ALBANY, NEW YORK

February 15, 1995

10:02 a.m.

REGULAR SESSION

SENATOR JOHN A. DeFRANCISCO, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT DeFRANCISCO: The Senate will come to order. I'd ask everyone to please rise and join with me to repeat the Pledge of Allegiance to the Flag.

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

In the absence of clergy, I would request that each of us bow our heads in a moment of silence.

(A moment of silence was observed. )

Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, February 14th. The Senate met pursuant to adjournment, Senator Kuhl in the Chair upon designation of the Temporary President. The Journal of Monday, February 13th, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT DeFRANCISCO: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: We have none.

ACTING PRESIDENT DeFRANCISCO: None. O.K. Thank you.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President, on behalf of Senator Goodman, on page 10, I offer the following amendments to Calendar 99, Senate Print Number 1613, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT DeFRANCISCO: Amendments are received.

Senator Bruno?

SENATOR BRUNO: Mr. President, I understand there's a resolution at the desk. May we have it read and adopted?

ACTING PRESIDENT DeFRANCISCO: Secretary will read.

Senator, it's my understanding the family will be down and they're not presently here.

SENATOR BRUNO: May we then move to the non-controversial calendar, Mr. President.

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

THE SECRETARY: Calendar Number 58, by Senator Volker, Senate Bill Number 655, an act to amend the Penal Law and the General Business Law, in relation to misapplication of property by refusal to return such property.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Please call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 31.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 60, by Senator Levy, Senate Bill Number -

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 63, by Senator Padavan, Senate Bill Number 1286, an act to amend the Agriculture and Markets Law, in relation to spectators at exhibitions of animal fighting.

ACTING PRESIDENT DeFRANCISCO: Please read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of November next succeeding the date on which it shall have become a law.

ACTING PRESIDENT DeFRANCISCO: Please call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 31.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 70, by Senator Johnson, Senate Bill Number 317-A -

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 100, by Senator Volker, Senate Bill Number 2241, an act to amend the Penal Law, the Criminal Procedure Law, the Judiciary Law, the County Law and the Correction Law, in relation to the imposition of the death penalty.

SENATOR PATERSON: Read the last -- lay aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

Senator Larkin.

SENATOR LARKIN: Mr. President, there will be an immediate meeting -- an immediate meeting of the Local Government Committee in Room 332.

ACTING PRESIDENT DeFRANCISCO: Meeting of the Local Government Committee immediately in Room 332.

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Bruno.

SENATOR BRUNO: Can we now move to the controversial calendar.

ACTING PRESIDENT DeFRANCISCO: The Secretary will read.

THE SECRETARY: Calendar Number 60, by Senator Levy, Senate Bill Number 773.

SENATOR LEVY: Lay it aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside. Is that for the day, Senator?

SENATOR LEVY: Yes. Thank you.

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

THE SECRETARY: Calendar Number 70, by Senator Johnson, Senate Bill Number 317-A.

SENATOR PATERSON: Explanation.

THE SECRETARY: An act to amend the Vehicle and Traffic Law, in relation to maximum speed limits.

ACTING PRESIDENT DeFRANCISCO: An explanation has been asked for.

Senator Johnson.

SENATOR JOHNSON: Mr. President, the purpose of this bill is to do what 42 other states have done, permit the Thruway Authority and the DOT to raise the speed limit to 65 miles per hour on the eligible portions of interstates in the state of New York, and divided highways. There are 1400 miles eligible in this state. People already are doing 65, 67 on these roads.

Essentially, what it will do is have our state conform to the standards of most other states, and it will legitamatize the proper speed at which people are presently traveling, permitting them to look forward when they drive and not in their rear view mirror, necessitating, perhaps permitting the dropping of radar detectors and other things to protect themselves against enforcement of a 55-mile-an

hour speed limit capriciously, which may be done in some cases now.

So it's really getting in tune with the times. It's not going to have any negative effects. It's going to be a positive effect on the state of New York in terms of maintaining good speeds. You can get where you want to go safely on roads designed for those speeds.

That's about it, Mr. President. It permits this limit to be raised. It does not require it to be done; so it's at the -- at the desire of the Department.

(A beeper was heard.)

THE SECRETARY: Senator Paterson.

SENATOR JOHNSON: Not a message I'm getting here.

SENATOR PATERSON: Senator Johnson yield for a question?

ACTING PRESIDENT DeFRANCISCO: Senator, will you yield?

SENATOR JOHNSON: Yes. Yes, Mr.

President.

SENATOR PATERSON: First of all, Senator, I really think that, in light of the new speed limit, this should have been Calendar Number 65, because I thought you wanted to raise the speed limit to 70.

But putting that aside, what I think I wanted to ask you is that we already know that the fatalities were decreased by 28 percent when we lowered the speed limit to 55. So my question to you is, do you have any kind of statistical data on how this will affect the fatalities, also given the fact that trucks that carry over 28,000 pounds and also school buses which are very large, could contribute to that? Do you have any information on that?

ACTING PRESIDENT DeFRANCISCO: Senator Johnson.

SENATOR JOHNSON: Yes, Mr. President, if I may address a question. The statement which you made, Senator, was something happened when we went to 55. I don't understand what that reference was. Will you explain that

to me?

ACTING PRESIDENT DeFRANCISCO: Senator Paterson.

SENATOR PATERSON: After, in 1973, we lowered the speed limit originally to 50 and then it went back to 55, over the 10-year period after the speed limit was originally lowered there was a 28 percent reduction in fatalities. So my question to you is, if we increase the speed limit from 55 to 65, do you have any statistical data from the states that have increased the speed limit as to how that affected the number of fatalities?

I'm sorry if I wasn't clear.

ACTING PRESIDENT DeFRANCISCO: Senator Johnson.

SENATOR JOHNSON: Thank you, Senator. Senator Farley would like to speak. Perhaps I'd let him respond to that. Is that what you'd like to do, Senator?

SENATOR FARLEY: Respond to that question.

SENATOR JOHNSON: O.K. Fine, and

then I'll be glad to respond further if you desire.

SENATOR FARLEY: Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Farley.

SENATOR FARLEY: I'll put it in the form of a question. Did you know, Senator Paterson, that the Lave study in 1992 showed that the statewide fatality rate in those states which adopted the higher speed limit actually declined from 3 to 5 percent?

ACTING PRESIDENT DeFRANCISCO: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

Mr. President, I'd like Senator Farley to know that I did not know that. That's why I asked the question, and -- but what I thought might be the case about that particular study is that it was based on miles traveled, not based on the actual increase in the speed limit. If I'm wrong about that, I'd like you to explain it.

ACTING PRESIDENT DeFRANCISCO: Senator Farley.

SENATOR FARLEY: It's my understanding that it was based on those states that raised the speed limit to 65 from 55. There are so many factors that go into why the fatalities have dropped or raised, and so forth. Quite frankly, I think that the aggressive drunk driving laws throughout the nation had a great deal to do with that. As a matter of fact, so many things take credit for either reducing or being responsible for accidents.

I think that -- and I -- Senator Johnson and I have worked on this bill for a number of years, but I -- I truly believe that in New York State, 96 percent of the people do not obey the 55-mile-an-hour speed limit. But we'll talk to that later.

SENATOR PATERSON: Senator Paterson.

SENATOR PATERSON: Will -- would Senator Johnson or Senator Farley, or would

anyone be willing to answer this question? The Insurance Institute, in a memo I have, says that in 1992, in the 40 states that increased the speed limit from 55 to 65, that the fatalities increased by 17 percent as opposed to a study about the 55-mile-an-hour speed limit conducted from 1982 to 1986.

I'm just not necessarily going to vote against the bill. I'm just trying to determine what the increase in the fatalities are.

Now, just to be fair to Senator Johnson and to Senator Farley, there are 50,000 people who get killed on the highways every year, but we as a society have determined that we're not going to stop driving cars. So I don't want to come across to either one of you as having such a platitude or a high morality that now we're all going to start walking every place we go, or I'll be getting here a little late every Monday.

So that the -- all I'm really trying to ascertain, I would think that it would

be somewhat of an increase in the fatalities based on the increased speed, but that doesn't necessarily mean that we're not going to do it. We may be incurring a lot of problems and maybe even fatalities from a speed limit that's often too low, but the Insurance Institute does advise us that the fatalities have increased 17 percent in 1992 in the 40 states that have increased the speed limit, and I just want to know if that is consistent with what your understanding is.

ACTING PRESIDENT DeFRANCISCO: Senator Johnson, would you like to reply?

SENATOR JOHNSON: Well, I'd like to -- I'd like to discuss this further because you know the old saying, figures can lie and liars can figure, and I'm not saying anybody is lying here, but I'm saying figures can be interpreted or misinterpreted in various manners.

Now, a study which I -- that I'd like to refer to here said that those states that have raised their interstate speed limit to 65 miles an hour recorded a 6 percent decline in

the fatality rate, whereas states that did not raise their limit experienced a much smaller decline of only 2.5 percent.

Now, I think this has as much validity as other figures which might have been cited. Now, we may not be talking about the same road because you can understand that, when you can go 55 miles an hour on a dirt road and 55 miles an hour on the Thruway and the dirt road is shorter, then they prefer to take that road and skid off the road.

On the other hand, when you can go 65 on the Thruway, people -- more people may go on the Thruway figuring there's a legitimate way to travel a little bit faster and get there sooner. So some say they've experienced an increased amount of traffic on the roads which are permitted to go 65. So that may explain the divergence here, but overall there's been a decrease in the fatality rate consistently year by year every year almost, irrespective of what we have done or what the speed limits have been.

In fact, it's kind of interesting to know that one of the principal things you could do is to have a consistent speed limit for all vehicles and, if you have that, you have a lot less problems than some vehicles going slower and some going faster, and so forth.

I have a chart here. Obviously you can't see it all, but it shows here that from '74 to the last year is '93, there's been a consistent decline in fatalities and accident rates per hundred thousand -- hundred million vehicle miles, almost irrespective of the speed limit, and so I think the speed limit has very little effect on accident rates.

You know, before the federal government got into the business of setting speed limits on our highways, the speed limits were set by engineers in the Department of Transportation, the Thruway Authority, and they did it by what they called their 85th percentile, survey the traffic over a period of time, see how fast people are going generally, knock off the 15 percent so-called speeders, and

that is the level at which they set the speed limit. That speed limit now is about 66 to 67 miles an hour in this state.

So if we set the speed limit at 65, most people would be conforming with the speed limit. They will be able to travel expeditiously where they want to go without looking in their rear view mirror because they will know they will not be violating the law. Right now, there's nobody in this house who can tell me honestly that he drives to Albany or anywhere else on the Thruway or our other interstates at 55 miles an hour.

SENATOR LACK: Senator Levy.

SENATOR JOHNSON: If you do, you are an aberration, you're a saint, you're really not credible, but if you say it, I'll believe it.

SENATOR LACK: Senator Levy there.

SENATOR JOHNSON: So it's hard to believe. Let us be honest. Let us not be - let us not join in the charade which has been

put on for too many years by this state of New York and others trying to demonstrate to the federal government that we have a majority of our people complying with the law when we know we don't. The last survey shows 96 percent of the people exceeding 55 miles an hour. O.K. Let's get it in the program. That's all I can tell you.

SENATOR SOLOMON: Mr. President.

SENATOR PATERSON: Senator Farley, you were next on the list.

SENATOR FARLEY: Let me just say that I rise in support of this bill. I feel very strongly that any piece of legislation or law that is not respected is a bad law. That was evidenced by the Prohibition Act in the '20s. It was the start of organized crime. I think it's also evidenced by the 21-year-old drinking age. If anyone in here thinks that the college students at 20 years of age are not drinking, and so forth, they still believe in the tooth fairy.

But let me just say this about

the 65-mile-an-hour speed limit on the rural interstates, and so forth. I think it's something that the people of this state want. It's evidenced by the fact that 96 percent of the people that drive the rural sections of the Thruway do not obey the 55-mile-an-hour speed limit. As a matter of fact, I think you're safer on these interstate highways at 65 than you are on some of the rural highways at 55.

But let me just say this. I think that what we're talking about, one of the criticisms that is always raised, if you raise the speed limit to 50 -- 65, they'll drive 75 and 85. I've talked to the Superintendent of State Police. The 55-mile-an-hour speed limit, even though they won't say it, is kind of an embarrassment to the troopers and to the State Police because they have to give you such a latitude, or otherwise they'd be arresting everyone. Yes, they can give you a little bit of grace, but I suspect that they should be arresting people that are flagrantly violating the 65-mile-an-hour speed limit on the

interstates.

It's a good piece of legislation. A similar piece of legislation which has passed the Assembly, passed overwhelmingly, I think with around 20 negative votes out of 150. I worked with Assemblyman Bragman on this legislation over the years. We've still got to work out some kinks. I don't think you've seen the final piece of legislation. What he's talking about is a possible study to see how it works out. We don't have any great quarrel with that. I don't want to speak for the -- for all the sponsors, but I suspect that we can work out a piece of legislation which will bring us into reality as to what the speed limit should be in this state.

Let me just tell you that the state -- the commonwealth of Pennsylvania, last night their Legislature raised the speed limit to 65, and I understand that the state of Maryland is also -- the governor has spoken favorably on raising the speed limit, so at least we can be consistent. You know when

somebody comes into New York State from Ohio, as Senator Present would know, they all of a sudden they've been driving 65 for -- from across country, they hit New York State, and they're immediately breaking the law, almost all of them, as they come into our state.

And let me just say something about trucks. A truck actually gets its most fuel-efficient delivery, if you will, at 60 miles an hour and, of course, I think you'll see that trucks that are speeding will be arrested, but I think particularly in the rural sections -- and this doesn't apply every place in the state -- for instance, most of Long Island will be exempted except for a small section of Suffolk County, as I understand it, and because that is heavily populated, so I think it's a reasonable piece of legislation.

I would ask the support of my colleagues to realize that there are polls that have been taken overwhelmingly support the raising of the speed limit to 65.

SENATOR DOLLINGER: Mr.

President.

ACTING PRESIDENT DeFRANCISCO: Senator Solomon, do you have a question?

SENATOR SOLOMON: Senator Dollinger.

SENATOR DOLLINGER: I do, Mr. President. Will Senator Farley yield to a question?

SENATOR FARLEY: I certainly do.

SENATOR DOLLINGER: I find this an intriguing piece of legislation, I'm going to address it in a minute, but my question to you is two years from now when the statistics show that 95 percent of the people, instead of the 96 percent of the people that violate the 55-mile an-hour speed limit, that 95 percent are violating the 65-mile-an-hour speed limit, will we then raise the speed limit to 75 miles an hour?

SENATOR FARLEY: No, I don't think we will, Senator Dollinger. I think you'll see people who are flagrantly violating the 65-mile-an-hour speed limit, will be

arrested. That's just taken on the word of the State Police Superintendent.

SENATOR DOLLINGER: Just again through you, Mr. President, if Senator Farley will yield to another question?

ACTING PRESIDENT DeFRANCISCO: Senator Farley, will you yield to another question?

SENATOR FARLEY: Yes, I will, Senator.

SENATOR DOLLINGER: What are we going to do then to the State Police to have them more rigorously enforce the 65-mile-an-hour instead of the 55 miles an hour? It seems to me a scofflaw at 70 in a 65-mile-an-hour is the same thing as a scofflaw at 65 in a 55, correct? Going five miles an hour faster than the speed limit. If they don't arrest them now, how do you expect they'll arrest them in the future?

SENATOR FARLEY: I expect they will -

SENATOR DOLLINGER: What's your

basis for that, again through you, Mr. President?

ACTING PRESIDENT DeFRANCISCO: Senator Farley?

SENATOR FARLEY: The same basis that you feel that they won't because I think that you'll find that in Tennessee, and so forth, that have gone to the 65-mile-an-hour speed limit, they don't give you that latitude. The states that are at 55 give a tremendous latitude to the drivers that are breaking the 55-mile-an-hour speed limit, because they feel that it's unreasonable.

Do you always drive 55 miles an hour on the Thruway -

SENATOR DOLLINGER: No.

SENATOR FARLEY: -- Senator Dollinger?

SENATOR DOLLINGER: I drive on the high side of 55.

SENATOR FARLEY: How high a side?

SENATOR DOLLINGER: 55.9

usually.

Mr. President, I have no further questions.

SENATOR SOLOMON: Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Solomon.

SENATOR SOLOMON: Yeah. Will Senator Farley yield, please?

SENATOR FARLEY: Yes, I will, Senator.

SENATOR SOLOMON: Senator, I heard your comments regarding the impact of raising speed limits to 65 miles an hour. Are you aware that the Insurance Institute studies show that states -- that states that have raised the rural and state limits, about 400 more lives are lost each year because of the higher limits?

ACTING PRESIDENT DeFRANCISCO: Senator Farley?

SENATOR FARLEY: I'm aware of the insurance industry's concern with this, but let me just say this, Senator Solomon: The most

respected report on this topic, a report to Congress by the National Highway Safety and Traffic Administration issued in May of 1992, explicitly cautions that care should be taken in interpreting changes in rural interstate fatality and travel characteristics.

No statistical model is capable of controlling all of the factors that have affected rural interstate fatalities since the enactment of the 65-mile-an-hour speed limits. Again, I think, as Senator Johnson clearly said, you can do almost anything that you want with statistics. What we're talking about is the rural sections of the interstates.

SENATOR SOLOMON: O.K. Will Senator Farley yield?

ACTING PRESIDENT DeFRANCISCO: Senator Farley?

SENATOR FARLEY: Yes.

SENATOR SOLOMON: Senator, what I'm concerned about, maybe you can tell me, in terms of the impact this will have on automobile insurance rates in some of these areas, can you

tell me if you've done any studies regarding that?

SENATOR FARLEY: No. All I can offer is a speculation. I don't think it's going to have any great impact when you find that most studies have showed that states have -- that have gone to the 65-mile-an-hour speed limit, I told you the Lave study of 1992, that's not that old, that states that have gone to it -- and I can't explain that -- the fatality rate has actually declined; so maybe insurance rates will go down.

SENATOR SOLOMON: Mr. President, will Senator Farley yield?

ACTING PRESIDENT DeFRANCISCO: Senator Farley, will you yield?

SENATOR FARLEY: Yes, I will.

SENATOR SOLOMON: Senator, are you aware that the major factors in determining what the automobile insurance rates are is the accident costs?

SENATOR FARLEY: Let me hear that again.

SENATOR SOLOMON: -- that the major factor in determining automobile insurance rates are the accident costs?

SENATOR FARLEY: Right.

SENATOR SOLOMON: And in light of that, that according to the Insurance Institute for Highway Safety, a frontal impact of 35 miles per hour has one-third more of -- is a one-third more violent impact than an accident at 30 miles an hour. Have you calculated any of that, looked into any of this, in terms of these automobile insurance costs and how that has an impact?

SENATOR FARLEY: Well, I think it's reasonable to assume that an automobile that is going faster that has an impact is going to have greater damage. I think we can all accept that.

SENATOR SOLOMON: So if that's going to occur and the severity increases, in fact geometrically, how can you say this is not going to have an impact on insurance rates?

ACTING PRESIDENT DeFRANCISCO:

Senator Farley?

SENATOR FARLEY: How -- Senator Solomon, I understand your great concern for insurance rates, but answer me this because it just came to me: Did the insurance rates go down on anybody's automobile when the speed limit went from 65 to 55? I don't recall that.

ACTING PRESIDENT DeFRANCISCO: Senator Solomon.

SENATOR SOLOMON: Senator, I don't really recall that far back. As I recall, the rates were dropped because, in fact, the federal government had mandated the change in the speed limits. Otherwise we lost significant amounts of highway aid.

SENATOR FARLEY: When we went to 55 miles an hour -

ACTING PRESIDENT DeFRANCISCO: Excuse me, Senator Farley. Do you have a question of Senator Solomon?

SENATOR SOLOMON: As I said, I don't recall, because that was in the '70s as I recall, 1973 or 1974.

ACTING PRESIDENT DeFRANCISCO: Senator Farley, you still have the floor.

SENATOR FARLEY: Thank you. Senator Solomon, I being much older than you, I do recall that when we raised -- lowered the speed limit to 55, my insurance rates went up.

SENATOR SOLOMON: Well -- well, the only thing I do remember about it, Senator -- excuse me, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Solomon, is this on the bill?

SENATOR SOLOMON: I guess it's in response to his rhetorical question about insurance rates going up.

ACTING PRESIDENT DeFRANCISCO: Well, go ahead.

SENATOR SOLOMON: O.K. Senator, what I do recall is, if it did occur in 1974 and 1975, this state was also in the process of changing from a liability system, from the sys tem we used to have, to no-fault. In fact, I believe no-fault was voted in by this Legislat ure in 1976, from a historical perspective. I

didn't serve in this Legislature at that time; I know my predecessor did, and what might have had the impact on your rates going up at that point in time, was the current system in terms of the current liability system in terms of automobile insurance rates.

I'd like to speak on the bill now.

ACTING PRESIDENT DeFRANCISCO: Yes, on the bill.

SENATOR SOLOMON: On the bill. I'm concerned two-fold: (a) is the number of deaths that we've witnessed and increasing over the number of years in certain states that have increased their speed limits and those deaths have a severe impact on society, whether it be with automobile insurance costs, whether it be on the impact of the family, there are many - in addition, those that are not killed by the severity of the impacts at the highest speeds has a tremendous impact on society from automobile insurance costs to people that lose their jobs, to people that have accidents while

they're on their job traveling from Point A to Point B, and I think this is very serious business.

I think the fact that another state has a speed limit and when you come into the state of New York you have to lower your speed limit to 55 is not a valid reason. For that matter, I don't have a district that's on the Canadian border but, as I recall, on the Thruway generally the cars that fly by anyone are the ones that are from Canada because they can't seem to find a brake or their accelerators are weighted quite heavily, and I think the Canadian speed limits are extremely high.

I think we really have to be concerned with the impact that we're going to see. You can ride down the Thruway and you'll see most people do not adhere to the 55-mile-an hour limit and, as I recall, before they had the 55-mile-an-hour limit imposed, most people did not adhere to the 65-mile-an-hour limit. In fact, there was an Assemblyman from my area who was killed in a horrible automobile accident in

the late '50s as a result of him driving at an excessive speed, and I think what we're doing is we have a few people that have raised this issue.

How much time is really going to be saved and is that amount of time that's saved in an hour, that ten minutes, drive worth someone's life that's attributed to the increase in the speed limit? And I'm not so sure that that's a valid trade-off. You're not directly related to that person, it's a statistic, but people that are related to that person and when it's attributed to that, that's an issue.

The other thing that you should be aware of, Senator, which I'm not sure too many people know, has anyone studied or looked at the fact that in most cases the beam of an automobile headlight doesn't travel a sufficient distance to give you sufficient stopping distance in front of that vehicle or object in front of you at 65 miles per hour? That's another issue that hasn't been raised, and I don't think has been looked at in many of these

debates regarding the 65-mile-per-hour speed limit; and indeed I think that's a concern that has to be examined.

I think we're making a horrible step. I don't think there's been enough study on this. I think we're going in the wrong direction because the fact of the matter is we want to decrease the number of lives that are lost on our highways today. We don't want to increase that. We don't want to participate in anything that should increase that. We all know even during the Vietnam era, we still lost more lives on our highways in the United States than we did men over in Vietnam, and I think that's something we should really be concerned about in this issue.

ACTING PRESIDENT DeFRANCISCO: Senator Levy.

SENATOR LEVY: Yes. Thank you very much, Mr. President.

I think that it's really unfortunate that -- that this bill is here this morning being discussed, but we really did not

have a choice because Senator Johnson, Senator Farley, myself, Senator Bruno, we were involved in discussions with the other house in trying to respond to the real problems, the real concerns that have been raised on the floor this morning and some more that I'm going to talk about, and the Assembly went forward and passed their legislation.

So I agree with -- with the sponsors that we've got to make a statement on this important issue, and that's why this bill is here today, and I'm going to vote for this bill.

I'm only going to vote for this bill because -- because the Majority Leader has put together, and the Assembly has gone along with it, a conference committee system. If we didn't have a conference committee system in place and the two houses were not going to get together and discuss this bill, I would be vehemently opposing this legislation, but I'm not going to do it.

Let me talk about some of my

concerns and echo some of the concerns that have been raised on this floor and concerns that absolutely must be met, and I want to tell you that, if those concerns are not met, not only am I not going to vote for this bill when it comes back, I'm going to do everything in my power to defeat it.

Now, here are some of the concerns. Number one, the Thruway Authority tells us that when the Thruway Authority was constructed -- and it's not the Autobahn -- when the Thruway Authority was constructed, it was constructed for a maximum speed of 70 -- 70 miles an hour. Our interstate and state highways, when they were built, they were built with an eye towards an absolute maximum speed from a safety standpoint of 70 miles an hour. That's what DOT tells us. That's what the Thruway Authority tells us.

Now, Senator Farley and Senator Johnson and Senator Bruno and others are absolutely right when they say that we -- that people operating motor vehicles, particularly on

the throughways, the interstates and the state highways, are driving an average speed of 64, 65, 66 miles an hour, which rightly is a de facto repeal of the 55 -- 55-mile-an-hour speed limit in the state of New York. It is de facto repealed, because not only is the public operating motor vehicles at these speeds but the law enforcement officers really on rare, rare occasions are enforcing the 55-mile-an-hour speed limit. So that's what we're dealing with -- with factually, on an ongoing basis.

Now, what are the concerns? And Senator Paterson and Senator Solomon really have raised those concerns, and I don't buy -- I don't buy for a moment that when we go to 65, all the drivers are going to be like Senator Dollinger and they're only going to drive at 65.9. The real concern is that, when we go to 65, people are going to go 70.

That's a concern, but an even greater concern is we are going to have people out there going 75 on highways that are engineered for a maximum speed of 70, they're

going to be going 80 and they're going to be going above those speeds.

Now, why does that concern me? It concerns me not only for the average person operating a motor vehicle, but it concerns me for the four-leaf clover, that rare person who is transporting children to school. It's a four-leaf clover because the overwhelming majority of people who are transporting kids to or from school or the school bus or school van are not going to go over 55 miles an hour, but for that four-leaf clover that decides that he or she is going to go 60, 65 or above, we've got to deter that.

Now, one of the problems that we have with deterring that kind of a situation is when the federal people in 1973 gave us 55 miles an hour, what they said was that no state in the nation that hasn't put into place a differential that we don't have the power to make a differential for somebody operating a school bus or school van or other vehicle transporting school children. We don't have the power to do

it based upon the 1973 federal law. But there's a way to deal with that, and I'm going to tell you how it has to be dealt with in the future.

Another grave concern that I have are trucks over 18,000 pounds. We have trucks with cargos that weigh up to 75 tons operating on the highways of the state of New York and on the Thruway, and that's a concern, but it's a greater concern when we think for a moment that those trucks, as well as other vehicles, operate in all kinds of weather.

But it's an even greater concern because, when we think about the cargos of some of those trucks -- explosives, gasoline, propane, liquefied natural gas and radioactive materials, that is a concern that has to be dealt with, but the fed's have said we really cannot deal with that based upon the '73 law. But we can.

When the Transportation Committee had our new Commissioner Richard Jackson before us yesterday, I talked to him privately before yesterday, and at our meeting we discussed

dealing with deterring somebody that operates that truck over 18,000 pounds, somebody that operates a school bus, even Senator Farley and Senator Johnson and Senator Dollinger and me and everybody else that operates a motor vehicle, and the Commissioner -- the Commissioner has agreed that he is going to look at points.

Now, points is a major, major deterrent to people operating motor vehicles. He's going to look at the point system. The fed's said we can't do a law, but nobody said that Richard Jackson and Governor Pataki cannot change the point system to deter anybody who is going to drive over 65 miles an hour and particularly over 70 miles an hour, and particularly if it's a truck over 18,000 pounds or it's a school bus. So that's one way to deter a real concern that people, when you go to 65, are just going to self-adjust and say, I'm going to get -- I'm going to be able to go 70, 75, and the law enforcement people are not going to cite me and give me a ticket.

Also realistically, part of the

problem that we have here is the problem for law enforcement, because with the technical radar equipment that we have today, in some jurisdictions where they have older equipment, not only is there a de facto repeal of the speed limit, but because of the qualifying of the equipment for a prosecution if somebody is given a ticket, the law enforcement people in some jurisdictions automatically give an additional five miles that relates to the reliability of the equipment. So that immediately takes us from 65 when we go to 65, to 70.

State Police say with some of - some of the new technical equipment, they will use a two-mile-an-hour differential and not the differential that is used on -- on other equipment.

So what we should be doing here, at least in my judgment, is some of the things that we've talked about with points, some of the things that we -- we have talked about or I'm going to talk about in a moment, and that is we have reached out to the state Department of

Education. The Commissioner has the power, through his rules and regulations, to say in those rules and regulations, without a problem with the federal people, that no school -- no motor vehicle transporting pupils in the state of New York can travel in excess of 55 miles an hour, and we have to be assured -- we have to be assured that the Commissioner can do that, because if he does do it, he has the power to disqualify anyone operating a vehicle transporting pupils from ever working again if that person is convicted of going over 55 miles an hour or any limit -- any limit that the Commissioner sets.

And finally, when we get this bill back, we've got to -- we've got to try to -- we've got to try to resolve and explain on this floor the disparity in studies, and that's an ongoing process and, when it comes back, I for one am going to try to address myself to that, because I have the same statistics that Senator Solomon and Senator Paterson have, only the statistics that I have from the Insurance

Institute of Highway Safety doesn't give a 17 percent increase in fatalities, it gives a 28 percent increase in fatalities, and that is in sharp -- in sharp contrast to -- to the study that Senator Farley has and has reviewed, certainly in good faith.

Finally, another dimension that we've got to take a look at, and incidentally we're going to be putting this all into a piece of legislation. It will be considered by the Transportation Committee when we come back, the concerns that I've laid out for you this morning on this floor, and hopefully and expectantly we're going to have that bill before the house that relates to reminding the Commissioner of Motor Vehicles that he's got to look at points, a mandate to the Commissioner of Education to deal with the transporting of school pupils and, if we're going to go to 65, we've got to increase the fines and other penalties for people who operate a motor vehicle and certainly those people that operate any type of a motor vehicle if they are traveling on our state

highways and our Thruway, certainly in excess of 70 miles an hour, in excess of the speed that the highways themselves were engineered for, and we're going to deal with that in a piece of legislation.

SENATOR DOLLINGER: Mr. President. Will Senator Levy yield to a question?

SENATOR LEVY: Yes.

ACTING PRESIDENT DiCARLO: Senator Levy, do you yield?

SENATOR DOLLINGER: Senator Levy, first of all, before I ask a question, let me compliment you on your attire, although I do think that the blue tie with the red stripes goes better than the red with the blue.

I -- through you, Mr. President, my question is I know that the committee involving critical choices in transportation has done marvelous work on a series of topics. Has CTC dealt with the 65-mile-an-hour speed limit?

SENATOR LEVY: Yes, they dealt with it about two or three or four years ago,

and the recommendation -- the recommendation of the commission through the report was that we do not exceed 55, but that recommendation was made when we had a governor who was opposed to -- who was opposed to raising the speed limit. It had Mr. Bragman, who is now the sponsor of Senator Farley's bill in opposition to raising the speed limit. I think previously it had Mr. Graber; it had the opposition of Commissioner White, then Commissioner Egan, and Commissioner Aducci and, as Senator Farley pointed out, I was the author of the report.

But I think -- I think circumstances, Senator, obviously, obviously have changed, and I think what Senator Farley, the comment that Senator Farley made really - really was appropriate to the discussion that we're having. We've got a law on the books, let's enforce the law because people don't have respect for any laws if important laws are violated. So if we're going to go this route, then let's go the route, but then let's enforce the law and, if we got somebody going over 70

miles an hour, whether they're operating a motor vehicle or a truck up to 75 tons, let them hit -- let's hit them with a four by eight just to remind them what the law is in the state of New York.

SENATOR DOLLINGER: Again through you, Mr. President, just one other question for Senator Levy.

ACTING PRESIDENT DiCARLO: Senator Levy, do you continue to yield?

SENATOR LEVY: Yes.

SENATOR DOLLINGER: Frankly, your comprehensive approach to this is basically changing my mind about my view about this bill. I wish the comprehensive approach that you've talked about, respecting school buses and trucks and additional points, I wish that were all packaged in this bill. My hope is that the conference committee will do that. But let me go back to the school bus problem.

Through you, Mr. President, isn't there a problem on a highway if the cars are going 65 and the trucks are going 65, but the

school bus is only going 55? Doesn't it become a problem of differential speed that can create a traffic risk?

SENATOR LEVY: Well, in my conversations with the State Police because I asked the question that you're asking, but I asked the question in regard to -- in regard to trucks over 18,000 pounds and the answer I got back from the State Police is the type of roads that we are talking about, and we're obviously not talking about dirt roads and that -- I'm going to take a look at those statistics to see how many dirt roads have a speed limit that was raised in other states to 65 miles an hour.

The State Police said to me that based upon the rural interstates and the rural -- the rural parts of the Thruway, it would not -- if the fed's permitted us to do so, it would not have been a problem to require trucks over 18,000 pounds to go at 55 miles an hour because of -- because of those roads, because of the fact that they are not congested and because of the ability to change lanes and -- and to

move from the fast line to the slow -- slow lane. That's what the State Police told me.

SENATOR DOLLINGER: State Police opinion was that there would be, in essence, two different speed limits.

SENATOR LEVY: That that would not be a safety problem on the -- on the Thruway and the highways that we're talking about. If we were talking about the Long Island Expressway in Nassau County, it would be a problem but not on the roads and the highways we're talking about.

SENATOR DOLLINGER: Just one other question, again through you, Mr. President. In the work -

ACTING PRESIDENT DiCARLO: Senator Levy, do you continue to yield?

SENATOR LEVY: Yes.

SENATOR DOLLINGER: In the work that CTC did on the speed limit issue, was there any investigation of the possibility of limiting the time in which the speed limit was increased to non-winter months to avoid the complications

of winter driving at the higher speed?

SENATOR LEVY: Well, my understanding of the federal law is that we - we are -- we are precluded -- we are precluded from doing that. Now, it is -

SENATOR DOLLINGER: Precluded from having a differential for different times of the year.

SENATOR LEVY: Yes. Now, under the '73 law, and what is interesting is the legislative intent, the legislative intent, when -- when the federal people did 55, was to keep legislatures like ours and others in the country when we went to 55 from giving trucks a higher differential above 55. So the intent of the law is exactly -- the intent of the federal law, when it was passed in '73, is exactly contrary to what the law is doing to permit -- to prohibit us other than as I've outlined dealing with trucks over 18,000 pounds and school buses.

SENATOR DOLLINGER: Again through you, Mr. President, to Senator Levy.

ACTING PRESIDENT DiCARLO:

Senator Levy, you continue to yield.

SENATOR DOLLINGER: Is it your intention in the Transportation Committee, if this bill becomes law, if the conference committee produces a bill that has the comprehensive approach that you -- you've talked about, to continue to monitor the implementation of this -- I know it sunsets, I believe in '98 -- in that three-year period to both do the issues about fatalities, do the issues about differential speed, examine the school bus issue -- I know we've come a ways in school bus safety through your efforts and CTC's efforts - can we anticipate that, if we do this sort of, I would say experiment, but we're going back, we're not going forward, we're doing something we did before. Would it be your intention to monitor that carefully and determine -

SENATOR LEVY: Well, number one, I'm not the sponsor of the bill. The Assembly does have a sunset; this bill does not have a sunset and through the conference committee

procedure, I definitely think (a) we ought to - ought to have an oversight and that oversight ought to repeat -- report annually to the Governor and the Legislature on the impact of the increase in the speed limit if, in fact, New York does go that route, and one of the issues that we were talking about had to do with the sunset and again, it -- it is not Senator Johnson, and it's not Senator Farley and it's not Senator Bruno that said, We don't want to talk and come to the Leg... come to the Senate and you folks who are in the Assembly go to the Assembly with a -- an agreed upon piece of legislation.

We were there. We were talking. We wanted to continue to talk and then everybody got up one morning and they were out there with their bill, and that's why we are here today.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT DiCARLO: Senator Johnson.

SENATOR JOHNSON: Mr. President,

just a couple of things I'd like to mention.

There are fears, of course, that, if we raise the limit to 65, people taking a 10 mile-per-hour differential will go 75. I suppose if we made it 70 they'd go 80. People say that, but they say it not knowing that they're misspeaking for the most part, and I'll tell you why.

The states that have -- have gone to 65 found out that their compliance has gone up from five or ten percent to 80 to 85 percent with the law, so when you set the limit at a reasonable level of speed, there will be much, much more compliance. In fact, it's almost identical with the so-called 85th percentile that highway engineers have traditionally set the speed limits, so you will not have people going faster.

In fact, there is very little difference right now in studies of speeds on New York State highways and the speeds on the highways where 65 is the legal limit. They're traveling almost identical speeds in both states

so it's not going to really change the speed at which most people travel.

SENATOR LEVY: Senator Johnson yield to a question?

SENATOR JOHNSON: Yes.

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

SENATOR LEVY: Senator, if that's -- if that's your conclusion, I know it's your belief, then would you be supportive of - because if people are not going to violate the law, would you be supportive of dealing with school buses, trucks over 18,000 pounds, increasing points and increasing fines because if people are not going to do it, then those rare four-leaf clovers that do it, we ought to smack them with a four by eight?

SENATOR JOHNSON: Senator, the penalty for speeding in this state is lower than many other states. They found that enforcement -- consistent, realistic enforcement has much greater impact on accidents and fatalities than the absolute speed limit at which the maximum is

set. So I'd say, yes, enforcement makes a lot of sense.

There is a problem, and Senator Dollinger shared that with you, as well of the variation in speeds of vehicles and that could cause accidents, so I think you'd have to have some particular regulations about school buses. Maybe they should always have to have their flashers on or something else that you know they're traveling slower than the normal speed. As you know, on the Thruway right now if you go below 45, the trucks have to have their flashers on.

There should be some way to distinguish between slower traveling traffic so we don't all pile up behind those people and cause accidents. But yes, there's no doubt about it, Senator, that that's a very precious cargo. I think most probably don't travel on throughways or interstates, but those that do can certainly -

SENATOR LEVY: How about trucks over 18,000 pounds and particularly trucks that

have cargos like explosives, gasoline, propane, radioactive material, those types of cargos where the substantial portion of the cargo that the truck is carrying are those hazardous and volatile materials?

SENATOR JOHNSON: Senator, I think you made a point and so did others here that we -- we may need some further study in this case. Now, I don't know what other states have done with those types of vehicles, whether that's a problem or not. Statistically, how many trucks carrying uranium have gone off the road and exploded and decimated a city, Senator? I don't know, Senator. I haven't heard of any of those.

SENATOR LEVY: But, Senator Johnson -

ACTING PRESIDENT DiCARLO: Senator Levy, Senator Johnson has the floor. Do you wish to have him yield further?

SENATOR JOHNSON: Yes, Senator, I think we can explore all those things.

SENATOR LEVY: Senator -

ACTING PRESIDENT DiCARLO: Senator Levy.

SENATOR LEVY: Yes.

ACTING PRESIDENT DiCARLO: Senator Johnson has the floor.

SENATOR LEVY: Will Senator Johnson yield to a further question?

ACTING PRESIDENT DiCARLO: Senator Levy, Senator Johnson has the floor. Senator Johnson, do you wish to yield further?

SENATOR JOHNSON: Yes, Mr. President.

SENATOR LEVY: Senator Johnson, you may have overlooked or not have been aware of it, but approximately six weeks ago, an operator of a gasoline truck fell asleep in Senator Holland's district so I-287 and hit a bridge stanchion and not only killed himself and blew everything, caused a significant amount of damage to -- to homes in the vicinity of I-287, so it does happen.

SENATOR JOHNSON: Senator Levy, we have had a truck go on fire on Long Island.

Was he going over the speed limit, Senator, or was speed a factor in that accident? I don't think it was. I haven't heard that, Senator. So it may or may not be related to speed what you're talking about, but certainly we should pay attention to these things in any event.

You know, it's kind of interesting that none of your statistics in some cases showing increased accidents, we're talking about a statewide accident fatality rate, including all highways, in most cases and in some states going at 65 they had increased fatalities on the country roads posted at 55, so how do you relate those to the speed limit, I don't know. There is no direct relationship, no other states that I know of that have gone to 40 -- to 65 have reverted to 55 because of safety reasons.

So they've all gone to that; they've stayed at that level. There are no studies showing that insurance rates have gone up in those states where the speed limit has gone up ten miles per hour, and the simple

reason is because people are traveling at those speeds now in the states where it's 55. In the states where it's 65, where the roads permit, they're traveling at a comfortable speed in the neighborhood of 65, 68 miles an hour, something like that.

So yes, we're going to have a conference committee. We're going to discuss these things, but the fact is there's no reason for this state to be so particular or unique because we're not unique among other states. Similar highways, similar populations, similar mix of vehicles and similar results will be effected, and all we're saying is let's not make our people violators.

Let the police concentrate on people going, say, over 70 miles an hour and really crack down on those people and not divert attention to people going 60 on a slow day or whatever, they'll pull somebody over for violating the speed limit where there's no danger to themselves or anyone else or to society in general.

So, Senator, all I can say is that this governor wants to get our state in tune with the other states, simplify, eliminate regulation. Let us not have the highest regulations and the highest taxes where we drive business, drive jobs out of the state. Let us not have the most -- lowest speed limit in the region, the most capriciously enforced speed limit in the region where people have to look in their rear view mirror instead of looking where they're going.

I think for many good reasons, it makes sense to legitimatize the proper speed at which people are driving. I'd say let us concern ourselves with their consent. Let us not go ahead, and I'm sure that in the future as in the past, the fatality rate will continue going down as highways improve, as cars improve and as education, alcohol enforcement and speed limit enforcement continues.

Thank you, Mr. President.

ACTING PRESIDENT DiCARLO:

Senator Farley.

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

I just want to compliment Senator Levy for his cooperation in this. This has been around for a long time. I think some of your points that you make are very well taken. Of course, I think that governors on -- on school buses might be a good idea too. Most of the school buses that I rode on as a child had a governor on it any way. But certainly that's something, all of those things that we can look at.

Let me just conclude by saying, who supports this bill, which might be of interest to some of you: The Daily Gazette of Schenectady; the National Motorists Association, the American Automobile Association, Governor Pataki, the Nassau-Suffolk Contractors Association, ABATE of New York, the Yonkers Herald Statesman, Newsday, Poughkeepsie Journal, Ralph Martin for the Albany Times-Union, the Saratogian, the Buffalo News, the Empire Star Gazette -- Elmira Star Gazette, the Syracuse

Herald American, the Utica Observer Dispatch, the Norwich Evening Sun, the Rochester Times-Union and the great bulk of the people in this state.

I urge its passage.

ACTING PRESIDENT DiCARLO: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I apologize if I'm following what would have been the closing comments from the sponsors. Frankly, I guess I'll use a little - a little parody of all those signs you see on the road.

It seems to me the group that's exceeding the speed limit in this issue is the state Legislature. The Assembly may have been zipping along about 75, we're now going about 72 in what should be a 55-mile-an-hour zone because we ought to be listening to the advice of Senator Levy and doing a complete package which will get us to the point we need to get to.

I think we ought to look at the yield sign, come to a stop sign and do what you

do at the railroad crossing, look and listen to what he's got to say before we put the accelerator back to the floor on this bill and drive along.

The point he makes, I think, is very well taken, the point about school buses, the point about trucks, the issues involving insurance, I think the study, frankly, I think is critical. If it's a 28 percent increase in fatalities, if that's the fact, at least in my opinion, this bill becomes a far more -- far greater prospect of costing people lives in the state of New York and, frankly, the benefits suddenly become outweighed by larger numbers of fatalities.

I like his approach. Frankly, I came in to vote against this bill. I'm now going to vote in favor of it with the message that what we're doing is we're simply driving our little car that has now these two bills into the conference committee for servicing, that we're going to take this car apart, we're going to figure out where the nuts and bolts are,

we're going to try to figure out how to put it back in a comprehensive way to make it work and then we can get behind the wheel, put the car in drive and figure out whether we're going to go 65 or 55 when we've got the full picture.

I think Senator Levy's points are very well taken. I'll vote for the bill under those circumstances. If it doesn't come back without the changes that Senator Levy needs, that is increasing the penalties over 65 so that people like me who, back when the speed limit was 65 and I drove on Route 81 north to Watertown, everybody went 78 or 79 miles an hour, the same way they now go 68 or 69 miles an hour. Everybody drove over 75 miles an hour back in 1971 and '72 in the North Country up in Senator Wright's district. They all kept flying by nearly at 80 miles an hour.

If we can solve that problem, we can solve the problem of school buses and the large trucks, then we've got a bill that we can be proud of. We can put the car in gear and do the job.

Thank you. I'll be voting in favor, Mr. President.

ACTING PRESIDENT DiCARLO: Senator Abate.

SENATOR ABATE: Yes, Mr. President. Would Senator Levy yield to a question? Before that -

ACTING PRESIDENT DiCARLO: Senator Levy, will you yield to a question?

SENATOR ABATE: I did not know my colleague, Senator Dollinger, was such an expert on cars, almost like a mechanic. But I don't have the same operational knowledge, but I'd like to also compliment you on your cogent and compelling arguments and the concerns you raised, the concerns about buses and trucks and the need for real and meaningful enforcement.

But because of that, is it advisable today to pass this legislation, because we don't have any assurance that the conference committee will give real weight to the arguments and concerns you've raised and wouldn't it be better practice to put this bill

in a -- back into committee?

Let's address these concerns, bring it back to the conference, and I must say I'm really proud of what we've done today. We had some real debate and some reasonable issues were raised and discussed. Let's not lose sight of what you have done today. Let's bring it back to committee and let's produce another bill.

SENATOR LEVY: Well, the conference -- the way the conference committee is going to work is, the final product is coming back to the Assembly and coming bank to the Senate, and you and I are going to have an opportunity to debate -- to debate the work product of the conference committee and either pass it or defeat it.

So what -- what Senator Johnson and Senator Farley and Senator Bruno and the other sponsors of this bill are saying is that there's been a de facto repeal of 55. People don't have respect for the law. The Assembly had -- has unilaterally -- unilaterally decided

to move forward with their own piece of legislation. Therefore, the sponsors of the bill want to make a statement to the people of the state that we recognize the problem, we recognize the need to move forward to 65 and we want to make a statement to that effect and that's really all that this bill is doing is making a statement.

SENATOR ABATE: But I'm suggesting that a week from now, we could make the same statement but in a stronger way, in a comprehensive way. If we leave out the issues you've raised, we send a message that these issues are not important and I can not support this legislation without the addressing of the enforcement issue which is so critical to the overall safety of the people that utilize our roads and highways.

SENATOR LEVY: I think, Senator Abate, that -- that what happens in legislat ures, including ours, when you have to negotiate a bill like this, such a vitally important highway safety bill or some of the other very,

very -- other very, very important bills that we have before us, unless you are able to show to the Assembly that you are able to pass a bill that makes a statement on where you are in a concept with -- with the concept underlying the bill, so what you really do is you undercut your ability to negotiate if you can't get a bill through your house, and that's really what we're doing here.

SENATOR ABATE: I just -- I share the concerns you've raised. I don't think this covers it. We go into uncharted territory. We have -- we may have an eventual bill that's agreed upon by both houses that will not address your concerns. I hope it happens, but I don't have full confidence in that process.

Thank you.

ACTING PRESIDENT DiCARLO: Senator Solomon.

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

Couple of points because I started raising questions, and I'm going to try

to be as brief as possible. Again, I will make this available. It's basically something I got from the Alliance of American Insurers.

Regarding speed/travel, and speed does include scratches in four basic ways before we even get down to some of the specifics that were raised by Senator Levy: Increases the distance a vehicle travels when a driver detects an emergency until that driver reacts; increases the distance needed to stop a vehicle once the emergency is perceived; crash severity increases by the square amounts of speed, so when a crash -- when speed increases from 40 to 60 miles per hour, the speed goes up 50 percent while the energy related to that crash which is done in a lot of the studies which we've all seen over the years, whether it be with air bags or dummies, et cetera, more than doubles which is significant in terms of what happens to the person in that automobile.

Some of the other things that we should be aware of is that the higher the speed, the less that air bag or those bars put in the

doors for side impact crashes today can -- the less of an impact that can actually have on protecting the occupants because those safety devices become less effective.

In addition, I think we have to really look at trucks and we have to consider we have the double trucks, in fact we've even had proposals to allow the triple trucks to travel on our Thruway. We have to remember that 98 percent of the people killed in two-vehicle crashes deal with large trucks and passenger vehicles.

In addition, some -- one other statistic is telling from the National Highway Safety Institute, deals with urban and rural roads. Rural roads account for 40 percent of all vehicle miles traveled, but they account for 61 percent of all speed-related fatalities which is very significant if you're saying your constituents want these higher speeds because it's your constituents are the ones that eventually pay, some with their lives, and I think that's the reason that we all have to take

a second look at this stuff.

This -- excuse me. This bill, and it's not so simple to say, Well, let's leave the speed limit and there's no cost on society and there's no cost on anyone else, and I don't want it on my conscience when we have a horrible accident with one of these double trailer trucks because they're traveling at 80 miles an hour, it's only 10 miles or 15 miles above the speed limit.

ACTING PRESIDENT DiCARLO: The Chair recognizes Senator Skelos.

SENATOR SKELOS: Mr. President, would you recognize Senator LaValle, please.

ACTING PRESIDENT DiCARLO: Senator LaValle.

SENATOR LAVALLE: Mr. President, there will be an immediate meeting of the Higher Education Committee in Room 124 of the Capitol.

SENATOR SKELOS: Continue now with the debate.

ACTING PRESIDENT DiCARLO: Senator Tully.

SENATOR TULLY: Thank you, Mr. President.

I had not intended to speak on this bill this morning and, quite frankly, I hadn't made my mind up on which way I was going to do, but I do wish to complement the sponsors, Senator Johnson and Senator Farley, and Senator Levy and the others that have spoken, for the stimulating dialogue, because it has given me an opportunity to rethink my feeling about the bill.

I think the concerns addressed by Senator Levy are very much in tune with my own concerns, and I am prepared now to vote for this bill on the basis of the conference committee seriously considering the issues which have been raised by Senator Levy in a very cogent manner.

He reminded me that many years ago, when I was in the military I had occasion to drive a tank. The tank weighed 49-1/2 tons. The tank had a maximum speed of 40 miles an hour and occasionally, if you were young as I was, you were inclined to let the tank move along and

sometimes get in the dust trail of the tank in front of you. When that happened, you immediately attempt to brake the tank, and in order to put that brake down, you had to lean all the way back, almost stand up to get the tank to come to a halt after many, many yards had gone by.

The fact that Senator Levy tells me there are tanks -- trucks, excuse me, in excess of 18,000 pounds carrying loads that are in excess of 75 tons or in the area of 75 tons, indicates to me that there is something that each and every one of us should be deeply con cerned about when we talk about trucks going 55 miles an hour, never mind 65 or 70.

Certainly there must be some enforcement. There must be something that concerns those drivers that makes sure that they don't exceed the speed limit, that makes sure that they protect the other users of the road and certainly we should be concerned about those vehicles which carry volatile materials, chemicals, explosives, and our children who are

being driven to and from school. At least these concerns are very, very serious ones.

However, on the sure basis that they're going to be considered by the conference committee, I am prepared at this point to vote for the bill.

Thank you, Mr. President.

ACTING PRESIDENT DiCARLO: Senator Marchi.

SENATOR MARCHI: Mr. President, there are a number of us who are co-sponsors. It's very obvious that, by the excellent presentations made by Senator Farley and Senator Johnson and the observations of Senator Levy, that we have the basis for moving forward but much more of a positive nature, I think, is the development of the conference committee.

Now, frequent reference was made to the conference -- conference committee, the conference process between the two houses. This is a new development in our -- in our methods of approaching legislation to bring the -- to the conference responsible proponents of both houses

interacting on an informed basis, and this is a very, very positive -- I don't want to call it a pilot project at this point, but as this process goes forward, I think it's going to augur for more mature and more responsive legislation, a better quality of legislation as we approach other problems of an urgent nature.

So let's keep in mind that we are talking about a process, an ongoing process and procedure which will certainly give us enhanced opportunity to make balanced judgments and - and have the vehicle by which credibility and a consensus is built on a much wider basis than we have had on other bills of a controversial nature.

So this is an excellent opportunity, and I certainly praise the lead sponsors for assuming the responsibility of doing this, and I think it -- it's a harbinger of good things to come on -- on just the processing of legislation generally.

ACTING PRESIDENT DiCARLO: Senator Jones.

SENATOR JONES: Yes. I, too, didn't plan to speak today. I basically came here to listen, as I did in transportation, but I do want to thank Senator Levy. He also presented the same concerns at the Transportation Committee, and I want to assure my colleague, Senator Abate, that I'm in year three and I still haven't quite learned the logic of continuing to pass bills that we know won't become law, but I guess it is a good thing as Senator Marchi said that this year we do have the conference committee and the issues that Senator Levy raised, that I totally agree with, will be discussed and I think I agree with the Senator, this is a good test case.

Let's see how it goes, but I can assure you I will be joining Senator Levy in opposing this bill if it comes back in the same form, without the safeguards.

ACTING PRESIDENT DiCARLO: Senator Oppenheimer.

SENATOR OPPENHEIMER: Well, I think the things that I was going to say have

just been said. I was going to mention the fact that we really don't have a history with conference committees, and the logic that Senator Levy just put forth, I think, makes sense that, if we go into the conference committee with a bill that we've passed, I think we're in a stronger, much stronger position than if we go into the conference committee with something that hasn't passed this house.

I'm the ranking Democrat on the Transportation Committee, and I must say I support all the concerns that Senator Levy has. I think many of us on the committee did feel that these were very valid concerns and at this juncture, I think the best thing is to go forward, pass the bill, see what comes out of conference committee, and I agree if these issues aren't addressed, and addressed, you know, in a manner that many of us want it addressed, we'll probably not support it next time, but I think at this juncture it's wise for us to support it in this house.

ACTING PRESIDENT DiCARLO:

Senator Nanula.

SENATOR NANULA: Thank you, Mr. President.

I originally was very much in support of this bill, and I went to committee earlier in the week and Senator Levy had presented some very salient points, and for that reason I, too, support conditionally this bill.

I feel that it does require a further investigation regarding the issues that have been addressed here today and discussed, and presuming those are addressed sufficiently and adequately, I will be supporting the bill when it comes before this chamber in the future.

Thanks.

ACTING PRESIDENT DiCARLO: Does any other Senator wish to be heard on this bill?

SENATOR SKELOS: Last section.

SENATOR LEVY: Explain my vote.

ACTING PRESIDENT DiCARLO: Senator Levy to explain his vote.

SENATOR LEVY: Just the point -

ACTING PRESIDENT DiCARLO: Can we get the last section read first, Senator?

The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take place 90 days after it shall have become a law.

ACTING PRESIDENT DiCARLO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT DiCARLO: I recognize Senator Levy to explain his vote.

SENATOR LEVY: Yes. There was just one point that I neglected to make that I did want to put out on the record, that there are 11 states prior to '73 that created a lower differential for trucks, and there were seven - seven states with school buses, and none of those states have repealed the differential to permit trucks and school buses to go in excess of 55 miles an hour, and I neglected to put that on the record, and I think it ought to be part of the record.

ACTING PRESIDENT DiCARLO:

Senator Cook.

SENATOR COOK: Mr. President, there's no way to prove that people will drive faster if we increase the speed limit to 65, but I think that we all -- we all understand and know that, in fact, people will drive faster and that, when that happens, the danger on the highways increases.

I don't know how to vote on bills except to try to get information about what would probably happen, so we contacted the federal Department of Transportation and got the actual statistics in the states that have already changed the speed limit from 55 to 65. These are the fatalities only on the rural sections of the interstate highways, so they don't relate to two-lane roads or dirt roads or anything else. These are specifically related to two-lane -- to the interstate highways and, in fact, the increase in fatalities that was reported by the federal DOT was 24 percent.

I'm not prepared to participate

in something that I think will increase the death rate on the interstate highways in New York State by almost a quarter. For that reason, I'm voting in the negative.

SENATOR DOLLINGER: Explain my vote.

ACTING PRESIDENT DiCARLO: Senator Dollinger to explain his vote.

SENATOR DOLLINGER: Senator, I will vote in favor of this bill to send it to conference committee. If it doesn't come back with the protections that Senator Levy has talked about and if it doesn't come back with an explanation of the point that Senator Cook just made, I think Senator Levy mentioned earlier that we're going to resolve the issue and somehow reconcile the various studies that have analyzed the effect of the 65-mile-an-hour speed limit, if we don't get a satisfactory answer reconciling that study mentioned by Senator Cook, the other studies that have been talked about, and come up with a better defined number, if it doesn't have the protections in, I will

vote no next time. I'm voting yes, Mr. President, this time, but I will vote no if we don't get that reconciliation and the protections that Senator Levy mentioned.

ACTING PRESIDENT DiCARLO: Get a result of the roll call, please.

Senator Paterson to explain his vote.

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

I think if we could simplify this, that if you raise the speed limit you're going to to some degree raise the fatality rate. Senator Levy corrected me, and I'm glad I was corrected, that it wasn't 17 percent, it was actually 28 percent. If we put the protections that he is suggesting into this legislation, if we listen to the Insurance Institute for Highway Safety that tells us that in the states of Maryland and Virginia, for instance, that had the same speed limit, 55 in 1988, that when they increased the speed limit in Virginia that the -- those going over 70 miles an hour went up to

29 percent where the number had been 8 percent, and in Maryland where they kept the speed limit the same it stayed at 7 percent, I think it would be very instructive that we can raise the speed limit, but we have to have those added protections.

When a car is going 60 miles an hour, it moves at 88 feet per second. At 88 feet per second, it takes 360 feet for the car to come to a full stop. Now, the reason you don't have to be 360 feet behind the car in front of you is because that car also has to come to a stop too, but there has to be a greater distance between the cars. That's the speed at which speed is measured as distance over time. Velocity is speed over time, and what Senator Solomon was admonishing us was that the measure of momentum is mass times velocity and the -- and that is increasing exponentially as the speed increases.

So without telling you, Mr. President, what my major was, I will vote for the bill, but I think that we have to put the

protections in eventually that Senator Levy is asking for.

ACTING PRESIDENT DiCARLO: Senator Waldon to explain his vote.

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

I had the good fortune of traveling to South Carolina recently. I'm going to vote for the bill. And when I exited the airport in my rental car, I noticed that cars were going by me almost as if I was standing still, and the part that amazed me most, Senator Levy, was that many of these cars were being driven by very silvery-haired people. In fact, the last car I saw before the sign let me know why I appeared to be standing still and they were moving very quickly forward, was driven by an elderly woman who barely could get her eyes over the steering wheel, and she was moving in South Carolina. I was driving 55, 56, in that range, miles per hour, being in a foreign state and knowing that I had no juice in terms of my law enforcement experience, I needed to

acclimate myself.

The point I'm trying to make is that, if silvery-haired people in South Carolina can drive at 65 miles an hour and do it well, I'm sure that those similar in our state can and I believe that our younger people will also ad here to the rules.

I vote in support of this legislation. I hope it does well and bodes well for the state of New York.

Thank you very much, Mr. President.

ACTING PRESIDENT DiCARLO: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 70 are Senators Abate, Cook, Holland, LaValle, Leichter, Mendez, Solomon and Volker. Ayes 42, nays 8.

ACTING PRESIDENT DiCARLO: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Yes, Mr. President. If you could return to motions and

resolutions, and I believe there's a resolution at the desk by Senator Marchi. If you would have it read in its entirety and then recognize Senator Marchi, please.

ACTING PRESIDENT DiCARLO: The Secretary will read the entire resolution.

THE SECRETARY: Legislative Resolution, by Senator Marchi, mourning the death of George Felton of Staten Island.

WHEREAS this legislative body has learned with regret of the death on January 9, 1995 of George Felton of Port Richmond, Staten Island, a retired New York City fire marshal, African-American leader and acclaimed community and political activist, at the age of 67;

George Felton, a native of Ports mouth, Virginia, began his exemplary life in New York State in 1932 after being brought here as a child;

After graduating from McKee High School, George Felton became a police officer and underwent training in criminal investiga tion, firearms instruction and studied in the

department's bomb squad school;

He switched over to the New York City Fire Department in 1955 and served tours of duty in Manhattan and Mariners Harbor, Staten Island, before transferring to the department's Bureau of Fire Investigation, where he served with distinction until his retirement in 1974;

George Felton came to wide public attention in the early 1970s when, as a fire marshal, he and his colleagues investigated the fire bombing of a New Dorp residence; their efforts were instrumental in bringing four men to justice in federal court in 1973;

In 1988, George Felton was honored by the National Association for the Advancement of Colored People (NAACP) with the William Morris Award for his work in the case;

His enviable record of public service involved active leadership in the Staten Island branch of the NAACP where he served two terms as president. He earned that unit's gratitude and special honors for his untiring efforts in behalf of the community;

George Felton's effective range of public service activities led him to service with the Urban League, the Staten Island YMCA, the Staten Island Lions Club, the Staten Island Boy Scouts, Heritage House and the Goodhue Children's Center, those involvements prompted many of those organizations to honor him with special awards and citations;

This energetic Staten Islander managed, despite many demands made on his time for civic, charitable and community undertakings, to take on and fulfill leader ship roles in the local Democratic Party for more than 20 years, and assisted in several major campaigns;

George Felton was a devoted member of several churches including the Shiloh A.M.E. Zion Church, West Brighton, where he served on the board of trustees, the Fellowship Baptist Church in Mariners Harbor, and the International Christian Center in Granite ville;

A true family man, George Felton

and his wife, the late Susie Porter Felton, had a son, Duane, and three daughters, Diane and Linda Felton, and Karen Handley, as well as nine grandchildren;

This legislative body wishes to give official recognition and approbation to an individual who served his community and state so admirably;

NOW, THEREFORE, BE IT RESOLVED that this legislative body pause in its deliberations to honor the memory of George Felton, salute his accomplishments in bettering his community, state and nation, and convey to his family the deep appreciation felt for the service rendered by Mr. Felton; and

BE IT FURTHER RESOLVED that a copy of this resolution, suitably engrossed, be transmitted to the members of the Felton family.

ACTING PRESIDENT DiCARLO: Senator Marchi.

SENATOR MARCHI: Mr. President, George Felton was a good friend, a close

collaborator on many worthwhile initiatives in the Staten Island community. You have heard the recitation of the various services that he performed, but we should reflect also on the fact that, when he entered into the police department, it was a year in which there were numerous, numerous, many, many competitors and it was a -- the result of a winnowing out process -

ACTING PRESIDENT DiCARLO: Could we please have some order in the chamber; please hold conversations to a minimum.

Senator Marchi.

SENATOR MARCHI: Thank you, Mr. President.

-- a winnowing out process, Mr. President that marked him as a special individual. He performed so credibly, and in the community he -- his leadership was exemplary. He had an uncanny gift for building a consensus, for getting -- moving people towards worthy goals in a way that the consensus reflected the feelings that he was trying to

convey.

I might add, Mr. President, after we take the roll call, which I know will be favorable that present with us to your right in the balcony, his son Duane, a leading barister, attorney-at-law in Staten Island, and his wife Dorothy, his daughter -- their daughter, Karen Felton Handley, her husband Mason Handley, and grandchildren Jachine Chandler and Diane Felton and Jeanine Atherton and Michael Atherton, members of this family. They are very close to so many of us in the borough of Richmond which is soon to become the city of Staten Island, that after the roll call, I trust, Mr. President, since you also represent part of that wonderful community, that you will recognize them.

ACTING PRESIDENT DiCARLO: Thank you, Senator Marchi.

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

(Response of "Aye.")

Opposed?

(There was no response. )

The resolution is adopted.

It is with pleasure that I also welcome the family of George Felton as I also represent Staten Island. It is a pleasure to have you with us here today. Thank you.

(Applause)

Senator Skelos, we have a report of standing committees.

SENATOR SKELOS: Will you please read the report from standing committees?

ACTING PRESIDENT DiCARLO: The Secretary will read.

THE SECRETARY: Senator Larkin, from the Committee on Local Government, reports the following bill directly for third reading:

Senate Bill Number 459-A, by Senator Present, an act to amend the General Municipal Law, in relation to the powers of the county of Chautauqua Industrial Development Agency.

ACTING PRESIDENT DiCARLO: With

the permission of the Majority Leader, would you suffer an interruption?

SENATOR MARCHI: Senator Galiber very wisely pointed out that there may be others who would like to join and have their names on this resolution, so there are others and we might assume that -- we might assume that everybody wants to be on the resolution.

ACTING PRESIDENT DiCARLO: Any member wishing to be on the resolution can be put on. Senator Skelos, do you wish to open it up to all members except those that decline?

SENATOR SKELOS: Yes, no objection.

ACTING PRESIDENT DiCARLO: Every one will be put on the resolution. If you do not wish to be put on the resolution, please let us know.

Continue the reading.

THE SECRETARY: Senator LaValle, from the Committee on Higher Education, reports the following bills directly for third reading:

Senate Bill Number 35, by Senator

Holland, authorize the Salvation Army Eastern Territory School for Officers;

1186, by Senators Volker and LaValle, Education Law, in relation to the practice of optometry;

1918, by Senator LaValle, and others, Education Law, and the Public Officers Law, in relation to the Board of Regents of the University of the State of New York;

2178, by Senator LaValle, Education Law, in relation to the Board of Regents of the University of the State of New York.

All bills reported directly for third reading.

ACTING PRESIDENT DiCARLO: Without objection all bills to third reading.

Senator Skelos.

SENATOR SKELOS: Mr. President, with the consent of the Majority, would you please call up Senator Present's bill, Senate Bill 459-A.

ACTING PRESIDENT DiCARLO:

Secretary will read.

THE SECRETARY: Calendar Number 101, by Senator Present, Senate Bill Number 459-A, an act to amend the General Municipal Law, in relation to the powers of the county of Chautauqua Industrial Development Agency.

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

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

ACTING PRESIDENT DiCARLO: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 50.

ACTING PRESIDENT DiCARLO: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Yes, Mr. President. At this time would the Senate please stand at ease.

ACTING PRESIDENT DiCARLO: Senate stands at ease.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I just didn't quite catch what we just did. Could you just tell me what bill we just approved? I know it's on my desk. Is it this one; is this the Cattaraugus County bill?

ACTING PRESIDENT DiCARLO: Senate Bill Number 459.

SENATOR DOLLINGER: A?

ACTING PRESIDENT DiCARLO: A.

SENATOR DOLLINGER: Got it, thank you, Mr. President.

ACTING PRESIDENT DiCARLO: The Senate will stand at ease.

(Whereupon at 11:40 a.m., the Senate stood at ease until 11:56 a.m.)

ACTING PRESIDENT KUHL: Senate will come to order.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Skelos.

SENATOR SKELOS: The Senate will stand in recess until 2:00 p.m. sharp.

ACTING PRESIDENT KUHL: Senate will stand in recess until 2:00 p.m. sharp.

(Whereupon at 11:57 a.m., the Senate stood in recess, reconvening at 2:02 p.m.. )

ACTING PRESIDENT KUHL: The Senate will come to order. Members please take their chairs momentarily.

Senator DeFrancisco.

SENATOR DeFRANCISCO: There appears to be no further business, and that being the case, the Senate is adjourned to February 27th at 3:00 p.m., intervening days are legislative days.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until February 27th, the regular time, 3:00 p.m., all intervening days to be legislative days.

(Whereupon at 2:03 p.m., the Senate adjourned.)