxation, for revising the method of funding education.

These are weighty issues that we ought to address, but I don't think with all due respect to Senator Cook -- and maybe this gets the ball rolling, maybe it doesn't. A lot of

times we hear in the last days of the session, "This will get the ball rolling," and we find out, no, it will get the press release out at the end of June and the beginning of July, and we all come back or many of us come back -- this is an election year. Many of us come back refreshed in January, and we forget about the issue for another year and a half until we are back in this great political cycle or until someone says, "Gee, the session's closing. I better wheel out my bill to deal with property taxes, education costs and so on."

The issue is certainly one that bears attention, but it bears a lot of thought, a lot of discussion, a lot of hearings. There's a lot of expertise in our state to address the various facets of this issue.

I don't really think, Mr. President, with all due respect that it's useful in this closing of this session to have a bill like this that raises more questions than it answers -- and there's nothing wrong with raising questions, but it really does raise more

questions than it addresses. The questions ought to be addressed. They can't be addressed in this fashion.

Thank you, Mr. President.

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

THE SECRETARY: Section 3. This act shall take effect October 1, 1994.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President. Can we take up calendar 560.

SENATOR DeFRANCISCO: Excuse me. Excuse me. Mr. President, can I explain my vote? I had risen.

ACTING PRESIDENT KUHL: Secretary will withdraw the roll call on Calendar Number 1326. Recognize Senator DeFrancisco to explain

his vote.

SENATOR DeFRANCISCO: I just wanted to mention that this question concerning the proper way to fund education is one that has been around for a long time, as everyone knows. And I think most people agree that funding education primarily by way of the real estate property tax is not the most equitable way to do it. The Governor in the "State of the State Message" a while back, either this year or the year before, suggested one way to have income taxes at the option of the various counties be one option. It didn't fly very well since many school districts overlapped into different counties, but at least it was an idea. At least it was a thought, because there are court challenges all over the country on funding education simply by property taxes.

Although this may not be finally adopted this year, I think it's extremely important that such an enlighten approach, that a phase in of a system other than property taxes to fund education be begun, and this is a great

first start, and I think Senator Cook should be commended for the ingenuity of the bill and also to start the discussion going, and hopefully it will end very soon in a very favorable determination by both houses and the Governor.

I vote yes.

ACTING PRESIDENT KUHL: Senator DeFrancisco in the affirmative.

Announce the results.

Senator Jones.

SENATOR JONES: To explain my vote.

ACTING PRESIDENT KUHL: Senator Jones to explain her vote.

SENATOR JONES: I have to say that I share with my colleagues the same concern over where the funding for this is going to come from or how we're going to bring it about. But I also guess I believe that maybe something radical has to happen. Maybe that's the only way that we're going to change this. That's what happened in Michigan. That's what happened other places. I'm well aware that we clearly

have to help the property owner or I really have grave concerns as to what's going to happen to the future of education in our state, so I'm willing to take a chance, you know, and I guess I will be around to remind you when we start divying out the money next year that we're going to have to pay for this.

ACTING PRESIDENT KUHL: Senator Saland to explain his vote.

SENATOR SALAND: Thank you, Mr. President.

Mr. President. I would like for myself and I think for many others to join in praising Senator Cook for his efforts. He is dealt with this issue in a fashion that I think is certainly entitled to the highest of commendation. It's certainly not an easy topic to deal with. It's one that's, to many, loaded with a host of problems, a host of other issues that spin off.

We all talk about the importance of changing the system. We all talk about how inequitable real property taxes are as the basis

of wealth.

What Senator Cook has done, he's been willing to take a leadership position on this. And when you do that, obviously, by getting out in front of the pack, you run the risk, at times, of being sniped at.

Well, I commend him for his willingness. I commend him for his effort. This is a piece that really is, I think, the major innovation that's been offered in either house or by the executive really as long as I have been involved in the system, and that's now some 14 years or so.

It's a bill which, as I believe I heard the Senator say earlier, really says for all of us that pay lip service to education, "We're making education an entitlement," the same entitlement that so many other programs are basically guaranteed. We are now guaranteeing within our process pursuant to this bill a funding mechanism that's going to provide for expanded education while at the same time providing a means to lower real property tax at

the option of any district, including those that may choose to opt out if they wish to provide more local monies than would otherwise be provided.

Thank you Mr. President. I vote in the affirmative.

ACTING PRESIDENT KUHL: Secretary call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT KUHL: The bill is passed.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Leichter. Do you wish to be recorded in the negative on Calendar Number 1326.

SENATOR LEICHTER: Yes, please.

ACTING PRESIDENT KUHL: Senator Leichter will be recorded in the negative on Calendar Number 1326.

The bill is passed.

Senator Present.

Senator Holland.

SENATOR HOLLAND: Yes. With unanimous consent, I'd like to be recorded in the negative on Calendar Number 432.

ACTING PRESIDENT KUHL: Without objection, Senator Holland will be recorded in the negative on Calendar Number 432.

Senator Saland.

SENATOR SALAND: Mr. President. If it's appropriate to do a little bit of house keeping here, I'd like to star Calendar Number 790, Senate 3105; and Calendar 1414 and Senate 796B. And I would like to remove the star from Calendar 478, Senate 5881; and remove the star from Calendar 599, Senate 7327.

ACTING PRESIDENT KUHL: Okay. The stars will be removed on Calendars Number 709, I believe, and 1414. And stars will be placed on Calendar Number 478 and 599.

Senator Lack.

SENATOR LACK: Mr. President. Please remove the star on Calendar Number 492.

ACTING PRESIDENT KUHL: Sponsor

star is removed to Calendar Number 492.

Senator Skelos.

SENATOR SKELOS: Mr. President. Please remove the sponsor star on Calendar Number 794.

ACTING PRESIDENT KUHL: Sponsor star is removed on Calendar Number 794.

Senator Hoffmann.

SENATOR HOFFMANN: Mr. President. I was out of the chamber at the time the vote was taken on Calendar 432. I would request unanimous consent to be recorded in the negative on that bill.

ACTING PRESIDENT KUHL: Without objection, Senator Hoffmann will be recorded in the negative on Calendar Number 432.

Senator Mendez.

SENATOR MENDEZ: Mr. President. I was out of the chamber when the vote was taken on Calendar Number 1326. I wish to be recorded in the negative.

ACTING PRESIDENT KUHL: Senator Mendez, without objection, will be recorded in

the negative on Calendar Number 1326.

Senator Larkin.

SENATOR LARKIN: Mr. President. Unanimous consent to be recorded in the negative on Calendar Number 432.

ACTING PRESIDENT KUHL: Without objection, Senator Larkin will be recorded in the negative on Calendar Number 432.

Senator Espada.

SENATOR ESPADA: Mr. President. Permission to be recorded in the negative on Calendar Number 715.

ACTING PRESIDENT KUHL: Without objection, Senator Espada will be recorded in the negative on Calendar Number 715.

Senator Present.

SENATOR PRESENT: Mr. President. Can we take up Calendar Number 560.

THE SECRETARY: Calendar Number 560, by Senator Lack, Senate Bill Number 7207, an act to amend the Judiciary Law and the New York City Civil Court Act.

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: Senator Rath.

SENATOR RATH: Abstain.

ACTING PRESIDENT KUHL: Senator Rath wishes to abstain, without objection.

SENATOR PRESENT: No objection.

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 560 are Senators Daly, Dollinger, Jones, Nanula and Wright.

Ayes 45. Nays 5.

ACTING PRESIDENT KUHL: Bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President can we take up Calendar 1106.

ACTING PRESIDENT KUHL: Secretary will read Calendar 1106.

THE SECRETARY: Calendar Number 1106, by Senator Stafford, Senate Bill Number 8030A, proposing amendment to the Constitution, in relation to the exchange of certain forest preserve land.

SENATOR STAFFORD: Thank you, Mr. President. I will explain it.

This is a Governor's program bill which has been agreed upon with the Assembly. We have up in our area a beautiful golf course. It is known as the Saranac Inn golf course. It, of course, provides people recreation and is very much part of the economy. It's not only playing golf, but it's just great to walk around it.

Now, it was determined a few years ago that some of the golf course was over on some state land. So what we have done here is we have worked out a compromise, a constitutional amendment, whereby the golf course land would be deeded to the owner, but -

but, the exact same amount of land from the golf course would be conveyed to the state. So that's where we are on it.

SENATOR OPPENHEIMER: Thank you, Senator, for your explanation.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: I am loathe to take the opposite position to our good Senator, who just spoke, but I feel I must because the Saranac Inn golf course and the country club, they have been using 8-3/4 acre of forest preserve for many years as part of their golf course. And that was inappropriate and now they are looking to have it made legal. There are, as we all know, historic constitutional protections in the Adirondack Park; and the Adirondack Park, this part, is under the forever wild provisions; and that clause clearly states that this kind of a usage is not permitted.

If there were identified some other land that could be swapped for this that might possibly meet the provisions of the

forever wild clause, but that isn't enumerated; and this is a very longstanding illegal use of protected forestland, and I certainly don't think we ought to be making legal what is illegal in our constitution.

So I would urge all to oppose this bill which is very much opposed by our environmental groups in the State of New York.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the concurrent resolution?

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

(Response of "Aye.")

Those opposed, nay.

(Response of "Nay.")

The resolution is adopted.

We will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49. Nays 3. Senators Dollinger, Leichter and Oppenheimer recorded in the negative.

ACTING PRESIDENT KUHL: The resolution is adopted.

Senator Gold.

SENATOR GOLD: Could you please recognize Senator Markowitz for a moment?

ACTING PRESIDENT KUHL: Be happy to recognize Senator Markowitz.

Senator Markowitz.

SENATOR MARKOWITZ: With unanimous consent, had I been in the chamber, yesterday afternoon, even though I had announced it before I left, I want to be recorded in the negative on Calendars Number 310, 799, 800, 801, 993, 994, 995, 998, 1133, 1238, 1239 and, today, Calendar Number 715.

Thank you very much, Mr. President.

ACTING PRESIDENT KUHL: Without objection, Senator Markowitz will be recorded in the negative on today's Calendar 715.

The record will reflect, Senator Markowitz, that had you been present yesterday you would have been recorded in the negative -

and had had the opportunity to vote you would have voted in the negative on Calendars Number 310, 799, 800, 801, 993, 994, 995, 998, 1133, 1138 and 1139.

SENATOR MARKOWITZ: 1238 and 1239, did you mention that?

ACTING PRESIDENT KUHL: 1238 and 1239.

SENATOR MARKOWITZ: And today 715 and 1106, I'm sorry. And 1106 in the negative, as well.

THE SECRETARY: Today?

SENATOR MARKOWITZ: Today, yes.

ACTING PRESIDENT KUHL: Without objection, Senator Markowitz will be recorded in the negative on Calendar Number 1106, today.

SENATOR GOLD: And Mr. President, I think the report should indicated that Senator Markowitz doesn't think too much of the bills we did yesterday.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President.

Can we take up Calendar 1290.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1290.

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

SENATOR GOLD: Explanation.

ACTING PRESIDENT KUHL: Senator Stafford, an explanation has been asked for by Senator Gold on Calendar Number 1290.

SENATOR STAFFORD: Mr. President. This piece of legislation is introduced and it's been passed for the last few years, and it's a very, very serious situation. There is a difference of opinion about the PCBs that are in the Hudson and how they should be treated -- or removed I guess is a better word. There are some people who maintain that actually you can do it by breaking down the substances. Others have said you should dig it up.

A plan has been suggested whereby the PCBs will be dug up in the vicinity of

Washington County and then placed in a landfill right in the middle of a dairy area. And we're very concerned about it. We feel it shouldn't be done. And we're saying here that this would have to be approved by the town where they are considering putting the landfill.

I would emphasize again, one of the great things in this country is we can disagree. And belief you me, there is disagreement on how these PCBs should be treated.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Gold.

SENATOR GOLD: Yes, let me just yield to Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Senator Gold.

ACTING PRESIDENT KUHL: She actually heard you.

Senator Oppenheimer.

SENATOR OPPENHEIMER: This is - once, again, I do like standing up and objecting

to a bill that is Senator Stafford's, but this really -- would be a very undesirable legal precedent.

What this bill would say is that a municipality unilaterally can reject any necessary regional facilities that it doesn't like. And there is absolutely no way we're ever going to site anything, because if an individual municipality can object, believe me, they will be objecting.

This is going to codify "not in my back yard," which we all know is NIMBYism. It is very difficult to site an industrial hazardous waste facility. It is one of the most difficult to things to site along with some of our group homes, but it obviously has to be done.

We must clean up many of our sites that are presently considered hazardous waste sites. And if we have no place to put the waste materials, we're at a loss. We can't proceed with any cleanup.

Now, the PCBs have to be cleaned

up from the Hudson River. Also we have environmental hazardous waste in the Long Island Sound. Our fisheries are in need of this kind of -- of a site to put the waste, the hazardous waste. It's an economic development issue as well, and we can not proceed if we can not site these regional facilities for the hazardous waste.

So I think it's a terrible precedent that we would be starting if we were to say that a municipality can reject a site. We have to look at what is the regional good and do our best with sensitivity to site these facilities in various regions around our state.

I would urge a no vote.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Yes, I would just like to remind our members that the last time this was around there were a substantial number

of no votes on the issue, and the Scenic Hudson, Inc., is opposed to it and the Department of Environmental Conservation is opposed to it. They are very much concerned about the precedent.

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 when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 1290 are Senators Connor, Espada, Gold, Leichter, Markowitz, Montgomery, Nanula, Ohrenstein, Onorato, Smith, Stachowski, also Senator Daly, also Senator Oppenheimer, also Senator Present. Ayes 41. Nays 14.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR LACK: Mr. President.

ACTING PRESIDENT KUHL: Senator Lack.

SENATOR LACK: Mr. President. If I may make a unanimous consent statement. It's an very important day here in our New York State Senate. The reason it's so important, it's the birthday of our chair of the Finance Committee, the Honorable Senator Ronald Stafford. We all wish Senator Stafford a very, very happy birthday, but there's one more announcement that goes with that; and that is, that Senator Stafford just yesterday, and he doesn't know it, has been named "Legislator of the Year" by the Republican National Legislators Association, as well, so that's, indeed, a very distinguished honor.

So, Senator Stafford, congratulations on your birthday and on your status as Legislator of the Year.

(Applause.)

SENATOR LACK: And after the way he debated the last couple of bills, there is no

reason to call on him to speak.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Mr. President. May I have unanimous consent to be recorded in the negative on Calendar Number 560.

ACTING PRESIDENT KUHL: Without objection, Senator Libous will be recorded in the negative on Calendar Number 560.

Senator Farley.

SENATOR FARLEY: I like to be recorded in the negative on 432.

ACTING PRESIDENT KUHL: Without objection, Senator Farley will be recorded in the negative on Calendar Number 432.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President. I ask unanimous consent to be recorded in the negative on Calendar Number 432 and Calendar Number 560.

ACTING PRESIDENT KUHL: Without objection, Senator Nozzolio will be recorded in the negative on Calendar Number 435 and 560.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President. May have I have unanimous consent to be recorded in the negative on Calendar Number 560.

ACTING PRESIDENT KUHL: Without objection, Senator Stachowski will be recorded in the negative on Calendar Number 560.

Senator Seward.

SENATOR SEWARD: Yes, Mr. President. I also would ask unanimous consent to be recorded in the negative on Calendar Numbers 432 and 560.

ACTING PRESIDENT KUHL: Without objection, Senator Seward will be recorded in the negative on Calendar Numbers 432 and 560.

ACTING PRESIDENT KUHL: Senator Present, we have a message from the Assembly. We can take at this time. I will hand it down to the clerk -- the Secretary and ask the Secretary to read.

THE SECRETARY: Assembly returned Senator Libous' bill, Senate Bill Number 4473A,

an act to amend the Social Services Law, with amendments, to become Assembly reprint number 30004.

ACTING PRESIDENT KUHL: Without objection, the motion is granted. Concur in the amendments. The bill will be restored to the Senate Third Reading Calendar.

Chair recognizes Senator Present.

SENATOR PRESENT: Mr. President. Let's go back to the regular order.

ACTING PRESIDENT KUHL: Secretary will continue the regular order beginning with Calendar Number 1330.

THE SECRETARY: Calendar Number 1330, by Senator Seward, Senate Bill Number 4262A, an act to amend the Tax Law and the Public Service Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT KUHL: Withdraw the roll call. Senator Seward, an explanation has been asked for by Senator Leichter.

SENATOR SEWARD: Yes, Mr. President. This legislation deals with gradually phasing out the gross receipts tax, which is currently applied to utilities, the telephone companies and the gas and electric companies, utilities, and replacing that with a net income tax. It's a phase-in -- or I should say a phase-out, more accurately. It would freeze the '95 liability to the '94 figure, so it doesn't affect the fiscal plan for this year. And then there is three years of gradually phasing that down to 2 percent, and then switching over in 1998, or following 1998, to a net income tax.

I might add that the gross receipts tax, even though it's not separately itemized on the utility bill specifically because of law, it is a direct pass-through and paid by the consumers, and this legislation is

all part of our effort to help with the economy in the State of New York, because the reduction of the gross receipts tax is a way to provide some discernable relief in everyone's gas and electric and telephone bills.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR GOLD: Will Senator yield to one question?

SENATOR SEWARD: Yes.

ACTING PRESIDENT KUHL: Senator Seward yields.

SENATOR GOLD: Senator, in my notes, I have a memorandum of support by the Energy Association and by the Business Council and by Con Ed. I don't have anything listed in opposition.

But I just have one question. If we pass this, first of all, is it passing in the other house; and, secondly, would this affect the State's financial plan?

SENATOR SEWARD: The second part of your question in terms of affecting the

financial plan, it is specifically written so that it would not affect the fiscal plan for this year, because of the -- we just hold everything harmless, and so it wouldn't affect. In future years, obviously, we will see some tax revenue loss because of this, but that can be dealt with in future years. It is not affecting what's in place now.

In terms of the other house, this specific bill does not have an Assembly sponsor; however, my counterpart in the other house, Assemblyman Tonko, has a similar bill. Assemblyman Vann has a bill that would phase out the GRT on telephone companies. There's a lot of activity. I know the Governor is even talking that way.

My hope is that by the passage of this bill today, that it will be part of the process of bringing all this together. There is a lot of interest on the part of a lot of people, and I hope you would join me in supporting this bill to help spur those discussions to bring this issue to a head for

the benefit of everyone.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1344, by Senator Saland, Senate Bill Number 8440, an act to amend the Family Court Act.

SENATOR GOLD: Wasn't that starred already?

SENATOR PRESENT: On behalf of Senator Lack, star the bill.

ACTING PRESIDENT KUHL: Sponsor star will be placed on Calendar Number 1344.

THE SECRETARY: Calendar Number 1365, by Senator Lack, Senate Bill Number 7024, an act to amend the Labor Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT KUHL: Senator Lack, an explanation has been asked on 1365 by Senator Gold.

SENATOR LACK: Thank you.

Mr. President, Senator Gold, this is an amendment to the legal activities bill. In the bill, we've corrected a section placed unintentionally in the law, which provided that the remedy of public employees for legal activities would not be within -- would not only be the Taylor Law, Article 14 of the Civil Service Law, but also under the legal activities section of 201 (d) of the Labor Law. That was not intended.

This is an agreement I made with the administration and the Public Employees - Employee Relations Board to add this provision back in, which would maintain the exclusivity of the Taylor Law. I note the opposition memo of the AFL-CIO. They've made a mistake. The example they use in their memo, a teacher who would be covered under the Taylor Law goes to

work in the summer for a hotel chain that opposes unions, namely the Marriott chain, because that's -- excuse me, Senator Tully, I'm talking to Senator Gold -- the Marriott chain, and is dismissed by Marriott because they're a teacher engaged in union activities. That's a mistake in the AFL's memo.

Since the hotel chain is not a public employer, it's not covered under Article 14 of the Civil Service Law, and their example it would be covered under the section 201 (d) of the Labor Law, the legal activities statute, which is what's intended.

What is not intended by legal activities is a public employee with public employer. That's still covered by the Taylor Law, and that's all this bill would do.

SENATOR GOLD: Will the Senator yield to a question?

ACTING PRESIDENT KUHL: Senator Lack yield?

SENATOR LACK: Yes, sir.

ACTING PRESIDENT KUHL: Senator

Lack yields.

SENATOR GOLD: Senator, when we're dealing with the AFL-CIO, we're dealing with people who are active in their lobbying and rather sophisticated. If there's a mistake in their memo, they make one comment in here: The bill was available for amendment during its original passage and nothing has happened.

Senator, why not deal with them and have them either withdraw their memo because it's incorrect or have them correct it and then it would clear the air for a lot of people, but right now, I -- I don't know whether this is a two-house bill at this point. I don't think it is, is it, Senator?

SENATOR LACK: Well, sure, it's a two-house bill.

SENATOR GOLD: It is?

SENATOR LACK: It's in the Labor Committee in the Assembly. This is originally requested as part of -- when this was found out, Senator, you remember when we were passing the legal activities bill, it was too late to make

any changes. We said that we'd do it. We said we'd do if afterwards, and we agreed with PERB to do it afterwards but, as you well know, you don't need AFL to change their memo. You can take it as a matter that the Public Employee Relations Board can only deal with matters affecting public employment, that that's all they do, and obviously a hotel chain isn't, to use the AFL's example a hotel chain, isn't public employment; so there is no way the type of example they use could be covered by PERB. Very simple.

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

I just wanted to make note -

ACTING PRESIDENT KUHL: Senator Gold on the bill.

SENATOR GOLD: The memo is here and it has not been withdrawn as far as I'm concerned.

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 when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar 1365 are Senators Connor, Espada, Gold, Jones, Leichter, Markowitz, Nanula, Ohrenstein, Onorato, Oppenheimer, Solomon and Stachowski. Ayes 43, nays 12.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Solomon.

SENATOR SOLOMON: Yes, Mr. President.

I'd like to have unanimous consent to be recorded in the negative on Calendar Number 1290.

ACTING PRESIDENT KUHL: Without objection, Senator Solomon will be recorded in the negative on Calendar Number 1290.

THE SECRETARY: Calendar Number 1374, by Senator Present.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1376, by Senator Daly, Senate Bill Number 8398, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Senator Jones.

SENATOR JONES: Yes. Would the sponsor yield to a question, please?

ACTING PRESIDENT KUHL: Senator Daly, Senator Jones has asked you to yield to a question on Calendar 1376.

SENATOR DALY: Certainly, Mr. President. Let me just -

ACTING PRESIDENT KUHL: Senator Daly yields.

SENATOR JONES: Yes, Senator. When this came up in committee, what my concern was, I guess, was minors who also rent limo's to go to proms, and et cetera, and I guess it wasn't clear to me, let's say they brought alcoholic beverages to this limo. What then is the light -- is this bill saying then no one is liable if they're drinking under age?

SENATOR DALY: Well, this bill, whether this bill was in effect or not, that would be illegal. If this bill becomes law, it is still illegal because minors cannot drink; it's against the law.

SENATOR JONES: I agree.

SENATOR DALY: So this bill would have no impact on that present statute that presently exists.

SENATOR JONES: Would the Senator yield to another question?

ACTING PRESIDENT KUHL: Senator Daly yield to another question? Senator yields.

SENATOR JONES: Then perhaps you

can clarify me -- clarify for me what exactly this would do that it doesn't do now.

SENATOR DALY: Well, Senator, you said you were concerned about minors as it is now. The present law says they can't drink.

SENATOR JONES: Yes.

SENATOR DALY: This law would also preclude them because it does not eliminate -- I'm trying to think of the legal term, the existing statute which says teenagers cannot drink. They can not drink in limousines even if this bill becomes law; it's against the law.

SENATOR JONES: Could I ask one more question, please?

ACTING PRESIDENT KUHL: Senator Daly continue to yield? Senator yields.

SENATOR JONES: My question then, is it the person driving the limo', is it his role to enforce it? In other words, if they get into his limo' with alcohol, is it his job to enforce it?

SENATOR DALY: He would have the same responsibility, for example, as a bus

driver would have. As you know, under existing law, you can have alcohol in the bus and the bus driver, the limousine operator, would have the same responsibility, I think, that a bus driver has.

This law is not intended to change any other existing statute, or would not impact.

SENATOR JONES: O.K. Thank you, Senator.

SENATOR DALY: You're welcome.

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.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1382, by Senator Daly, Senate Bill Number 8684,

authorize the sale or lease of real property at the Rochester Psychiatric Center.

ACTING PRESIDENT KUHL: Secretary -- Senator Dollinger, you laid this bill aside. Did you have a question of Senator Daly on Calendar Number 1382?

SENATOR DOLLINGER: No, Mr. President. I just rise to commend a number of people, including Senator Daly, who have worked on this project. I know Senator Jones and myself, my colleagues in the Senate, in the Assembly, Assemblyman Gantt, who is the Assembly sponsor, Assemblyman Morelle, Assemblyman John, all worked together on this project to try to make this happen.

I think this is a good bill. I simply rise to commend Senator Daly for his leadership, and my hope is that my colleagues will pass this bill. This is an important step for a vital agency in the community of Rochester that I represent, and I commend all those involved for their work on this noble project.

ACTING PRESIDENT KUHL: Senator

Gold.

SENATOR GOLD: Yeah, Mr. President.

I want to thank Senator Jones particularly, and Senator Dollinger. I really didn't understand this bill until they explained it to me and, based upon their comments, I'm going to support the bill.

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.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR SOLOMON: Mr. President.

ACTING PRESIDENT KUHL: Senator Solomon.

SENATOR SOLOMON: Yes, Mr. President, I'd like to have unanimous consent to

be recorded in the negative on Calendar Number 1106.

ACTING PRESIDENT KUHL: Without objection, Senator Solomon will be recorded in the negative on Calendar Number 1106. Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 1383, by Senator Saland, Senate Bill Number 8694, Environmental Conservation Law and the State Finance Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2 -

SENATOR GOLD: What Calendar Number is this?

ACTING PRESIDENT KUHL: This is Calendar Number 1383 that has been called.

SENATOR DOLLINGER: Thank you.

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.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1386, by Senator Tully.

SENATOR PRESENT: Lay the bill aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

SENATOR PRESENT: Temporarily.

ACTING PRESIDENT KUHL: Temporarily.

THE SECRETARY: Calendar Number 1387, by Senator Holland.

SENATOR GOLD: Explanation.

THE SECRETARY: Senate Bill 737, an act to amend the Social Services Law.

SENATOR GOLD: Explanation.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1393, by Senator Holland, Senate Bill Number 6970-A, relation to creating the local cost containment incentive program.

SENATOR GOLD: Explanation.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1399, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 11660, Surrogate's Court Procedure Act.

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.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1403, by Senator Velella, Senate Bill Number 8538, Administrative Code of the city of New York.

ACTING PRESIDENT KUHL: There's no home rule at the desk, Senator Present. We'll have to lay the bill aside.

THE SECRETARY: Calendar Number 1408, by Senator Padavan, Senate Bill Number 8624, an act to amend the General Municipal Law.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1409, by Senator Volker, Senate Bill Number 8630, an act to amend the Penal Law.

SENATOR GOLD: Explanation.

SENATOR PRESENT: Lay it aside

temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1413, by Senator Maltese, Senate Bill Number 8681, an act to amend the Correction Law.

SENATOR GOLD: Explanation.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1420, by Senator Bruno, Senate Bill Number 7494-B, an act to amend the Economic Development Law.

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

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

THE SECRETARY: Calendar Number 1424, by Senator Kuhl, Senate Bill Number 7588, an act to amend the Workers' Compensation Law.

SENATOR GOLD: Which number?

ACTING PRESIDENT KUHL: Calendar Number 1424 has been called.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I just have one question on this bill about what happens if they don't have Workers' Compensation; can they sue directly? I know that the sponsor is in the Chair, and I -

ACTING PRESIDENT KUHL: No longer.

ACTING PRESIDENT DALY: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I have just one question for the sponsor, and that is, if you don't provide Workers' Compensation coverage and someone gets hurt on a farm, and I know that farms are an area of significant risk of injury, does the injured person have a right to sue the farmer directly, and isn't that more damaging potentially to the farmer than to provide Workers' Comp. or do I misunderstand the nature

of the bill?

And again, I thank the sponsor for coming down out of the Chair to answer this question.

SENATOR KUHL: Happy to do that, Senator Dollinger.

My understanding would be certainly if there were not Workmen's Compensation, Workers' Compensation, then in fact an individual would not be hung up with the immunity that they would from suing and, in fact -- or being sued and, in fact, they would be able to do that.

This exemption initially was provided for farmers where the idea that there are a lot of part-time summer help, kids from school, children of the farmers themselves, and what has happened is over the years with the raising of the minimum wage, we've now taken those people out of that part-time position and as far as Workmen's or Workers' Compensation relief goes or exemption goes, and we've put that in a position now where the farmer is made

to make that choice, whether they include them with all those benefits and have to pay for that or whether they don't provide the job to them, and the latter has happened.

So what we're trying to do, by this updating, increasing the amount of the exemption, is to bring the statute current with today's wages and bring it -- actually it's been 30 years almost since this exemption was set, so that's the reason for the bill.

SENATOR DOLLINGER: And again -

ACTING PRESIDENT DALY: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I'm not -- because I'm not in the farm business, really don't have any experience with it, I'm not a good person to perhaps raise this issue, but it seems to me that the part-time worker, the student who is most likely because of inexperience on the job or lack of facility with equipment to be injured, and my question is, do you really want to open up those lawsuits, the potential for those lawsuits by

inexperienced workers who will have the same basic underlying claim against the owner and operator of the farm?

Isn't there a risk that you'll just encourage more litigation and create more damage than if you provided Workers' Comp. for them?

SENATOR KUHL: Well, I don't - I can't give you an exact answer to that, Senator Dollinger, but let me just put it in a different perspective. This has been a request that has come from the major representative of the farm industry, the Farm Bureau. They've said that that figure of $1200 as an exemption to paying Workmen's Compensation is really no longer adequate, and they need a higher level. So they have made this as one of their priorities on their legislative agenda for the year, and so that would indicate to me that they don't feel exposed in an additional way, that perhaps their general liability policy would cover those lawsuits which they're already paying and there wouldn't be any increased

premium, whereas having to include these people under Workmen's Compensation coverage would enlarge the premium and enlarge the cost and perhaps make them less competitive with some of their neighbors in some of the surrounding states.

SENATOR DOLLINGER: O.K. I'll go with the judgment of the Farm Bureau on this issue, and I appreciate the sponsor's candid response to my question. That was my question, whether you would open the door to a potential flood of lawsuits without the Worker's Compensation protection, that you might be creating a larger exposure that's overwhelmed by the loss of limb or the kind of serious accident that often happens on a farm often involving the loss of limb or that kind of injury. Obviously one of those verdicts could obviously make up for a number of years of Worker's Compensation judgments, but the farmers obviously know this business better than I; so I will abide by their judgment.

SENATOR GOLD: Last section.

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

ACTING PRESIDENT DALY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT DALY: The bill is passed.

Senator Kuhl. I'm sorry.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT DALY: Senator Gold.

SENATOR GOLD: Yeah, Mr. President. I was out of the room when we voted on 1419, and I'd like unanimous consent to be voted in the negative.

ACTING PRESIDENT DALY: Senator Gold in the negative on Bill Number 1419.

Ladies and gentlemen, may I just announce that the 1993-94 Senate portrait is now on display in Steve Sloan's office, Room 321, and please take a few moments to look at the portrait and, if you're interested, you may

order as soon as possible.

Senator Mendez, is that -- are you voting -- Senator Mendez.

SENATOR CONNOR: Thank you, Mr. President.

ACTING PRESIDENT DALY: Senator Mendez.

SENATOR MENDEZ: Excuse me, Mr. President.

ACTING PRESIDENT DALY: Senator Mendez.

SENATOR MENDEZ: Thank you, Mr. President. I was out of the chambers, and I wish to be recorded in the negative in Calendar Number 1424.

ACTING PRESIDENT DALY: Senator Mendez in the negative on Calendar Number 1424.

Senator Connor. Excuse me, Senator Mendez, would you -

SENATOR MENDEZ: Yes, Mr. President.

ACTING PRESIDENT DALY: Senator Mendez in the affirmative on 1290. Senator

Connor.

SENATOR CONNOR: Thank you - thank you, Mr. President. May I have unanimous consent to be recorded in the negative on Calendar Number 1424.

ACTING PRESIDENT DALY: Senator Connor in the negative on Calendar Number 1424.

Senator Espada.

SENATOR ESPADA: Mr. President, I too ask unanimous consent to be recorded in the negative on 1424.

ACTING PRESIDENT DALY: Senator Connor, Senator Espada in the negative on Calendar 1424.

Senator Present.

SENATOR PRESENT: Got it all? I think we've -

ACTING PRESIDENT DALY: No. Senator Present, the floor is yours.

SENATOR PRESENT: Let's take Calendar Number 1393.

THE SECRETARY: Calendar Number 1393, by Senator Holland, Senate Bill Number

6970-A, relation to creating the local cost containment incentive program.

SENATOR GOLD: Explanation.

ACTING PRESIDENT DALY: Explanation requested by -

SENATOR GOLD: Senator yield to a question?

ACTING PRESIDENT DALY: - Senator Gold.

SENATOR HOLLAND: Yes, sir.

SENATOR GOLD: Senator, I was just wondering why there were no Minority appointments.

SENATOR HOLLAND: There are no Minority appointments. Membership -- well, there are -- membership on the board shall consist of the Commissioner of the Department of Social Services. He's Minority.

SENATOR GOLD: I mean the Minority Leader of each house, Senator.

SENATOR HOLLAND: Oh. We gave two appointments to the Majority in the Senate and in the Assembly under this bill, so there

are Democrats, but they come out of the Assembly.

SENATOR GOLD: Senator, I didn't ask you whether you were appointing Senate Democrats or Republicans. I asked why the Minority Leader of the Assembly, distinguished graduate of Cornell University, was not given an appointment, nor is the Minority Leader in this house who, although he does not have the advantage of a Cornell education, is still very bright and articulate and concerned.

SENATOR HOLLAND: It wasn't done in the bill, Senator, as you can see. It was done with the Majority of both houses.

SENATOR GOLD: Last section.

ACTING PRESIDENT DALY: Last section.

SENATOR GOLD: Slow roll call.

ACTING PRESIDENT DALY: Slow roll call. Five members standing. Slow roll call.

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

ACTING PRESIDENT DALY: Call the

roll, Clerk.

SENATOR PRESENT: Lay the bill aside.

ACTING PRESIDENT DALY: Lay the bill aside.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, can I have unanimous consent to be recorded in the negative on Calendar 1106, please?

ACTING PRESIDENT DALY: Senator Stachowski in the negative on Calendar Number 1106.

THE SECRETARY: Calendar Number 1409, by Senator Volker, Senate Bill Number 8630, an act to amend the Penal Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT DALY: Explanation requested.

Senator Maltese.

SENATOR MALTESE: Mr. President, this is an act to amend the Penal Law in relation to the theft of telecommunications

services and related frauds. Together with great strides in telecommunications have come the -- with -- have come thieves and scam artists who seek to take advantage of new technologies to commit scams and defraud persons of fees, telephone fees, and deprive persons of their credit card numbers.

With the use of cellular phones, it has become possible by advanced methods to obtain credit card numbers and to use those credit card numbers and sell them and use them for nefarious purposes.

What this bill seeks to do is amend the present Penal Law to cover these new methods of scamming and stealing and defrauding persons who use telephone and cellular telephone and communications devices. Among the -- among the advances, if you will, as far as theft of services is concerned has been the ability of scam artists to access credit card numbers from cellular telephones and then immediately put them on the open market, make them accessible to people all over the country and perhaps all over

the world almost instantaneously, and defraud the communications companies out of millions and millions of dollars which then inures to the detriment of legitimate users and increases the cost of consumers and the telecommunications companies.

This specific bill includes the knowingly obtaining of telecommunications service with fraudulent intent by use of an unauthorized false or fictitious name, identification, telephone number or access device. This seeks to make unlawful the calling of persons by scam artists and encouraging them to either disclose a secret credit card number, telephone credit card numbers, or accept the cost of third-party calls or calls to their number.

In addition, it increases the penalties from the present crime, theft of services as a misdemeanor, it increases the penalty to a class E felony for additional -- if a person has been previously convicted of a telecommunications fraud or if a -- let's see,

or if the value is over a thousand dollars.

ACTING PRESIDENT DALY: Last section.

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

ACTING PRESIDENT DALY: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT DALY: The bill is passed.

Senator Goodman.

SENATOR GOODMAN: Mr. President, may I please be recorded in the negative on Calendar 868 and Calendar 1106.

ACTING PRESIDENT DALY: Senator Goodman in the negative on Calendar 868 and 1101.

SENATOR GOODMAN: 1106.

ACTING PRESIDENT DALY: Senator Present? Senator Hoffmann.

SENATOR HOFFMANN: Could I please

be recorded in the negative on Calendar Number 1365.

ACTING PRESIDENT DALY: Senator Hoffmann in the negative on Calendar 1365.

Senator Present.

SENATOR PRESENT: Mr. President, could we please take up Calendar Number 1413.

THE SECRETARY: Calendar Number 1413, by Senator Maltese, Senate Bill Number 8681, an act to amend the Correction Law.

ACTING PRESIDENT DALY: Senator Dollinger.

SENATOR DOLLINGER: Will the Senator yield for a question, Mr. President?

ACTING PRESIDENT DALY: Senator Maltese, will you please yield for a question?

SENATOR DOLLINGER: Who - through you, Mr. President, who pays for the cost to the correction officer in these situations?

SENATOR MALTESE: Excuse me, Mr. President. I didn't hear Senator Dollinger.

ACTING PRESIDENT DALY: Senator

Dollinger, would you repeat the question, please.

SENATOR DOLLINGER: As I understand it -- through you, Mr. President - this would presently permit the correction officer to be accompanied by counsel, a right which they presently don't have; is that correct?

SENATOR MALTESE: That's correct. The bill previously passed both houses and was vetoed by the Governor, and this was a compromise worked out by DCJS and the Commissioner of Correction.

SENATOR DOLLINGER: Through you, Mr. President.

ACTING PRESIDENT DALY: Senator Dollinger.

SENATOR DOLLINGER: What's the nature of the compromise that was worked out, Mr. President, just so I understand it, as I assume we passed a bill that was roughly comparable last time around?

SENATOR MALTESE: This bill was

vetoed by the Governor as overbroad and they felt that it could have unintended consequences. This would only apply to correction officers being examined under oath by the state Commission of Correction and not in any other case.

SENATOR DOLLINGER: O.K. And just so, again, I understand it.

ACTING PRESIDENT DALY: Senator Dollinger.

SENATOR DOLLINGER: How, through you, Mr. President, if Senator Maltese will continue to yield.

Who picks up the cost of the officer's securing counsel? Is that picked up by the state or picked up by the officer?

SENATOR MALTESE: Mr. President, it's my understanding, which I could end up supplying that information to Senator Dollinger, but it is my understanding that these counsels would be supplied by the correction officers union themselves and would not be picked up by the state of New York.

SENATOR DOLLINGER: O.K. It would be pursuant to union agreement, union contract, as to whether the union were able to secure reimbursement for attorneys' expenses as part of that; would that be a fair assessment?

SENATOR MALTESE: Mr. President, it would be covered not only under union contract but by agreement between the officer represented and the union itself.

SENATOR DOLLINGER: Thank you, Senator.

ACTING PRESIDENT DALY: Last section.

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

ACTING PRESIDENT DALY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT DALY: The bill is passed.

SENATOR PRESENT: Regular order.

THE SECRETARY: Calendar Number

1427, by Senator Pataki, Senate Bill Number 7807, an act to amend the Criminal Procedure Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT DALY: Explanation requested.

SENATOR PRESENT: Lay aside temporarily.

ACTING PRESIDENT DALY: Lay the bill aside.

THE SECRETARY: Calendar Number 1428, by Senator Pataki, Senate Bill Number 7808, an act to amend the Criminal Procedure Law.

SENATOR GOLD: Yeah, explanation.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT DALY: Bill is laid aside.

THE SECRETARY: Calendar Number 1429, by Senator Saland, Senate Bill Number 7910, authorizing the Commissioner of General

Services to sell certain land in the city of Beacon.

ACTING PRESIDENT DALY: Last section. There is a home rule message at the desk. Last section.

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

ACTING PRESIDENT DALY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT DALY: The bill is passed.

THE SECRETARY: Calendar Number 1431, by Senator Pataki, Senate Bill Number 8390, in relation to authorizing the conveyance of certain property.

ACTING PRESIDENT DALY: There's a home rule message at the desk. Last section.

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

ACTING PRESIDENT DALY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT DALY: The bill is passed.

SENATOR CONNOR: Mr. President.

ACTING PRESIDENT DALY: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

May I have unanimous consent to be recorded in the negative on Calendar Number 1106?

ACTING PRESIDENT DALY: Senator Connor in the negative on 1106.

Senator Hoffmann.

SENATOR HOFFMANN: I would ask unanimous consent to be recorded on 1106 also, Mr. President.

ACTING PRESIDENT DALY: Senator Hoffmann also in the negative on Calendar Number 1106.

We have some substitutions.

THE SECRETARY: On page 6 of

today's calendar, Senator Stafford moves to discharge the Committee on Rules from Assembly Bill Number 9005-B and substitute it for the identical Third Reading 224.

On page 23, Senator Goodman moves to discharge the Committee on Rules from Assembly Bill Number 11668-C and substitute it for the identical Calendar Number 970.

On page 40, Senator Nanula moves to discharge the Committee on Rules from Assembly Bill Number 11994, and substitute it for the identical Third Reading 1437.

ACTING PRESIDENT DALY: Substitutions are ordered.

SENATOR LACK: Mr. President.

ACTING PRESIDENT DALY: Senator Lack.

SENATOR LACK: Mr. President, on behalf of Senator Larkin, I wish to call up his bill, Print Number 7318, recalled from the Assembly and now at the desk.

ACTING PRESIDENT DALY: Secretary will read.

THE SECRETARY: By Senator Larkin, Senate Bill Number 7318, an act to amend the Real Property Tax Law.

SENATOR LACK: I move to reconsider the vote by which this bill was en acted.

ACTING PRESIDENT DALY: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT DALY: The bill is now before the house.

SENATOR LACK: Mr. President, I offer, on behalf of Senator Larkin, the following amendments to the bill.

ACTING PRESIDENT DALY: Amendments received.

Senator Mendez.

SENATOR MENDEZ: Mr. President, I wish to be reported in the negative on bill - on Calendar Number 1365.

ACTING PRESIDENT DALY: Senator

Mendez in the negative on Calendar Number 1365.

SENATOR MENDEZ: Thank you.

ACTING PRESIDENT DALY: You're welcome.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would like unanimous consent to be recorded in the negative on Calendar 1365.

ACTING PRESIDENT DALY: Senator Montgomery in the negative on Calendar Number 1365.

Senator Kuhl.

SENATOR KUHL: Yes. Would you take up Calendar Number 1393, Senator Holland's bill, please.

THE SECRETARY: Calendar Number 1393, by Senator Holland, Senate Bill Number 6970-A, an act in relation to creating the local cost containment incentive program.

ACTING PRESIDENT DALY: Read the last section.

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

ACTING PRESIDENT DALY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT DALY: Senator Gold.

SENATOR GOLD: Slow roll call.

ACTING PRESIDENT DALY: Senator Gold.

SENATOR GOLD: Slow roll call.

ACTING PRESIDENT DALY: Slow roll call. Would the Sergeant-at-Arms notify the members that there's a slow roll call on the floor and ask them to please come into the house.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Bruno.

(There was no response.)

Senator Connor.

SENATOR CONNOR: Yes.

ACTING PRESIDENT DALY: Senator Connor.

SENATOR CONNOR: To explain my

vote, Mr. President.

You know, I guess this bill, I think we'll hear from Senator Holland, Gee, there's no time to amend it because we're getting out of here but, you know, we had a bill earlier in the session that had a similar oversight and the sponsor quite graciously amended it to allow for appointments by the two minority leaders.

There's no reason on something like this to so construct it that -- that minority political voices are stilled. Nobody's saying give control to the two minority lead ers. They're just saying give proper respect and proper recognition and an opportunity for information and input to the two minority leaders. We've done this on myriad commissions, task forces, special select bodies, and so on, and therefore, under the circumstances, without even getting into the merits at hand, I vote no.

ACTING PRESIDENT DALY: Senator Connor in the negative. Continue the roll.

THE SECRETARY: Senator Cook.
SENATOR COOK: Yes.
THE SECRETARY: Senator Daly.
SENATOR DALY: Yes.
THE SECRETARY: Senator DeFrancisco.
(There was no response.)
Senator DiCarlo.
(There was no response.)
Senator Dollinger.
SENATOR DOLLINGER: Mr. President, to explain my vote.
ACTING PRESIDENT DALY: Senator Dollinger to explain his vote.
SENATOR DOLLINGER: Mr. President I join my colleagues in the concern about the appointment by a member of the minority in this cost containment group. I think there are good ideas that can come from this side of the aisle and it's certainly through our appointments.
However, I'll be voting in favor of this bill as I think there are certain other aspects of it that merit my affirmative vote,

but I join my colleagues in the protest.

ACTING PRESIDENT DALY: Senator Dollinger in the affirmative. Could we have some order in the house, please.

THE SECRETARY: Senator Espada.

SENATOR ESPADA: No.

THE SECRETARY: No.

Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Galiber.

SENATOR GALIBER: No.

THE SECRETARY: Senator Gold.

SENATOR GOLD: Thank you, Mr. President.

Mr. President, every time it seems like we're making some strides, we have to go backwards, and I don't know why that has to happen. Senator Holland, yesterday we had some philosophical disagreements on issues, and I think that that's something we're all prepared for.

This is not a philosophical issue. Whether or not this body likes it, 26

out of its 61 members happen to have different political ideas, and that is a substantial number. The other house the numbers are a little bit greater in terms of one or the other, but let's face it, when we're talking about par ticipation in situations such as this, when we're talking about exchanging information, it is so little on the scale of what human conduct ought to be to other people that it belittles the entire chamber when we do it, and we shouldn't do it. We shouldn't do it.

Now, there's a lot of ways of protesting it, and you know, we are trying not to get into those situations, but believe me, we are getting to a point when the system itself is going to have to change. I mean some of the things that go on here do not help people. They don't help the legislative process. They don't move things along. They are not up to what the dignity of this chamber ought to be, and there's no excuse for this one.

We had a bill the other day. We laid it aside a couple times. The sponsor

agreed to an amendment. We did the amendment and then we were off and running. This is a bill that could be amended very simply, Senator Holland. We're in the closing days and, believe me, the messages of necessity will start flying like they always do and, if there's agreement on this bill in principle of what it does, the changing of the references to make sure that 26 members presently on this side have a voice will not hold up the process.

So I'm encouraging everybody to say no. I hope that's what we will do. I know that some colleagues get very, very concerned. They say, Well, there are merits to this. A bill is not an idea. It's a specific piece of paper that sets forth that idea and tells how it will be administered. So while somebody can say that the bill has a good idea, if it's not administered properly, then something's wrong with that bill.

I am not voting against your idea at this point, Senator Holland. I am voting against this bill.

I vote no.

ACTING PRESIDENT FARLEY: Senator Gold in the negative. Continue the roll call.

THE SECRETARY: Senator Gonzalez.

(There was no response.)

Senator Goodman.

SENATOR GOODMAN: Yes.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: Explain my vote.

ACTING PRESIDENT FARLEY: Senator Hoffmann to explain her vote.

SENATOR HOFFMANN: This is another classic illustration of the end of session crunch putting people between the devil and the deep blue sea.

For members on this side of the aisle who have been once again summarily closed out of the process, a vote in opposition to the

measure can be characterized later as a vote against cost containment, of abuse, and who would want to be put in that position.

The short descriptions given to something like this in the newspaper don't go into a lot of substance, certainly do not afford us the opportunity to explain to the taxpayers of this state the abuse of power that takes place day in and day out in this chamber.

I understand everything that Senator Gold said, and I agree with him right up to the point of voting against it. I think that it's essential to send a message that we do support the message of cost containment in social service entitlement programs. So I'm prepared to vote for the bill, but I want to make sure that it's clear to the people in the 48th Senate District that I do not like the way that this particular bill has been produced in this chamber. It is another example of the secrecy and the closed door type of negotiation that Albany has become all too well known for.

ACTING PRESIDENT FARLEY: Senator

Hoffmann in the affirmative. Continue the roll.

THE SECRETARY: Senator Holland.

SENATOR HOLLAND: Explain my vote.

ACTING PRESIDENT FARLEY: Senator Holland to explain his vote.

SENATOR HOLLAND: I guess no one opposes the bill. It simply is a cost control/ cost containment bill, encourages the individual departments of social services to offer innovative cost containment programs. It does set up a board and, if that is the problem, let me just tell you who the members of the board are.

Members of the board are Commissioner of Social Services; he's a Democrat; the Commissioner of Health, he's a Democrat; the Attorney General, he's a Democrat; Commissioner of Mental Retardation, he's a Democrat; the Commissioner of Mental Health is a Democrat, Comptroller, he's a Democrat and two representatives of the Speaker of the Assembly,

they're Democrats I presume, and two appointments of the Senate. So eight Democrats, two Republicans.

You definitely are represented on the board, and the idea is good. I suggest that you approve cost containment, want to control the cost of welfare and working from the bottom up through the Department of Social Services, individual departments of social services for innovative ideas, and this board is a good idea and I vote yes.

ACTING PRESIDENT FARLEY: Senator Holland in the affirmative. Continue the roll.

If I may, there's an awful lot of talk in the back of the chamber. If you could kind of hold it down, take those conversations outside the chamber.

Continue the roll call.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Jones.

SENATOR JONES: Explain my vote.

ACTING PRESIDENT FARLEY: Senator

Jones to explain her vote.

SENATOR JONES: I guess I would like to say just ditto to almost everything Senator Hoffmann said. She's absolutely right. I think it's very petty that we get down to even have to worry about Democrat or Republican. That isn't the point. The point is that a group is disenfranchised, a group of people who have good ideas who would like to talk about them and would just like the opportunity to have them out on the floor as a point of discussion.

I personally had a bill that contained many of these things in it but because my name is on it, that precludes that it's even worthy of discussion. So the point to me it's just another petty point, and Senator Hoffmann expressed it perfectly.

I will vote yes on it because I certainly support cost containment and would like to see anything happen along that line, but I'm sorry that it always gets down to this pettiness that some of us don't have the right to discuss things or be heard.

ACTING PRESIDENT FARLEY: Senator Jones in the affirmative. Continue the roll call.

THE SECRETARY: Senator Kruger.

(There was no response.)

Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Aye.

THE SECRETARY: Senator Leichter.

SENATOR LEICHTER: No.

THE SECRETARY: Senator Levy.

(There was no response.)

Senator Libous.

SENATOR LIBOUS: Yes.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.
THE SECRETARY: Senator Marino.
(Affirmative indication.)
THE SECRETARY: Aye.
Senator Markowitz.
SENATOR MARKOWITZ: No.
ACTING PRESIDENT FARLEY: Would you call Senator Levy's name.
THE SECRETARY: Senator Levy.
SENATOR LEVY: Aye.
THE SECRETARY: Senator Mendez.
SENATOR MENDEZ: No.
THE SECRETARY: Senator Montgomery.
SENATOR MONTGOMERY: No.
THE SECRETARY: Senator Nanula.
(There was no response.)
Senator Nolan.
(There was no response.)
Senator Nozzolio.
SENATOR NOZZOLIO: Aye.
THE SECRETARY: Senator Ohrenstein.

(Negative indication.)

THE SECRETARY: No.

Senator Onorato.

SENATOR ONORATO: No.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: I would like to explain.

ACTING PRESIDENT FARLEY: Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: While it can be said I just briefly support what Senator Hoffmann and Senator Jones said, I'm voting yes but I'm very disappointed that the Republicans did not include one member of the Minority in this house in this group to consider this.

ACTING PRESIDENT FARLEY: Senator Oppenheimer in the affirmative. Continue the roll call.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Aye.

THE SECRETARY: Senator Pataki excused.

Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.

(There was no response.)

Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: No.

THE SECRETARY: Senator Sears.

SENATOR SEARS: Aye.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Aye.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Yes.

THE SECRETARY: Senator Smith.

SENATOR SMITH: No.

THE SECRETARY: Senator Solomon.

SENATOR SOLOMON: No.

THE SECRETARY: Senator Spano.

(There was no response.)

Senator Stachowski.

SENATOR STACHOWSKI: To explain my vote.

ACTING PRESIDENT FARLEY: Senator Stachowski to explain his vote.

SENATOR STACHOWSKI: We have a problem here again with no Minority appoint ments. Most members on the floor understand this situation that had previously been going on, but it seemed to disinvolve itself.

However, Senator Holland still doesn't get it. He gets up after to explain his vote and says there's this Democrat, that Democrat, the Comptroller is a Democrat. That doesn't matter. The point is that the Minority Leader in the Assembly doesn't get an appointment, and the Minority Leader in the Senate doesn't get an appointment, and that's the problem.

It's not the bill, it's not the merits of the bill, and it has nothing to do with you. The issue is we're trying to get around that system. We're not trying to take

control of these various appointments. All we're saying is that there's 26 members here and however many members in the Assembly Minority that should at least have a voice on these various commissions and committees and bodies that we put together that handle these various issues, and to disenfranchise all the people that they represent just nonchalantly by saying, Well, you know the Comptroller is a Democrat and the Governor is a Democrat, that just doesn't get it, and for that reason and not for any reason but the merit of the bill, I vote no.

ACTING PRESIDENT FARLEY: Senator Stachowski is in the negative. Continue the roll call.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

(There was no response.)

Senator Trunzo.

SENATOR TRUNZO: Aye.

THE SECRETARY: Senator Tully.
(There was no response.)
Senator Tully.
ACTING PRESIDENT FARLEY: Senator Tully.
SENATOR TULLY: Aye.
THE SECRETARY: Senator Velella.
SENATOR VELELLA: Yes.
THE SECRETARY: Senator Volker excused.
Senator Waldon.
(There was no response.)
Senator Wright.
SENATOR WRIGHT: Aye.
ACTING PRESIDENT FARLEY: Absentees.
THE SECRETARY: Senator Babbush.
(There was no response.)
Senator Bruno.
SENATOR BRUNO: Yes.
THE SECRETARY: Senator DeFrancisco.
SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.
SENATOR DiCARLO: Aye.
THE SECRETARY: Senator Gonzalez.
(There was no response.)
Senator Kruger.
(There was no response.)
Senator Nanula.
(There was no response.)
Senator Nolan.
(There was no response.)
Senator Present.
SENATOR PRESENT: Aye.
THE SECRETARY: Senator Spano.
SENATOR SPANO: Aye.
THE SECRETARY: Senator Stavisky.
(There was no response.)
Senator Waldon.
(There was no response.)
ACTING PRESIDENT FARLEY: Results.
THE SECRETARY: Ayes 37, nays

15.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Mr. President, would you call up Calendar Number 1408, please.

ACTING PRESIDENT FARLEY: 1408, the Secretary will read it.

THE SECRETARY: Calendar Number 1408, by Senator Padavan, Senate Bill Number 8624, an act to amend the General Municipal Law.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR GOLD: Wait a minute, Mr. President. Explanation.

ACTING PRESIDENT FARLEY: Explanation has been asked for by Senator Gold, Senator Padavan.

SENATOR PADAVAN: Mr. President, this bill would require that local government employees cooperate with INS and not be precluded by either local law or executive order

from reporting illegal aliens who have committed a crime or are in this country obviously illegally.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Will Senator Padavan yield to a question?

ACTING PRESIDENT FARLEY: Would you yield to a question from Senator Gold, Senator Padavan?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT FARLEY: Yes, he will.

SENATOR GOLD: Senator Padavan, yesterday at the Rules Committee meeting, we discussed this, and I believe you indicated that in the city of New York there is an executive order that says that if the victim of a crime is an illegal alien that a police officer may not inform INS; is that right?

SENATOR PADAVAN: Executive order precludes reporting by the police department of

an illegal alien under those circumstances.

SENATOR GOLD: And what -- if the Senator will yield to a question. Wasn't it also discussed, Senator, that there's a new mayor. If Mayor Giuliani doesn't like that order, he can rescind that order and tell the police to do something differently. We don't need a state law; isn't that correct?

SENATOR PADAVAN: There's also Local Law 52 which was adopted by the City Council that has a similar provision. In answer to your question, yes.

SENATOR GOLD: And what is the provision in the local law?

SENATOR PADAVAN: Very similar wording.

SENATOR GOLD: Well, what does it say; what does it apply to?

SENATOR PADAVAN: Illegal aliens.

SENATOR GOLD: Who does it deal with, Senator?

SENATOR PADAVAN: All illegal aliens.

SENATOR GOLD: Senator, I'm not sparring with you. Who -- does it apply to every City employee?

SENATOR PADAVAN: Every City employee.

SENATOR GOLD: All right. Mr. President, on the bill.

ACTING PRESIDENT FARLEY: On the bill, Senator Gold.

SENATOR GOLD: Mr. President, we discussed this bill at Rules Committee yesterday and, while it may seem simple enough, it really isn't. Here again, the state of New York is being asked to undertake what are basically federal functions, but I want to point out that one of the functions that we're dealing with here deals with police officers.

Now, in the city of New York we have people, and it's no secret, there are illegal aliens there, and we have made provisions in the past so, for example, when there was a census, the census was made very clear that we wanted to know who is in this

country and that the census officials would not report to Immigration if there were people here illegally, because it's important to know.

Now, in the police department, it also has some significance. If you have a woman, God forbid, who is an illegal alien and she is abused or raped and is afraid to make the complaint because now she will be turned over to Immigration, what does that say and what does that do? And then if you have someone who is a serial rapist, by the time he gets to raping someone who you determine is legal, they're going to say, How come this guy committed four crimes before and was never brought to justice?

The answer is there's a reason, a social reason, why a former mayor determined that the police department should not be turning in victims -- victims in situations like that. Now, if this mayor disagrees with it, let him do something about it. There are also city agencies that deal in all kinds of social programs. Some of them involve -- are involved with feeding children and taking care of

families, and they have serious responsibilities and they need the respect of communities.

Therefore, Senator -

SENATOR PADAVAN: Would the Senator yield?

SENATOR GOLD: Pardon me?

SENATOR PADAVAN: Would you yield?

SENATOR GOLD: Be glad to.

SENATOR PADAVAN: Senator, I would like to direct your attention to the bill which is not very lengthy. It says: Where any agent or agency reasonably suspects to have committed a crime and be in violation of federal immigration laws; so the issue here is, those who are here illegally who have committed a crime, not exclusive of one another, but together. So I'm bringing this up because what you're saying is not relevant.

This bill relates to those individuals who are not only here illegally in this country, but who have also committed a crime. That's the narrow focus. It does not

relate to illegal aliens who are in this country who have not committed a crime.

SENATOR GOLD: Fine. Thank you.

Mr. President, as I was saying, the fact of the matter is that people in the City agencies have to deal with community and they have to have a relationship and respect with those communities and you don't create that relationship and respect if people who do not speak the language entirely perfectly and don't understand everything are concerned that when they deal with City government, they are in jeopardy and jeopardizing other members of their family.

Now, if the City Council wants to revoke that legislation, they have a right to do it. If the mayor wants to revoke it -- and the mayor is now Republican -- he can revoke it, but I don't think that we have to enter this field. I don't think we are the guardian of the Immigration and Naturalization Service; we're not the guardians of the draft board. We're not the guardians of the federal government, and I

think that that is -- that is the simple and really basic point, and I think that this bill is a problem.

ACTING PRESIDENT HOLLAND: Read the last section.

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

ACTING PRESIDENT HOLLAND: Call the vote.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1408 are Senators Espada, Galiber, Gold, Markowitz, Mendez, Ohrenstein, Paterson, Santiago and Smith. Ayes 49, nays 9.

ACTING PRESIDENT HOLLAND: The bill is passed.

SENATOR GALIBER: Mr. President.

ACTING PRESIDENT HOLLAND: Senator Galiber.

SENATOR GALIBER: Thank you, Mr. President.

Mr. President, unfortunately or

perhaps fortunately, I was not here yesterday but if I had been here, I would like the record to record that I would have voted against each and every bill that was on yesterday.

Thank you.

ACTING PRESIDENT HOLLAND: All bills, so ordered.

Senator Paterson.

SENATOR PATERSON: Mr. President, not being nearly as negative as Senator Galiber, but sharing a lot of his sentiments, there are only two bills that I would like to be recorded in the negative with unanimous consent. They were today, Bills 1326 and 1393.

ACTING PRESIDENT HOLLAND: With no objection.

SENATOR LEICHTER: Mr. President.

SENATOR PATERSON: Mr. President, that was yesterday.

ACTING PRESIDENT HOLLAND: Yes. Senator Paterson, 1393 was a slow roll call. We can record you as, if you had been there, you

would have voted negative. Hang on one second. You voted no yesterday -- today.

SENATOR PATERSON: I already voted, Mr. President?

ACTING PRESIDENT HOLLAND: That's what I'm told.

SENATOR PATERSON: Well, then I'll stand with the first vote, Mr. President.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT HOLLAND: Senator Leichter.

SENATOR LEICHTER: Yes. May I have unanimous consent to be recorded in the negative on Calendar 1418, please.

ACTING PRESIDENT HOLLAND: With no objection, so ordered.

Senator Kuhl?

Senator Santiago.

SENATOR SANTIAGO: Mr. President, I'd like to be recorded in the negative on Calendars 1106, 1365, 1290 and 1424.

ACTING PRESIDENT HOLLAND:

Without objection, so ordered.

Senator Santiago.

SENATOR SANTIAGO: I would like to be recorded in the negative on 1408 as well.

ACTING PRESIDENT HOLLAND: Without objection.

SENATOR SANTIAGO: Thank you.

ACTING PRESIDENT HOLLAND: So ordered.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Could we have the Senate stand at ease for a few moments.

ACTING PRESIDENT HOLLAND: The Senate will stand at ease.

SENATOR KUHL: Mr. President, on behalf of Senator Levy, I'd like to announce an immediate Majority Conference in the Majority Conference Room, 332, to be followed by a Rules Committee meeting to be later announced off the floor. The Senate will stand at ease awaiting the report.

ACTING PRESIDENT HOLLAND: Senate

will stand at ease. There will be an immediate meeting of the Majority in Room 332.

ACTING PRESIDENT KUHL: Senate will come to order momentarily. The Chair recognizes Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 1408?

ACTING PRESIDENT KUHL: Without objection, Senator Connor will be recorded in the negative on Calendar Number 1408.

Senator Galiber.

SENATOR GALIBER: Yes. I'd like to have unanimous consent to be recorded in the negative on Calendar Number 148.

ACTING PRESIDENT KUHL: 148.

SENATOR GALIBER: 705.

ACTING PRESIDENT KUHL: 705.

SENATOR GALIBER: 715.

ACTING PRESIDENT KUHL: 715.

SENATOR GALIBER: 1106.

ACTING PRESIDENT KUHL: 1106.

SENATOR GALIBER: Yeah, 1290.

ACTING PRESIDENT KUHL: 1290.

SENATOR GALIBER: 1365.

ACTING PRESIDENT KUHL: 1365.

SENATOR GALIBER: 1389.

ACTING PRESIDENT KUHL: 1389.

SENATOR GALIBER: 1402.

ACTING PRESIDENT KUHL: 1402.

SENATOR GALIBER: 1419.

ACTING PRESIDENT KUHL: 1419.

SENATOR GALIBER: And 1424.

ACTING PRESIDENT KUHL: And 1424. Without objection, Senator Galiber will be recorded in the negative on those bills.

SENATOR GALIBER: Thank you for your patience.

SENATOR STAVISKY: Mr. President, I'd like unanimous consent to be recorded in the negative on following bills.

ACTING PRESIDENT KUHL: Without objection, Senator Stavisky will be recorded in the negative on the following bills.

SENATOR STAVISKY: 715.

ACTING PRESIDENT KUHL: 715.

SENATOR STAVISKY: 1290.

ACTING PRESIDENT KUHL: 1290.

SENATOR STAVISKY: 1326.

ACTING PRESIDENT KUHL: 1326.

SENATOR STAVISKY: 1365.

ACTING PRESIDENT KUHL: 1365.

SENATOR STAVISKY: And 1408.

ACTING PRESIDENT KUHL: 1408.

SENATOR STAVISKY: 1419.

ACTING PRESIDENT KUHL: 1419.

SENATOR STAVISKY: And 1424.

ACTING PRESIDENT KUHL: And 1424.

SENATOR STAVISKY: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senate will continue to stand at ease.

(The Senate stood at ease from 2:50 p.m. to 5:00 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order. The Chair recognizes

Senator Present.

SENATOR PRESENT: Mr. President, there will be an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT KUHL: All members listening to the chamber, immediate meeting of the Rules Committee in the Majority Conference Room, Room 332. Immediate meeting of the Rules Committee. The Senate will stand at ease awaiting the report of the Rules Committee.

The Senate will stand at ease awaiting the Rules report. Senator Present, we have some housekeeping we could do if that would be acceptable. Senate will stand at ease awaiting the Rules report.

(The Senate stood at ease from 5:00 to 5:39 p.m.)

ACTING PRESIDENT LARKIN: Mr. President -- Senator Bruno.

SENATOR BRUNO: Mr. President, I would like to have unanimous consent to be voted in the negative on Calendar Number 434. Thank you, Mr. President.

SENATOR LARKIN: Senator Jones.

SENATOR JONES: Yes, Mr. President. I would like unanimous consent to be recorded in the negative on Calendar Number 1106.

ACTING PRESIDENT LARKIN: Without objection, so ordered.

Senator Present.

SENATOR PRESENT: Can we return to motions?

On behalf of Senator Johnson, I wish to call up his bill Senate Print 3187-A recalled from the Assembly which is now at the desk.

ACTING PRESIDENT LARKIN: Secretary will read.

THE SECRETARY: By Senator Johnson, Senate Bill 3187-A, an act to amend the Executive Law.

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

(The Secretary called the roll on

reconsideration.)

THE SECRETARY: Ayes 59.

SENATOR PRESENT: Mr. President, the bill now being back to the order of third reading, I offer the following amendments.

On behalf of Senator LaValle, I offer the following amendments to Calendar Number 1060, Senate Print 5340, and ask it retain its place on the Third Reading Calendar.

ACTING PRESIDENT LARKIN: Amendments received.

SENATOR PRESENT: On behalf of Senator Volker, I offer the following amendments to Calendar Number 885, Senate Print 2109-B, and ask the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT LARKIN: Amendments received.

SENATOR PRESENT: Mr. President, can we return to reports of standing committees.

ACTING PRESIDENT LARKIN: Reports of standing committees.

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

Senate Bill Number 426-A, by Senator Stavisky, an act to amend the Penal Law;

885-A, by Senator Saland, an act to amend the Public Health Law;

2207-B, by Senator Hannon, an act to amend the Public Health Law;

2553-A, by Senator Johnson, an act to amend the State Finance Law;

2565-A, by Senator Mendez, Mental Hygiene Law;

4675, by Senator Cook, an act to amend the Social Services Law;

4711-B, by Senator Present, an act to amend the State Administrative Procedure Act;

5176-A, by Senator Hannon, General Obligations Law;

5507, by Senator Saland, Real Property Law;

5994-A, by Senator Skelos, Public

Health Law;

6560-B, by Senator Saland, State Finance Law;

6651, by Senator Maltese, New York to reconvey its interest in certain real property;

6759, by Senator LaValle, State Finance Law;

6884-A, by Senator Present, Public Authorities Law;

6948-A by Senator Trunzo, Civil Service Law;

7482, by Senator Volker, General Municipal Law;

7616, by Senator Smith, city of New York to reconvey its interest in certain real property;

7731, by Senator Saland, Family Court Act;

8070-B, by Senator Skelos, Estates, Powers and Trusts Law;

8229-A, by Senator Levy, Real Property Tax Law;

8255-A, by Senator Trunzo, Retirement and Social Security Law;

8321-B, by Senator Sears, amends Chapter 147 of the Laws of 1994;

8479-A, by Senator Maltese, Retirement and Social Security Law;

8527, by Senator Lack, appointment of certain non-judicial officers and employees;

8602, by Senator DiCarlo, Vehicle and Traffic Law;

8653, by Senator Cook, making an additional apportionment of building aid for the Ellenville Central School;

8677, by Senator Maltese, Vehicle and Traffic Law;

8722, by Senator Kuhl, Vehicle and Traffic Law;

8728, by the Committee on Rules, Public Authorities Law;

8748, by Senator Spano, Retirement and Social Security Law;

8770, by Senator Stafford,

Racing, Pari-Mutuel Wagering and Breeding Law.

All bills reported directly for third reading.

ACTING PRESIDENT LARKIN: Without objection, all bills reported directly to third reading.

Senator Present.

SENATOR PRESENT: Mr. President, on behalf of Senator Holland, I wish to call up his bill, Print 7136, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT LARKIN: Secretary will read.

THE SECRETARY: By Senator Holland, Senate Bill Number 7136, an act to amend the Tax Law and Chapter 491 of the Laws of 1993.

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

ACTING PRESIDENT LARKIN: Call the roll on reconsideration.

(The Secretary called the roll on

reconsideration.)

THE SECRETARY: Ayes 59.

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

ACTING PRESIDENT LARKIN: Amendments received.

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

ACTING PRESIDENT LARKIN: The Senate stands adjourned until 11:00 a.m. tomorrow. Those in your office remember what the presiding officer said, that he wanted everybody here at 11:00 a.m. tomorrow morning.

SENATOR PRESENT: Good.

(Whereupon, at 6:17 p.m., the Senate adjourned.)