ALBANY, NEW YORK

April 4, 1995

10:05 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. Would everyone please rise and repeat with me the Pledge of Allegiance.

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

In the absence of clergy, may we bow our heads in a moment of silence.

(A moment of silence was observed.)

Reading of the Journal.

THE SECRETARY: In Senate, Monday, April 3rd. The Senate met pursuant to adjournment, Senator Kuhl in the Chair upon designation of the Temporary President. Prayer by the Reverend Father Peter Young, Blessed Sacrament Church, Bolton Landing. The Journal of Sunday, April 2nd, 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.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Bruno.

SENATOR BRUNO: Mr. President, on page 26, I'm going to offer the following amendments to Calendar Number 360, Print Number 3957-A, and ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT DeFRANCISCO: Amendments received.

SENATOR BRUNO: And, Mr. President, I'd like to, at this time, call up Calendar Number 360. I believe the bills have to be distributed, and I recognize, Mr. President -- would you recognize Senator Spano.

ACTING PRESIDENT DeFRANCISCO: Senator Spano.

SENATOR SPANO: Mr. President, just an announcement for the members of the Senate Labor Committee that the meeting previously scheduled for 11:00 o'clock in Room 509 in the LOB, will be called at 10:45 in Room 123 of the Capitol. It's 10:45 is the Senate Labor Committee to consider confirmation of two appointments from the Governor.

Thank you.

ACTING PRESIDENT DeFRANCISCO: The Secretary will read Senate Print 3957-B.

THE SECRETARY: Calendar Number 360, Budget Bill, Senate Print 3957-B, an act making an appropriation for the support of government.

SENATOR PATERSON: Explanation.

SENATOR BRUNO: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT DeFRANCISCO: Yes, there is.

SENATOR BRUNO: I move we accept the message, Mr. President.

ACTING PRESIDENT DeFRANCISCO:

All in favor of accepting the message signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Gold.

SENATOR GOLD: Yeah, I'm told that the bills are being distributed but, in all fairness, there's nobody distributing the bill. I just want to see the bill if that's not -

SENATOR BRUNO: Mr. President, can we stand at ease in a few minutes while we distribute the bill.

ACTING PRESIDENT DeFRANCISCO: The Senate will stand at ease. The bill is now being distributed.

SENATOR BRUNO: Mr. President, hopefully, Calendar Number 360 has been distributed, and people in the chamber have had a chance to review that bill, and I think at

this time we should take it up.

ACTING PRESIDENT DeFRANCISCO: Senator Bruno, Senator Paterson, before we went in recess, requested an explanation.

SENATOR BRUNO: Yes, Mr. President.

We had this bill before us last night, and some question was raised on the floor that appeared to be very appropriate. We've had some conversations just by way of bringing everyone up to speed with the Comptroller's office, with the Speaker, and there was enough confusion in the language in this bill that the Comptroller's office had indicated it would take them several days if not weeks to make a judgment on which people should be paid and which weren't authorized to be paid.

So hearing that, the Speaker and I had agreed that it would serve no purpose to create that unnecessary delay in paychecks, so we laid the bill aside.

Through the night, thanks to some good work on the part of staff people and some

of the others that were assisting us here, we have cleaned up the language in the form of the amendment that's there at the desk, with an "A" and "B" version, and that language does this:

It very -- well, first of all, part of the confusion was the bill talked about the executive branch and the executive branch includes some 2,000, 2100 people, executive branch. Oh, thank you, I'm used to dealing with small numbers here, it's the whole 200,000 that are in the executive branch, that work for the state agencies; so, of course, that would create a lot of confusion because it was contradictory in language. So that word "branch" that created most of the problems has been changed to "Executive Chamber," which has about 200 people in it. So from branch 200,000 to chamber 200.

The additional confusion was that the Governor, apparently it wasn't his intent, could pick and choose who'd be paid and who wouldn't be in the Executive Chamber. That was never his intent. He last evening agreed to be very specific. The only people in the Executive

Chamber that will be paid are those that must be paid according to the Fair Labor Standards Act, federal legislation beyond his control. He has provided a list with this to the Comptroller, and I just talked to the Comptroller and that list is very specific by name as the people who do not qualify to be paid under the Fair Labor Standards Act, and they will not be paid, by name.

So it's very easy for the Comptroller to look at the list and compare it to those that would be exempt and paid. The Comptroller's office is apparently satisfied that this cleans it up. The 1,000, 2,000, 3,000 people that were mentioned last night in the chamber and out of the chamber along with some of the labor unions like PEF, and there was some confusion about some of the CSEA people, all of those people are now covered and will be paid by the change in the language, and we confirmed that this morning before we came in by talking to the leadership at CSEA, at PEF, and they now support this legislation and they are asking us

here in the chamber to do this before 12:00 so that the payroll can go forward.

So, Mr. President, having worked through the night, I would appreciate the support of my colleagues, and I thank my colleagues on this side of the aisle as well as this side of the aisle for their patience, for their indulgence, for their support and for the very constructive criticism that you made of this procedure and this legislation last night, and I hope that you will concur that we have corrected the questionable language and that this bill now should go forward so that we can go on with the rest of the business of the day which will probably take us through 8:00 or 9:00 o'clock tonight.

ACTING PRESIDENT DeFRANCISCO: I have, Senator Paterson.

SENATOR PATERSON: Mr. President, I'm seeking a point of clarification. I wonder if the Majority Leader would be so kind as to yield for a few questions.

ACTING PRESIDENT DeFRANCISCO:

Senator Bruno, would you yield to questions from Senator Solomon -- Senator Paterson.

SENATOR BRUNO: Excuse me. Mr. President, just give me about 30 seconds if you will and I'll answer.

SENATOR BRUNO: Mr. President, my apologies. Senator?

SENATOR PATERSON: Through you, Mr. President, Senator Bruno, therefore, under this bill all employees of state agencies get paid, is that correct?

ACTING PRESIDENT DeFRANCISCO: Senator Bruno.

SENATOR BRUNO: That is correct, Mr. President. That's my understanding.

SENATOR PATERSON: And Mr. President, if Senator Bruno will yield for another question. Senator Bruno, that means all commissioners will get paid.

SENATOR BRUNO: That is correct, Mr. President.

SENATOR PATERSON: Now, as we move to the Executive Chamber, as I read this

bill, the Governor's secretary then will designate who is and is not complying with the federal Fair Labor Standards Act, and then we will know who gets paid in the Executive Chamber; is that correct?

ACTING PRESIDENT DeFRANCISCO: Senator Bruno.

SENATOR BRUNO: Yeah, Mr. President. Yes. That is quite an accurate reflection but, for clarification, he doesn't make judgments. He simply executes the letter of the intent of the law by doing the comparisons of who is disqualified under the Fair Labor Standards Act so he is doing the paperwork. He is not making any judgments on which people get paid. That is done by the letter of this appropriation.

ACTING PRESIDENT DeFRANCISCO: Senator Paterson.

SENATOR PATERSON: Mr. President, we thank Senator Bruno for that answer, but that brings us right back to the question that I asked last night which is who makes the

decision? In other words, it's not who signs the letter. In other words, at some point in the legislation Senator Bruno just informed us that there's a list. So what I want to know is, I've never seen the list. The Comptroller, I understand, has seen the list, but the Comptroller is not voting here today. All of us, as Senators in this chamber, are voting and we would like to know who is on -

SENATOR BRUNO: There's the list.

SENATOR PATERSON: This is the list. All right. Senator Bruno, now that I have the list, it appears that the Governor's secretaries and support staff get paid under the list; is that not correct?

SENATOR BRUNO: That would depend on whether or not they come under the Fair Labor Standards Act, federal legislation. If they do, yes, they will get paid. If they don't, no, they will not get paid.

SENATOR PATERSON: Mr. President, apparently they do conform with the regulations

of the federal Fair Labor Standards Act and so apparently they are going to get paid.

SENATOR BRUNO: Well, Senator, I think you're making an accurate reflection of the situation.

SENATOR PATERSON: Mr. President, through you. Senator Bruno, do you think a paralegal would be subject to the federal Fair Labor Standards Act?

SENATOR BRUNO: Mr. President, that would depend on whether or not they are presently within the framework of that law. That is not a judgment that we can make on the floor here, and that is not a judgment that's affected by the legislation before us or by any judgments that will be made on the second floor.

ACTING PRESIDENT DeFRANCISCO: Senator Paterson.

SENATOR PATERSON: Well, Mr. President, I'm not making a judgment; I'm reading the list. I'm reading the list that was just provided to me, and my information is that

paralegals will be paid under this federal Fair Labor Standards Act.

My next question is -- my next question has not come to me yet.

SENATOR BRUNO: It will, I'm sure it will, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Has it come to you, Senator Paterson?

SENATOR PATERSON: Yes, Mr. President. As I said before, I really don't mind being the puppet. It's when they let the strings show.

Mr. President, will the Governor's legislative assistants be paid or would Senator Bruno know that answer?

ACTING PRESIDENT DeFRANCISCO: Senator Bruno.

SENATOR BRUNO: Yes, I'm looking at the list just as you are, Senator, and I can only make the same judgments that you could make and it's my understanding that the people on the list do not come under the Fair Labor Standards Act, so they will not be paid. Those that are

not in the list come under the act and they will be paid, and again, that is beyond the judgment of this legislation or the secretary to the Governor.

SENATOR PATERSON: Mr. President, that is my whole point. I think that this chamber should be making a judgment right now, particularly in such a highly charged atmosphere where a governor at the State of the State message said on January the 5th, if I'm correct, and his point was that if we don't pass the budget on time, "you won't get paid and neither will I." He's fond of quoting himself and reciting that mantra that "you won't get paid and neither will I."

From then, if we just reflect historically he went forward to say that he wasn't going to pay anybody in state government. Finding that that wasn't a particularly good idea, he backed away from that and then the next we heard, we didn't know what -- who was going to get paid for a while, and then we heard that it was the Governor, the

legislators and staff that were not going to get paid. Then we went through two bills last night and we've now arrived on a -- at a third bill today, and what the third bill is basically stating is that some of the Governor's staff will get paid, but some -- but none of the legislative staff.

My problem with this whole thing, and it goes really to federal law and really to our founding Constitution through our state Constitution, is that we -- our forefathers thought about these types of issues years ago and they were very clear on a separation of powers between the legislative and the executive branch. They did not want for either branch to be put in an unfair bargaining position through pressure exerted by anyone from the other branch.

What the Governor has done is, he has realized that many of his support staff who are often ballyhooed and parodied in the press, are actually some hard working people. They stay up late. They help prepare these pieces of

legislation such as the one we're looking at right now. They are loyal, they are interested, they are hard working, and yet some are apparently more valuable than others because none of the corresponding members of the legislative staff are going to be paid, but yet the executive staff is going to be paid.

I think this is an absolute outrage, and the reason it's an outrage is because if we're going to make a decision that the budget not passing on time engenders in us some responsibility, then we have to be scrupulously fair as to who shares in that responsibility, not a situation where the Legislature can't make a judgment after reading a bill or the secretary to the Governor will make the decision or the Comptroller will interpret some decision.

It's all extremely confusing. I don't understand it. I don't think anybody here understands it, and so my question is, why are we voting for it? Wouldn't the simpler way to do it -- wouldn't the simpler way to do it just

be everybody gets paid except those who are in the decision-making process, the Legislature, Assembly members, Senators, the Lt. Governor and the Governor?

Now, I do not understand how interns who work for the Legislature who make $104 a week are not getting paid when budget directors and commissioners and budget analysts who make 104,000 a year, at least, are getting paid. The interns aren't making the decisions that will end the negotiations to pass this budget. The secretaries aren't making those decisions. Some are going to get paid, some are not going to get paid? What's the discrimination? Who do you work for? Who do you work for?

And in my opinion, it is disingenuous to have any piece of legislation on the floor right now that pays workers of equal value in a disproportional way by paying some and not paying others.

It's not only unfair; it really leaves a lugubrious cloud over the budget

negotiations themselves. Last night we had a circumstance where union members were possibly eligible not to be paid, so today we've adjusted the language and we're back to non-union staff members, some will get paid and some will not get paid.

The point that's overriding this entire issue that really is more important as to who gets paid on April 5th and who does not, involves really the fairness of the budget negotiating process itself. When the budget was not passed on April 1st, we are now being asked to look at this process as if failure to agree somehow ranks as failure to pass the budget and the inability to agree is something that is mutual. None of us agree, and as much as we may continue to rail against each other in the media and say it's the Speaker's fault or some people feel it's the Governor's fault, it's really all of our fault, and so if the Governor wants to make good on his promise from the State of the State mission -- message, then let him do that. Then let the Governor not get paid; we, the

Legislature, will not get paid, but why are we taking it out on employees who don't participate in the budget process?

And then to go beyond that as we're doing in this piece of legislation and making it so confusing that on three occasions this Legislature cannot really figure out who is the broad supervisory power that will make the decision as to who is going to get paid and who is not going to get paid is, in my opinion, practicing what I call the politics of confusion. It's seeking a goal and achieving it by creating such an issue that it obfuscates any understanding on an issue, and I'm opposed to passing any legislation that is void for vagueness as this bill is, and it isn't just vague. It's real.

Some people are going to get paid tomorrow, and some people are not and it is totally outrageous to be taking individuals who work with equal work and equal value and pay them differently depending on what chamber they work in. This is absolutely outrageous, and

it's a disingenuous act because, if you're going to say it, then why don't you just say it in the bill?

It says something about the federal Fair Labor Standards Act, and then the secretary of the Governor and then a lot of dicta that isn't in the bill that we're being asked to understand.

It's unfair not only to those of us who are voting on it, I think it's unfair to the advocates who try to get up and explain it, people who I have a great deal of respect for, people who give their word around here and their word is always true, and now we are being asked out of some kind of loyalty, to pass a piece of legislation that is inherently disloyal.

The inertia inherent in this legislation is incomprehensible and that on itself makes the legislation, in my opinion, void.

Other than that, Mr. President, I really don't know what to say. This is the third time that we've had this legislation in

the last 12 hours. It still doesn't make any sense. This is the third attempt that the Governor has put out a piece of legislation where he could have just made it very simple; and so I just assume that somewhere in this favored land, a band is playing and somewhere hearts are light, but not here in the Senate chamber because, again, we have in a sense practiced a legislative discrimination by our desire to, for some reason, confuse an issue and issue paychecks to some and not to others, but they all worked hard and they all worked between March 8th and March 22nd which was in the 1994-95 budget year, and it is my opinion that the only honorable thing to do, the only moral imperative that we should be adhering to is to pay those who worked and earned their salaries.

The fact that the media doesn't have any consideration for them, the fact that they're considered to be hacks and they're considered to be cronies and they're considered to be political appointees may be fine, but if no one else wants to support them, I support

them. They work very hard; they earn their salaries. Many of them work session; many of them work seasonally, some of them working while they're going to school. Some of them are interns. Some of them are here to learn about the legislative process. We've really taught them a lesson, a lesson in futility, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Solomon.

SENATOR SOLOMON: Thank you, Mr. President.

Senator Bruno yield, please?

ACTING PRESIDENT DeFRANCISCO: Senator Bruno, would you yield?

SENATOR BRUNO: Yes, Mr. President.

SENATOR SOLOMON: Senator, in your opinion, could it have been relatively easy for the Governor to left out -- leave out commissioners, so commissioners wouldn't have been paid?

SENATOR BRUNO: Well, Senator,

Mr. President, what is happening here through this legislation is just the Governor following through on what he had made very clear from the time that he took office and that was in January, and he stated at the time if we did not do a budget by April 1st legis... he wouldn't get paid and legislators wouldn't get paid and people that are in the process would not get paid.

So commissioners are not in the Legislature. They are in the executive branch. So having said that, they are not in the legislative process. The legislator -- the legislators and their employees are in the process as is the executive and the employees in the Executive Chamber, so this legislation is directed specifically at those involved in whatever way in the legislative process. So the commissioners are in the executive branch, not in the process of making laws.

So the Governor's following through, as he had indicated he would, and that's why those people are not included.

ACTING PRESIDENT DeFRANCISCO: Senator Solomon.

SENATOR SOLOMON: Thank you.

Mr. President, the -- if Senator Galiber will yield for a question. Senator, during the Finance hearings -

ACTING PRESIDENT DeFRANCISCO: Excuse me. This is a little bit out of order. He doesn't have the floor.

SENATOR SOLOMON: I have the floor. I have the floor.

ACTING PRESIDENT DeFRANCISCO: Senator Galiber, would you yield to the question?

SENATOR GALIBER: Gladly, Mr. President.

SENATOR SOLOMON: During the Finance hearings, don't the commissioners come and defend their budgets and make requests for dollars?

SENATOR GALIBER: That's correct.

SENATOR SOLOMON: Thank you,

Senator.

ACTING PRESIDENT DeFRANCISCO: Senator Solomon.

SENATOR SOLOMON: I was just curious, I thought the commissioners had something to do with the formulation of the budget which relates to formulation of the amounts of money they're asking for which relates to the amounts that the Governor puts into the budget.

On the bill. I find it very interesting that such esteemed commissioners as Bernadette Castro has to receive her salary where a secretary that I have working for me that earns far less than Bernadette Castro, that never opened sofas as a little girl, that doesn't have a trust fund, is not going to receive her salary. I think if the Governor really wanted to hold to his promises, he'd talked about shutting down state government to closing state government. I think that to be fair, at the very least, all commissioners and political appointees should not be getting paid

in this situation.

Just to say political appointees executive branch, I don't believe that the support staff of legislators, someone who I'm making a loan to so that they can pay their rent this month that works on my staff, should go without their pay while political appointees, many of them besides Commissioner of Parks, I'm sure we have someone such as the person in charge of UDC who can afford not to be paid by the state, are political appointees and directly involved in the political process through their agencies or were in their agency requests.

I think what we're doing here today, what the Governor is doing is for something, maybe the Governor has got a little bird at this time, and you know what, if we don't pay these legislative employees, they will bother the legislators to the degree where the legislator is going to fold and agree to a budget.

It's a ridiculous scenario and it's a ridiculous concept and what it's telling

me here today is "I want to take care of my political employees, but the support staff of legislators, they participate in the process. My commissioners don't participate in the process. My unit heads in Division of Budget don't participate in the process," but the secretary for Senator Solomon, Senator Bruno, Senator Galiber, anyone here has more partici pation in the process than a commissioner? Or more participation in the process than a secretary in the Governor's office?

There's no logic in that, and I think what's being done is that we are singling out legislative employees quite unfairly in this bill, and I don't think it would have been that difficult for the Governor's office to draft a piece of legislation which would have directed it at us as legislators, and I think commission ers should have had it directed at them.

I certainly don't believe support staff, frankly, in either house and even in the Executive Chamber should be denied their checks, but what I think is very unfair where we're

picking out one chamber and you work in the Executive Chamber you're different. You're a commissioner, you're different.

Let's have a level playing field as is often cited in this house, and I think that's one of the problems we have with this bill and obviously we saw that there are some problems in the drafting process on the second floor.

Thank you.

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

SENATOR NOZZOLIO: Mr. President, will Senator Solomon yield?

SENATOR SOLOMON: No.

ACTING PRESIDENT DeFRANCISCO: Senator Solomon will not yield.

SENATOR NOZZOLIO: Is there a list?

ACTING PRESIDENT DeFRANCISCO: Senator Leichter.

SENATOR LEICHTER: Mr. President, my colleagues, this is such bad government.

This is so irrational. It is so illogical; this is so unproductive. I tell you what's happening. We have been hoisted on our own petard or maybe, to put it more accurately, we've been hoisted on our own pandering.

What is the rationale? I've been trying to go over in my mind, what is the rationale that legislators and their staff or the Governor and his staff should not be paid because we don't have a budget by April 1st?

Now, let me say, if there are members here who've been sunning themselves in Bermuda this last month instead of working on the budget, I don't think they should get paid. But as I look around, I don't see anybody with a tan, and I look around and I see people who I know have been here, everybody working, been working extremely hard. I take a look at the staff, maybe -- maybe Abe Lackman and John Quirk were off playing golf in California. If that was the case, there was somebody that looks just like them that's been here 18 hours a day working trying to pass a budget.

Why shouldn't that person get paid? What is the theory that you -- if you don't pass the budget by April 1st you don't get paid? Is it because Governor Pataki has not agreed with Assembly Speaker Silver? Therefore, he shouldn't get paid? Or is it because the Assembly Speaker hasn't agreed with the Majority Leader? Or is it because the Majority Leader doesn't see the budget the way I see it, that, therefore, he shouldn't get paid?

We have some very serious differences, philosophical, ideological, political, regional, that relate to the budget. We're fighting these out. You people believe we have need to cut taxes. We think this is not the time to cut taxes or at least that's my view. You want to direct the tax cuts toward the wealthy. I think that's a mistake. I don't think that we should take the safety net away from needy people. Maybe I'm wrong. Maybe you're right, maybe somewhere in between there's a -- there's a rational answer, but these are honest differences. Because you don't agree

with me, you don't get paid; I don't get paid because I don't agree with you, and that makes absolutely no sense, and it's particularly harsh when it falls on the legislative staff, and I know that argument has been made very effectively, and I know that you all agree because I've talked to you in the cloak room and I think you feel as badly as I do about the fact that hard working staff members who have no responsibility whatsoever for the budget are not going to get paid. It really is a hardship on them. It's unfair and it does nothing to move the process along.

The real difficulty we have as we know is that we have a very short window within which to pass the budget. Unfortunately, our Constitution provides for budgets by April 1st; the Governor doesn't come up with his budget proposal until February 1st, and there's a 30-day period. It's really a very, very short time, as we know.

But I think we've been working extremely hard this year and the idea that -

well, it isn't enough with your heart you've got to agree. Well, wait a second. Agree with what? Do the people in Senator Nozzolio's district say that he shouldn't get paid unless he agrees with what the people in my district want; or is it the other way about? I mean as you examine it, you realize what nonsense this is.

Now, this made a great applause line in the Governor's State of the State. Maybe it was good campaign fodder but, when you come down to the practical aspects of this, you realize how senseless it is and it's for that reason that last night in some confusion the Majority Leader had to pull back a bill and even now the bill that we have, the Governor has the absolute discretion to pick who he wants and who he doesn't want. He submitted a list today. He can change that list tomorrow. There's a complete, absolute authority in the secretary to the Governor to submit whatever list he wants to, so even within that aspect or from that perspective, there's no balance. There's no

logic.

Now, if you want to say those who are responsible -- well, who's responsible? Leichter, what do you have to do with the budget? Very little. Maybe -- maybe the bill just ought to provide the Majority members of the two houses don't get paid. Well, that isn't fair because, with all due respect to my hard working and bright colleagues, I don't know how much all of you have to do with the budget. Well, maybe -- maybe it just ought to be the Majority Leader. Well, maybe the chairman of the Finance Committee.

But what are we -- but what are we trying to do? Is it -- is it to put a gun to their head? You know, in other aspects if you say to somebody "I will pay you if you do certain things as a legislator," you know what happened? You end up indicted. You end up in jail.

Well, in a sense, this is what - what is happening here, and let me tell you, this only slows up the budget process, and I'll

tell you why. Once you pass something like that and as legislators, we can't get paid, are you going to rush to pass a budget? I'll tell you, if you do you're going to go back to your district and you know what people are going to say. Ah, you voted for that lousy budget so you could get paid. And without doubt, people are going to be saying that, people who don't agree with the budget, and we know when this budget is passed, there isn't going to be anybody in this state that's going to like it. So they'll say, Ah, you voted for it to get paid. So, my friends, we really are going down a very perilous and a very foolish path.

Now, I know that this pandering didn't start with this governor. There was a previous governor who was good at those things, who first made that suggestion that we shouldn't get paid, but you know one thing about Governor Cuomo, he was very smart. He knew it didn't work, so he would throw out the idea. He threatened in February, but he wouldn't do anything in April.

This governor, unfortunately, has shown that he takes his campaign rhetoric as dogma and he's now trying to do something which is really going to blow up in his face, which doesn't make sense, and which I think under mines democratic government.

Now, is this a principle now we're going to establish in all legislation? If you don't do it by a certain time, if you don't do it in a certain way, you're not going to get paid. That's terrible. In fact, if you take a look at the Constitution, it tries to protect public officials from that sort of pressure. You can't decrease their salary during their term of office, because precisely you don't want to put that sort of pressure on them.

I think part of this is, I'm sorry to say, is this anti-government, anti-politician. Every politician is lousy. Government is lousy. These people aren't doing their job. Nonsense! We're working very hard trying to pass a very difficult budget at a very financially tough time in this state and there

are real differences, and it takes time to work out those differences and to rush to do it is certainly of no benefit to the people of this state.

It's true there may be a certain cost to the people of this state in interest and I think we're all aware of it, and we want to pass the budget, and I know nobody wants to pass a budget more than Senator Bruno. But, Senator, if the issue is just this is such a -- an offense against the public that you're not going to get paid, then take Assemblyman -- Assembly Speaker Silver's ideas, pass that budget, or are you going to -

ACTING PRESIDENT DeFRANCISCO: Excuse me, Senator. Excuse me one moment. Senator Stafford, why do you rise?

SENATOR STAFFORD: Mr. President, I stated on the floor here the other day that I never interrupted a person on this floor. This is the first time, but I'm sure my colleague from the City will understand. We've announced a Finance Committee meeting as scheduled in 332,

at 11:00 a.m. Thank you.

ACTING PRESIDENT DeFRANCISCO: A meeting of the Senate Finance Committee in Room 332 at 11:00 a.m.

Senator Leichter.

SENATOR LEICHTER: O.K.

ACTING PRESIDENT DeFRANCISCO: May I interrupt you one more time. Senator Levy, why do you rise?

SENATOR LEVY: Yes, Mr. President. There will be an immediate meeting of the Transportation Committee because one of the nominees that we have has to clear Transportation to go to Finance so that that nominee can be taken up today.

ACTING PRESIDENT DeFRANCISCO: And where will that be?

SENATOR LEVY: In Room 123.

ACTING PRESIDENT DeFRANCISCO: In Room 123, there will be an immediate meeting of the Transportation Committee.

Senator Leichter.

SENATOR LEICHTER: Yes, Mr.

President.

I just end up and implore the Governor, all members of this Legislature, include myself, include the Minority in this house, the Minority in the other house, let's stop pandering. Let's stop giving the voters a sort of red meat issue. Let's not pay the legislators. It's nonsense. It doesn't move forward the process. It disgraces the democratic ideal that we're committed to. It's wrong, as we've seen. It doesn't work. We shouldn't be doing this.

ACTING PRESIDENT DeFRANCISCO: Senator Gold.

SENATOR GOLD: Thank you, Mr. President.

First, I'd like to make an observation, Senator Bruno. I think that this is important, and I know the committee meetings are important, but I mean it might be a situation where you are assuming a fast roll call and not a quorum call. I think that the committee meetings should be put off for a

period of time and people ought to be involved. That's only my opinion.

Senator Paterson and Senator Leichter, I think really have done very well but there's a couple of little points I would like to refer to.

First of all, Senator Bruno, I think the record ought to be straightened out as far as you're concerned, and no one on your side wants to do it, so I'll do it. I think this Governor has been very, very lucky to have a Majority Leader as loyal as you and for a Majority Con Conference to be as loyal as you've been. As the New York News pointed out one day, your members have had to cast some very, very difficult votes against things they might want, et cetera, and you've been towing the line. And, Senator Bruno, I don't sit in on these private meetings, but I know you for a long time and I can not believe that you in your heart - and I don't expect you to answer this because you're loyal, and I respect that -- but I can't believe that you in your heart would have drawn

this bill this way if it was up to you. I can't believe it. I can believe that you would have said the Legislature doesn't get paid. I can't believe, Senator Bruno, in your heart you would have done this the way it was done, so I want you to know from my point of view, I take you personally off the hook, Senator Bruno, and I may be wrong, but I'm entitled to my judgment.

I think the concept of not paying the April 5th payment where we put people on a lag payroll, we borrow their money and then don't pay them for work done just can never be justified. Another point I'd like to make, I didn't like the concept of this from the original print, from the "A" print and I certainly am not thrilled with the "B" print, but from the point of view of some people, it was easier to oppose the "A" print yesterday because we were told that the unions were against it.

Now, I hear the unions would like to get their money. I just want to say something. CSEA and PEF are groups that should

unquestionably be respected. They do great work and the unions do great work for their people but the fact is that they have filed memorandums in opposition to parts of this budget and the parts that they have filed in opposition to are still in the budget, and I'm saying you can't always have it both ways.

There are college presidents who say one thing in their role of a college president and then go to a meeting with a legislator the next day or two and say something different because they're with a different group. We've had bankers do that. We've had people all over the state and, ladies and gentlemen, you can't have it both ways. You just can't do that.

Now, one point I would like to make which hasn't been raised. As far as the Governor is concerned, the Governor says, "I won't get paid and you won't get paid." That isn't really true. It's not true unless I've missed one thing.

There is a receptionist who works

for Senator Bruno who has to go out and buy food. Now, is the Governor going to be eating at the Mansion? Are we paying for his food or is he going to put himself on a moratorium and buy his own food until we get a paycheck? There is a secretary and there's a staff person who drives to work, drives to work and pays for parking and they need the money for gas for the car and to pay for the parking. Is George Pataki, our Governor, going to put himself on a moratorium and not use the state car and, if he does, pay for the gas and use his own car during this period of time?

If he says that, I could respect it. There's somebody who works for Senator Bruno who rents and, for the month of April, has to pay rent. I would like to know whether Governor Pataki is moving out of the Mansion into a hotel or into an apartment to pay rent during the period of this moratorium, because the truth of the matter is, if he doesn't, then don't tell me he's not getting paid. He's living rent-free with a car and a driver and gas

and food, and that's a lot more than the staff people who work for him and the Legislature who are not getting paid.

I don't understand why the Attorney General is not getting paid. What does he have to do with the budget? I mean the Attorney General took an office, he says he wants to concentrate more on criminal work, assumedly that's his business, but what does he have to do with this? Carl McCall has nothing to do with the budget process. So the answer is, this is filled with irrationality.

I made a comment a few minutes ago that Senator Paterson and Senator Leichter have really done a wonderful job, and they have, and I'll stop here except to say one thing in closing.

Every one of you knows that after you criticize the heck out of this bill, the political thing to do is to vote yes because there's 200,000 people waiting to get paid, et cetera, et cetera, and if you're worried about that, I suggest you do it.

I will vote no and I'll vote no for one reason, the same reason that I would vote no on the original print and the "A" print. It is childish. It is suggesting that legislators put their own pocketbook before their constituents' pocketbook. It is a form of harassment of the worst kind and it is bad, bad government.

Thank you.

ACTING PRESIDENT DeFRANCISCO: Senator Dollinger.

SENATOR WALDON: Mr. President.

SENATOR DOLLINGER: I yield the floor to Senator Waldon.

SENATOR WALDON: Thank you very much, Senator Dollinger.

ACTING PRESIDENT DeFRANCISCO: Senator Waldon.

SENATOR WALDON: Mr. President, my colleagues, I would like to ask a few questions of the learned Senator from Rensselaer if he would allow me to do that, Senator Bruno.

ACTING PRESIDENT DeFRANCISCO:

Senator Bruno, would you yield to a question?

SENATOR BRUNO: Yes, Mr. President.

SENATOR WALDON: Senator Bruno, have you had any conversations this date with Comptroller Carl McCall?

SENATOR BRUNO: Yes, I have, Senator.

SENATOR WALDON: Can you tell us in very -- no, don't do that. Mr. President, if I may continue.

ACTING PRESIDENT DeFRANCISCO: Senator Waldon.

SENATOR WALDON: Did the Comptroller in any way indicate to you that he may still be empowered to issue checks despite what we're doing here today?

SENATOR BRUNO: Mr. President, I'm not clear, issue checks to whom?

SENATOR WALDON: Issue all checks that are due come tomorrow to all the personnel of the state of New York?

SENATOR BRUNO: Yes, Mr.

President. The Comptroller indicated to me this morning that he was prepared to issue checks to all state employees.

SENATOR WALDON: If I may continue, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Waldon.

SENATOR WALDON: Mr. President, is there anything -- I mean Senator Bruno, I apologize for that faux pas. Is there anything in this legislation, this proposal that we're considering, which takes away the money that would be available to pay all state personnel?

SENATOR BRUNO: No, Mr. President, to my knowledge, there isn't.

SENATOR WALDON: Thank you very much, Mr. President, Senator Bruno. I'm not finished.

ACTING PRESIDENT DeFRANCISCO: Senator Waldon.

SENATOR WALDON: On the bill. My colleagues, to this point here in the debate we've spoken about the mean-spiritedness and the

confusion surrounding this issue whether we can pay, whether we can not pay.

It is my understanding that the Comptroller has the absolute authority to issue the checks tomorrow to all people. Therefore, the secretaries, et cetera, in each of our offices will be paid. However, there may be a move by my learned colleagues on the other side of the aisle to stop those checks somehow, and let me just say that if someone, perhaps a Steve Sloan, were to do something that is contrary to law, then he may be personally liable and may, in fact, be criminally liable for that action.

I think what we're proving here today is that this is an exercise in futility. I'm also told that even our learned Majority Leader, if he involves himself in this process of stopping the checks, may be somehow personally liable or criminally liable, and we're talking about a lot of money, more money than I have in my petty cash, and I would suggest that we not do that.

I would now like to tell you two

little quick stories, and I will sit.

When I was in the sixth grade at P.S. 70 in Brooklyn, there was a great snow in 1948. Just before the snow, Billy Lee moved from New Orleans to New York. Billy Lee was an extremely quiet, freckle-faced kid who didn't bother anyone, and we had a guy named Gilbert Zigler who was in the CRMD class. He was two years holder than us; he had been left back twice. He was the bully at P.S. 70 and one day leaving class from P.S. 70, Billy Pickens, my dearest friend Donny Pankin, who died last year, myself John Lagoff, Carl Lagoff, and others were stopped by Zigler and intimidated and told that he was going to whip our you know whats again, and Billy Lee said, "I don't think you ought to do that," and Zigler didn't know Billy Lee, and so Zigler pursued his quest to whip somebody's you know what.

With that, Billy Lee picked him up and in the mound of snow that was taller than I was when I was 11 years of age, Billy Lee began to stuff Gilbert Zigler in the snow head

first, and each time in his very southern drawl, he said, "You had enough?" "You had enough?" And finally Zigler said, "I had enough," and once we realized that the local bully was nothing but a coward, all of us began to kick Gilbert Sigler's you know what.

The point I'm making is that this is a bully tactic. The least of us -- and the Bible says that we should not take advantage of the least of us -- the least of us is being hurt by this act that we're about to do if we do it, and I'm so glad that there is an opportunity to go around, to circumvent this act so that the people will get their checks tomorrow. But I think we, as a legislative body, are on thin ice because, if we allow this bully tactic, what we are really doing is abrogating our power as legislators and we are, in effect, creating a dictatorship. Dictatorships are not only at the national level. Dictatorships can be at the state level and we are giving away our power and our authority to the second floor.

I don't want to be a part of a

dictatorship. I know that power as Lord Atkins said, Power corrupts; absolute power corrupts absolutely. I don't think that's what we want to do. I thought we -- I think that we wish to exercise our power, our authority, our obligation and our mandate on behalf of the people that we serve.

So I say let us do what we have to do. Let us pay the secretaries. Let us pay the elevator operators. Let us pay those 355-B persons who cannot take care of themselves but if we do it, and let us stop this gradual move towards a dictatorship which is the wrong thing to do in this state, and let's stop the bully efforts from the second floor.

Thank you, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

Mr. President, I rise against this -- this whole concept. I think Senator Waldon, Senator Gold, Senator Paterson, Senator

Leichter have all expressed many of the views that I share.

I have two other issues, one that I want to follow up from Senator Waldon, but the first one is that perhaps if the Majority Leader would just yield to one question if he would.

ACTING PRESIDENT DeFRANCISCO: Senator Bruno, would you yield to a question?

SENATOR BRUNO: Yes, Mr. President.

SENATOR DOLLINGER: Mr. President, through you, is it the intention of this legislation that the federal Fair Labor Standard Act guidelines and rules and regulation would apply to all the employees of the executive branch that the Governor has to indicate one way or the other will be paid? And that's the standard he's using; isn't that correct?

SENATOR BRUNO: That's my understanding, Senator.

SENATOR DOLLINGER: O.K. Mr. President.

SENATOR BRUNO: The Executive Chamber, not the executive branch.

SENATOR DOLLINGER: Correct. Well, in the -- well, nobody else in the executive branch is going to lose their pay.

SENATOR BRUNO: That's my understanding, Mr. President.

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

I'd call everybody's attention to a little case called the Matter of the State of New York Coalition of Public Employers against the New York State Department of Labor, and what it says is that you cannot -- it's unconstitutional to incorporate federal rules and regulations into a state statute because it violates section 8 of Article IV of the New York State Constitution which provides that no rule or regulation made by any state department or officer shall be effective until it is filed in the office of the Department of State.

So here we are creating a whole series of rules and regulations which are going

to determine who gets paid in the executive branch, and we're using an incorporation principle that violates our own Constitution. Well, what the heck? Why not violate the Constitution? We seem to have done everything else this week.

It also seems to me, Mr. President, that there's one thing that strikes me as extremely different about this debate today versus this debate a year ago. What would have happened a year ago if the second floor had said, "I want to exercise the power to decide who gets paid in my department, but I don't want any legislative leader from either the Senate or the Assembly to decide who gets paid in their house."

Well, I dare say, I remember the first year I was here I got into a little argument with Senator Marino who walked in and talked about the tradition of this house, the importance of this house, the importance that this house be respected, the important tradition of the Senate which we have all upheld for more

than 200 years, and we were talking at that time about the confirmation and the election of a Comptroller in this state, and I was lectured by Senator Marino about the prerogatives of this house and the importance of recognizing the power of this house.

Well, it seems to me, Mr. Majority Leader, with all due respect, we are now giving away -- giving away the power to control who gets paid in this house. The second floor is going to decide who gets paid in the executive branch, the executive office, I should say, and you don't have the power to make that same decision here.

SENATOR BRUNO: Mr. President, would the Senator yield to a question?

SENATOR DOLLINGER: I'd be glad to, Mr. President, if it clarifies the position.

ACTING PRESIDENT DeFRANCISCO: Senator Dollinger, would you yield to a question?

SENATOR BRUNO: Thank you,

Senator. I'd appreciate if you'd stay with the facts. I understand political rhetoric; I understand posturing; I understand pandering to the public, I understand all of those things, Senator, but stay with the facts. I stated very clearly and the legislation states very clearly that the Executive Chamber employees that will be paid are paid only because they qualify to be paid under the national -- the federal Fair Labor Standards Act. We, in the Legislature, do not have any employees, none that would qualify in that regard, so your comments are inappropriate, inaccurate, and I'd appreciate your staying with the truth.

SENATOR DOLLINGER: Again, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Dollinger.

SENATOR DOLLINGER: With all due respect to the Majority Leader, what bothers me is that you've allowed the Governor to say, "I've got fair labor standards act employees. I've got to pay them. Therefore, I'm going to

pay them," instead of saying, Gee, you know, we have employees who have the same needs as those who are covered by the Fair Labor Standard Act in the executive office. They have the same need for a pay check as the employees on the second floor. They have the same kinds of mortgages as the people who work on the second floor. They have the same kind of need for food as the people on the second floor and yet this body today is going to let the second floor pay for certain of its employees, while we can't pay for ours.

Now, I understand rhetoric but it seems to me we give away the power of this house; we give away the power of this Senate and I dare say that a year ago, had this Senate Majority negotiated with Mario Cuomo about this, there wouldn't be a member on that side of the aisle who would have tolerated for a second Mario Cuomo deciding who gets paid on the second floor, while no one on the third floor can get paid.

It's inconceivable to me that

this Majority would have allowed that, but yet because this Governor is a Republican it's now going to be allowed. I just don't understand how that inconsistency can be so palpable and yet not drive the Majority of this house to cut a different deal with the Governor.

Last thing, Mr. President, I have an amendment before the house which I believe has been served up to the desk. I'd ask that it be brought before the house, that we waive its reading and that I be permitted a brief opportunity to explain it.

ACTING PRESIDENT DeFRANCISCO: The amendment is at the desk and the reading of the amendment is waived. You wish to make an explanation?

SENATOR DOLLINGER: I do, Mr. President. I'll be brief.

This amendment, Mr. President, does what I think the Governor believes the people of this state want. This amendment says very, very simple, we have 211 people that work on the third floor. Those 211 people all have

some say in the budget, as Senator Leichter said. We may not have a lot of voice in that budget, but we have a voice in that budget. We have a constitutional responsibility to pass a budget on time. That constitutional responsi bility does not extend to our staff. They weren't elected. They weren't given the power by the people to create a budget. We were given that power, 211 people, and what this amendment says that those 211 people shouldn't be paid because the constitutional deadline hasn't been met.

But what it also says is that in the Legislature, the people who work for us, who have the same needs as the people on the second floor, the same mortgages, the same family obligations, the same obligations to their children to pay tuition, to pay for their books, to provide their shelter, their heat and everything else, that they will be paid just as on the second floor the Governor can decide.

This bill says that the Legislature, legislators, the responsibility,

the constitutional obligation rests with us, not with them. Let's get over this tactic of bullying, as Senator Waldon expressed it. Let's get beyond that. Let's deal with ourselves in a way that may be politically popular but let's not punish the people that work for us.

This bill will do that. It will require that no elected official that works on the third floor would be paid. No elected official that works on the second floor would be paid. That's the safe way to do it. That's the fair way to do it. That meets the goal that the Governor wants and ascribes the punishment to fit the criminal, the punishment that is the loss of pay will fit those of us who haven't fulfilled our constitutional obligation.

I would recommend to everyone in this chamber that they seriously consider this amendment. Let's pay the people who work for us. We can take our own medicine.

I'd move the amendment, Mr. President.

ACTING PRESIDENT DeFRANCISCO:

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

(Response of "Aye.")

Opposed nay.

(Response of "Nay.")

The amendment fails.

Senator Paterson, on the bill.

SENATOR PATERSON: Mr. President, I think finally, a ray of light has shown in this chamber. Senator Waldon, I think, his remarks were very instructive, and I think we should listen to what he said.

He said that the Comptroller, and this is in his questioning, has the appropria tion to pay the legislative staff. There's nothing in this legislation that takes the finances away from the Comptroller, and so with the Comptroller having the authority and the money, the Comptroller will pay the legislative staff.

I cannot explain the confusion but I can understand what Senator Waldon said. I think that is most instructive. I think we

all need to listen to it. Therefore, it's my understanding that the legislative staff, the Executive Chamber, anyone else will get paid and that's only appropriate. They worked and they got paid. It's real simple after all of this complicated diatribe, they worked and they got paid.

In addition to that, this particular paycheck for the calendar week March 8th through the second week ending March 22nd, so this goes back to 1994-1995 and so there's ethics, there's reason, there's morality and finally there's sanity once we went through that question that Senator Waldon raised, and the very gracious response by the Majority Leader.

The Majority Leader feels that we're all working a little hard on this issue, but I guess that's how we could pass the budget. We work hard, we struggle and eventually we come to an understanding. I think they call that the Socratic method, and through that method, we've reached an understanding here today, and that is that the Comptroller has the

financial appropriation. He has the resources to pay the staff. He has indicated that he will pay the staff, and let me say that all of you deserve it, and you will be paid. If you are not, you go back and insist that you get paid and if you aren't paid, you tell them that I said so.

Thank you, Mr. President.

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

SENATOR PATERSON: Slow roll call, Mr. President.

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

SENATOR PATERSON: Slow roll call.

ACTING PRESIDENT DeFRANCISCO: Slow roll call. Are there five members present that desire a slow roll call? I see four. Call the roll. Please call -

THE SECRETARY: Senator Abate.

SENATOR ABATE: Yes, I'd like to be -

ACTING PRESIDENT DeFRANCISCO: Senator Abate to explain her vote.

SENATOR ABATE: Yes. I vote reluctantly yes because it's an opportunity to lessen the pain to workers throughout the state, but this bill to me represents stupidity at its worst and bribery at its best. It weakens the notions of good government.

Who is responsible and who should be accountable are the elected officials, all that's in this room, not our secretaries, receptionists, people who work in our district office who have nothing to do with passing a budget.

I am disappointed in this Governor. He should be providing the kind of leadership that's needed to bring about a budget, to bring about compromise leadership that brings both parties together for a fruitful end. What we see here again, I hate to use the word stupidity, something that's counterprod uctive. Again this is another day that every one in this chamber, whether you're Republican

or Democratic, should feel regret at the notion of having to pass this bill so that we lessen the pain for many workers.

Again, why are we here? Why can't we take the high road? Why can't we be efficient, effective and do something that makes sense? Nothing in this bill is common sense. We are better than this bill.

Thank you.

ACTING PRESIDENT DeFRANCISCO: Senator Abate, how do you vote?

SENATOR ABATE: Reluctantly yes. I guess that's yes.

ACTING PRESIDENT DeFRANCISCO: Senator Abate votes yes. Continue the roll.

THE SECRETARY: Senator Babbush.

SENATOR BABBUSH: Yes.

THE SECRETARY: Senator Bruno.

SENATOR BRUNO: Yes.

THE SECRETARY: Senator Connor.

(There was no response.)

Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.

SENATOR DiCARLO: Aye.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, to explain my vote.

ACTING PRESIDENT DeFRANCISCO: Senator Dollinger to explain his vote.

SENATOR DOLLINGER: Mr. President, I'm disappointed that the 20-year-long effort by this house to maintain the balance of power between the Legislature and the executive branch seems to be disappearing with this vote, that what we are doing is enabling the executive branch to do something that the Legislature will not be permitted to do for its own employees.

I can't find the rationale why 100,000 employees in the state work force will get paid and the people that work for me

including my $7800 a year secretary will not. I believe we are taking a step backward in the balance of power. I believe we are sacrificing it to the second floor. If there were a way I could vote against this bill, believe me, I would. I will not, however, punish the 200,000 people who are working today for this state by voting against this bill, but mark my words this is the wrong direction for this body to take and we are making a constitutional mistake, a legislative mistake, and a public policy mistake.

I would still vote aye.

ACTING PRESIDENT DeFRANCISCO: Continue the roll.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Paterson, why do you rise?

SENATOR PATERSON: I wasn't sure if I was hearing -- I wasn't sure if I was hearing bells ringing. Now I'm not sure why I'm hearing them.

ACTING PRESIDENT DeFRANCISCO: Continue the roll.

THE SECRETARY: Senator Espada.

(There was no response.)

Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Galiber.

(There was no response.)

Senator Gold.

SENATOR GOLD: Mr. President, may I briefly explain my vote.

ACTING PRESIDENT DeFRANCISCO: Senator Gold to explain his vote.

SENATOR GOLD: Senator Dollinger, I understand that this is the wrong way to go, but reluctantly many people are voting for it. I don't believe in that. I believe that if this Senate were running the Russian government in the 1800s we'd all be speaking French today because they wouldn't have the guts to do what they did and go out there and meet the enemy and burn fields if you have to.

The way that you get 200,000

people paid is by doing the right thing, the right thinking working for a budget. We've all been working for a budget, but you don't say that a piece of legislation is philosophically wrong, philosophically offensive, and then vote for it.

But I'll make one last deal. If the Governor doesn't get paid, then, this bill is O.K., but the bill's a fraud because he does get paid because when I get paid and my staff gets paid, we use that money for housing, for food and for other things, and as long as the Governor is getting his housing free, he's getting his food free, he's getting his car free, he's getting his gas free, he's being paid. So he doesn't have some money right now to send to the savings banks and to do whatever he does with his money, it's not for me to say. But if you had a bill that put every state worker in the same situation as the Governor, that's O.K. That's O.K. It's a fraud. It's wrong, and we ought to have the guts to say it's wrong.

I vote no.

ACTING PRESIDENT DeFRANCISCO: Continue the roll.

THE SECRETARY: Senator Gonzalez.

(There was no response.)

Senator Goodman.

(There was no response.)

Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoblock.

SENATOR HOBLOCK: Yes.

THE SECRETARY: Senator Hoffmann.

(There was no response.)

Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Jones.

SENATOR JONES: Explain my vote.

ACTING PRESIDENT DeFRANCISCO: Senator Jones to explain her vote.

SENATOR JONES: I listened to everything my colleague just said, and I agree with him and I'm ashamed to be standing up here and having in any way to support this bill, but I -- I can't support it without offering a few things.

It's very interesting to me that I offered a bill the last two years to not pay legislators if the budget wasn't passed. I thought that was a fine idea. Funny, I didn't get anybody else that wanted to go along with me or sign onto my bill or support it in the last two years. So it's very interesting to me that now this year we're going to take the stand.

Well, I firmly believe that we should not get paid. We made this choice to go through an election and to do whatever we did to get here, and I'm positive many of us are sitting here today saying "why," but nevertheless we did, so we deserve not to be paid.

But I'm sorry, I can't accept this story about the political hacks. When I

was elected to this office, I got over 200 applications to work for me, none of whom I of heard of. They weren't political people. They were college graduates who were looking for a job, and that's who's working for me today, people who were looking for a job. And let me tell you something, I was one of those people all my life that supported a family of four and if that paycheck didn't come on Friday, it was a serious problem, and I have people working for me that it is today, and I'm ashamed that we're standing here saying that these people are going to be punished for whoever's inefficiency who is responsible for this, this year, last year and I understand the last 17 years; so I can't stand still and let thousands of others go without money, so I'll support this, but I think everybody ought to be ashamed that we are not saying, Don't pay us, but for heaven's sake, pay the person who has to pay their rent and didn't choose to work run for election and be a public official.

I'll vote yes.

ACTING PRESIDENT DeFRANCISCO: Senator Jones yes. Please continue the roll.

THE SECRETARY: Senator Kruger.

SENATOR KRUGER: Yes.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lack.

SENATOR LACK: Yes.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Aye.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Aye.

THE SECRETARY: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Leichter to explain his vote.

SENATOR LEICHTER: To explain my vote. There was an important debate in the House of Representatives last week and a very

similar measure and a very conservative Republican, the chairman of the Judiciary Committee, Congressman Henry Hyde, got up and made a great speech and one of the things he said, "I don't want to be part of dumbing down democracy," and that's what we're doing here now.

It's the cheap, it's these mechanical, it's the simplistic notion whether it's term limits or don't pay legislators if they don't pass a particular bill or a budget in time, all you're doing is eroding democracy. My good friend and colleague, Mary Ellen Jones, talked about inefficiencies. You know what the synonym for in efficiencies are? It's democracy.

We've been engaged in a real tough political battle here representing different viewpoints and how this budget ought to be put together, but we have worked, we've worked hard. The notion and the idea that we are not going to be paid, but even worse that the staff is not going to be paid, that they're

being held hostage, I think it's a disgrace. I think probably Senator Gold is doing the right thing, but I cannot, I cannot vote to deny perfectly innocent state workers some 200,000 of them, the ability to be paid since the Governor has said that he's not going to sign a bill which would only -- which would provide that only legislators and the Governor and statewide officials not get paid, which if you got to throw some red meat to the voters after you've riled them up with all these speeches, O.K., do it that way, but since the only way that you're going to get these state employees paid is to vote for or pass a bill like this, I'm going to vote for it, but I really feel that I have been part of a dumbing down of democracy.

ACTING PRESIDENT DeFRANCISCO: Senator Leichter, how do you vote?

SENATOR LEICHTER: After this, I don't know myself. No, I -- is it how I'd like to vote or how I'm going to vote? I'm sorry, Mr. President. I vote in the affirmative.

ACTING PRESIDENT DeFRANCISCO:

Continue the roll.

THE SECRETARY: Senator Levy.

SENATOR LEVY: Aye.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Aye.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Yes.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Markowitz to explain his vote.

SENATOR MARKOWITZ: If -- I think if the truth be told, state workers will know that if so many of them didn't live in Senator Bruno's district or Senator Farley, the chances are the Republican Majority would cut them off

just like they're cutting off our state -- our legislative workers. Not a question about that in my mind, not a question about it. So I know that when push comes to shove and the pressure is on, even conservative legislators in the Republican Party will respond to votes. That's for sure.

That's refreshing in a way, but the truth is that I believe that the great majority of Republican legislators here in this chamber know that what we're doing is wrong once you've been convinced to walk lockstep with your Governor so that you appear to be on the same team with your Governor, but I think it's important that as legislators, there were times when we Democrats on this side disagree with our Governor and did not always vote with Governor Cuomo or Governor Carey, and that's true. There were times when this conference did not step together with our Democratic Governor, and there are times when I think it's important in order to mature Governor Pataki, that you also ought not step with him when he's wrong, and this is

wrong.

Now, Senator Spano, I read in the paper and heard on the radio that he'll be cooking for his staff. I hope he has a lot of room for a lot of other staff members here, many of whom legislators here don't know how to cook, and so to penalize, we're ready, Senator Spano, we're ready, Senator Spano. I don't know how you cook, whether you're good or not, but since you're treating, we'll join you.

The bottom line is that to take it out on our staffs you know, every one of you know it's wrong. You know it's wrong, and you haven't got the chutzpah, you haven't got whatever it is to get up and say, "I'm not accepting this." Shame, shame, shame! I have no choice but to vote yes on this because the state workers, because of state workers, because of state workers. I don't want it on my conscience, but what you're doing, what you're forcing us to do for yourselves and for us is wrong.

ACTING PRESIDENT DeFRANCISCO:

Senator, how do you vote?

SENATOR MARKOWITZ: Yes.

ACTING PRESIDENT DeFRANCISCO: Senator Bruno.

SENATOR BRUNO: How did the Senator vote?

ACTING PRESIDENT DeFRANCISCO: He voted yes.

SENATOR MARKOWITZ: For the state workers.

SENATOR BRUNO: Oh, thank you.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: Yes.

THE SECRETARY: Senator Montgomery.

ACTING PRESIDENT DeFRANCISCO: Senator Montgomery to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President, to explain my vote briefly.

I've been a member of a union and I've supported union workers, employees, across

the state and in the city of New York, and so I really have a commitment to the whole notion of organized labor. I believe in it, and I support it. However, there was a point in time in this nation, when if there were a problem with a small group of employees, nothing would function, because there was a kind of cohesive ness, a kind of commitment to unity and strength of the total that the unions projected that they represented, and that they did.

And so I feel really, I feel very mixed feelings, I want to support the fact that any person who is a member of any union who is working for the state gets paid but at the same time I am ashamed of the fact that we did not have the same kind of unity and strength that protects all of the workers, and I am going to vote no, not because I am not supportive of organized labor, not because I am not supportive of the unions that work for the state, but because what I am is my staff. My staff works sometimes 24 hours. If we have to go 24 hours, we go 24 hours.

ACTING PRESIDENT DeFRANCISCO: Excuse me, Senator, could I interrupt?

SENATOR MONTGOMERY: I vote no.

ACTING PRESIDENT DeFRANCISCO: Excuse me. Senator Montgomery votes no. Please continue the roll.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: Explain my vote.

ACTING PRESIDENT DeFRANCISCO: Senator Nanula to explain his vote.

SENATOR NANULA: Senator Jones in her comments in her explanation indicated she was a supporter of the union workers but you supported no pay for legislators for late budgets. Well, Senator, you were equivocal about that in your vote. As a matter of fact, as one Senator last year, I not only introduced legislation but beyond that gave back my pay, $7900 of net pay, as a means of standing up in regards to the legislation to not pay legislators. It's my opinion that certainly if we can't get a budget done on time, we should

suspend our pay.

What I also wanted to comment on though, is my really -- my severe concern for lack of a better expression, over the concept behind not paying staff. I am really confused. I asked Senator Stafford in the Finance Committee meeting yesterday, what is the purpose, what's the rationale? I certainly wasn't satisfied with his answer. I can understand a logical rationale. I can understand not paying legislators but not paying staff? The last time I looked I was the person casting a vote, not a staff member, not my secretary in my district office who makes $18,000 a year and who is a single mother and who lives paycheck to paycheck. I don't recall her sitting in this chamber voting on legislation.

I think it's unfair. I don't think there's a basis of logic and if there's no basis of logic, in my opinion, there must be another basis, and I don't think we should bring politics into this chamber, and I don't think we

should allow politics to affect people who are working hard for the betterment of this state.

But for other reasons that I've discussed, I vote yes.

ACTING PRESIDENT DeFRANCISCO: Continue the roll, please.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Nozzolio to explain his vote.

SENATOR NOZZOLIO: Thank you, Mr. President, my colleagues.

This is not a question of pay. This is a question of budget. Senator Waldon, Senator Dollinger, sanctimonious quotations of objections to violations of obscure case law or other regulatory matters. Look at the state Constitution, ladies and gentlemen. It says April 1st there is to be a budget. This is not April 1st. It's not April 2nd. It's not April 3rd. It's April 4th, and we have no budget.

Read the Speaker's lips, No New Budget.

The Governor agreed to a budget. The Senate passed a budget. The Assembly has done nothing. Unlike Governor Cuomo who we had to sue to bring the budget bills to the Legislature on time, Governor Pataki obeyed the law and by February 1st submitted the budget with the budget bills. He urged us all in his State of the State address to pass the budget on time. Four months, three months ago today on January 4th, you were all in the chamber, you all heard the Governor. He said we need to pass the budget on time.

Ladies and gentlemen, save the sanctimonious tongue lashing not for this bill but for the fact we have no budget. Take your energies, walk down the hall, tell the Assembly to pass a budget. You passed a budget. We passed a budget, the Assembly refuses to pass a budget.

That's what this issue is about. It's not about pay. It's about complying with the state Constitution. It's about doing our

job. It's about passing the budget on April 1st on time.

Mr. President, I vote aye.

ACTING PRESIDENT DeFRANCISCO: Please continue the roll.

THE SECRETARY: Senator Onorato.

ACTING PRESIDENT DeFRANCISCO: Senator Onorato to explain his vote.

SENATOR ONORATO: Mr. President, to explain my vote.

I've heard all of the arguments here about why what we're doing here is wrong and I'm a firm believer as a former secretary treasurer of the bricklayers' union, I fight for the rights of all people, whether we're union or non-union, and our country has been formed on the basis that you convict only the guilty. You never, never want to harm the innocent and, in this particular case, the three amendments that were presented were articles of fairness to address only the guilty, and I find that my staff are not guilty of any process of this budget.

I, therefore, vote no because they are being deprived of their pay and they are not guilty of that act.

ACTING PRESIDENT DeFRANCISCO: Senator Onorato votes no. Please continue the roll.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Well, I am going to vote yes.

ACTING PRESIDENT DeFRANCISCO: Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: Oh, thank you, Mr. President.

I am going to vote yes, but I can't decide if I'm very bright or very stupid because I can not understand why we are doing this. We are the people that have not passed the budget; we are the ones that should forego our salaries. I do not understand what my secretary in the district office who knows nothing about or very little about what I'm doing up here because she's dealing with

constituent problems, what she has to do with the casting of my vote.

I would like to respond just briefly to what Senator Nozzolio said. He's sounding sanctimonious now because he's saying we're sounding sanctimonious. The fact is I think there's a rewriting of history here because for ten years at least since I've been up here, the fact is the Majority in this house did hold up the Democratic Governor's budget and they passed as late as two months, even more, two and a half months late, so I think this is the opposition simply trying to persuade and find some middle ground here and, as you might have been wrong in the last ten years and perhaps you could say we are wrong today, but we are trying our hardest with this Pataki budget which, in my opinion, is a very ill-conceived budget that has created enormous division and dislocation amongst the citizens of our state as well as amongst us.

There are huge philosophic differences with this budget and unless we all

sit down and try and find some middle ground, we are never going to have a budget.

But I am forced to vote yes even though I feel this is a very, very unfortunate business we're at.

ACTING PRESIDENT DeFRANCISCO: Continue the roll, please.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: Explain my vote.

ACTING PRESIDENT DeFRANCISCO: Senator Paterson to explain his vote.

SENATOR PATERSON: Mr. President, I'd like to give kudos to Senator Montgomery and Senator Gold who actually voted against this piece of legislation and to all of my Democratic colleagues who have gotten up and raised some important issues. However, as important as these issues are, let's just remember that we're really talking in a sense of symbolism because

we're talking about what was attempted but what was not achieved.

To be specific, the Comptroller of the state of New York says that he has the appropriations to pay the legislative staff and he will pay the legislative staff since that comes under his authority. Any attempt to deny the Comptroller that authority and to deny legislative staff their pay checks tomorrow will incur personal and civil liability on the part of anybody who would try to thwart that actual process, so let's just make that point very clear. There may have been an attempt not to pay people, but it wasn't right. It was out of line, and, at this point any further attempt would be illegal and those who want to go forward if they choose to will incur whatever liability comes to them because of taking that -- that step.

So the staff will be paid. Otherwise this legislation allows for all employees of state agencies to be paid. So just to summarize, this legislation is an

appropriation to allow state agencies to be paid and where the legislative staff is concerned, the Comptroller has the authority and will exercise the authority because we have given the Comptroller the appropriation to pay the staff on April the 5th as scheduled. That is really the final determination and, therefore, I will vote for the bill.

Now, on the attempt and what it symbolizes and what was attempted here, it's horrible. It's outrageous, but we've been over that. Basically we're not going to hold anybody here who wants to vote for this bill and allow for 200,000 people to be paid, responsible for the fact that some people are irresponsible.

Again, in summation, this bill allows for the payment of all state agency employees. Where the legislative staff is concerned, the Comptroller will exercise his authority with the appropriation that we gave him and will pay the legislative staff. As a matter of fact, Mr. President, I think we can discontinue the roll call and go on to something

else, because this matter is now settled.

ACTING PRESIDENT DeFRANCISCO: How do you vote, Senator Paterson?

SENATOR PATERSON: Oh, I vote for the bill, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Please continue the roll.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: Yes.

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.

ACTING PRESIDENT DeFRANCISCO: Senator Smith to explain her vote.

SENATOR SMITH: Mr. President, I actually stand to pay tribute to my staff who will not be getting paid because they have the backbone to tell me that I should vote for this bill because of the state workers that are involved, because they did not want to see them in the same predicament that they will be in, unable to buy gasoline, unable to buy food, unable to pay for the day care for their children.

It's a sad day for we are forced to take one worker and pit them against another and I will reluctantly vote yes.

ACTING PRESIDENT DeFRANCISCO: Senator Smith votes yes. Please continue the roll.

THE SECRETARY: Senator Solomon.

SENATOR SOLOMON: Thank you, Mr. President, to explain my vote.

ACTING PRESIDENT DeFRANCISCO: Senator Solomon to explain his vote.

SENATOR SOLOMON: As I said earlier, I think it's inherently unfair not to pay the legislative employees in view of the fact that we're paying high paid commissioners, assistant commissioners and a lot of other political appointees. However, I don't believe that you vote against a piece of legislation which could end up resulting in even greater harm to a larger percent and, in effect, a large part of the state work force, because I can tell you now, many of the legislative employees here in Albany, because of the coverage, the landlords, maybe some of the banks will understand the plight they're going to be in. Unfortunately, in New York City, this is not getting the same amount of coverage as it is here in Albany, and those people are not going to be fortunate enough to understand when the employee says, "I didn't get paid but I'm going to get paid."

And just as the same situation I would not want to see that happen to all the state workers, tens of thousands of state

workers downstate trying to deal with their landlord, with their bank, et cetera, tell them, "Well, I'm going to get paid but I'm not getting paid until this budget is passed."

So I'm going to vote yes for this bill only under the theory that we will do less harm to a larger number of people, but I just hope that a lot of my colleagues are generous enough also to offer to make loans to those employees that might need them at no interest because that's basically what's happening.

We're putting some people really with their backs against their wall, whether it be single mothers who have to pay for day care, or people that have to pay for their food bills or that have got a kid in college. So I'm going to vote for this bill, but I hope that there's enough sympathy on the part of the employees here to come up with some method or mechanism to help their individual staff members and see how generous they are to them in a time of need.

ACTING PRESIDENT DeFRANCISCO: Senator Solomon, how do you vote?

SENATOR SOLOMON: In the affirmative.

ACTING PRESIDENT DeFRANCISCO: Please continue the roll.

THE SECRETARY: Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Explain my vote.

ACTING PRESIDENT DeFRANCISCO: Senator Stachowski to explain his vote.

SENATOR STACHOWSKI: I don't want to see the state workers not get paid and, for that reason, I'm going to vote for this, but I got to comment on Senator Nozzolio's remarks. As long as I've been here, it's always seemed to me that to pass a budget, you have to bring all three parties to the table, come out with an agreement and pass it, and just because one party won't agree to your system, you can't turn around and say, well, that party is responsible for us not passing the budget when, in fact,

it's the Governor's job. Regardless of who the Governor is, whether he's a Democrat or a Republican, he's supposed to lead the state. He's supposed to find a way to bring those parties together, to come out with a document that everyone can vote for or against, but will be on the floor in both houses, the same document, and then a budget will be passed.

Anything less means the Governor is a failure on this particular issue. The Governor has failed to get a budget passed in spite of his promises, and now he sends up a pay bill that, if you're -- like in my case, I'm the ranking member of the Labor Committee, I can't vote against a bill that pays the state workers, but he sends up a bill that says I'm going to pay all the workers that work in the Executive Chamber, but any secretary that happens to have the misfortune of working for the Legislature, no matter how pressed she'll become, no matter if she's going to lose her car, lose her apartment, whatever happens to that family, well, that's too bad because the Assembly didn't

pass the budget. Something's wrong with that message.

I'm sorry that the Governor is not being fair, I'm sorry that the Governor couldn't get a budget passed, that he couldn't bring the parties together, that part way through the last week of coming to a budget deadline he decided to go ahead with one-house bills and say, "I'm in agreement with the Senate," when he knew darned well that it wasn't a budget, it wasn't real, and we wasted a week where we should have been still trying to negotiate because that's the charge he has, and that's the charge the leaders have to negotiate the budget, put one on the floor that we can all either vote for or against, so, unfortunately, I vote for this bill, but I just feel terrible for all the employees, particularly the employees of the people on the other side of the aisle who probably worked very hard not only in passing the one-house budget but in getting Governor Pataki elected.

ACTING PRESIDENT DeFRANCISCO:

Senator Stachowski, how do you vote?

SENATOR STACHOWSKI: Vote yes.

ACTING PRESIDENT DeFRANCISCO: Please continue the roll.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Stafford to explain his vote.

SENATOR STAFFORD: Thank you. I think that we cannot emphasize enough what has been said here about us not having a budget. Believe it or not, the professionals can sit down and really put a budget together if people cooperate and people are willing to share information so that they can get the various numbers and work from there.

Mr. President, this has not been done, and this is why we have this bill today to pay the state workers and there are some very serious aspects in this bill. But it's also very serious that we don't have a budget and the people throughout the state are saying we send them there, and we can put people on the moon

but we can't get a budget and I think, Mr. President, we have to emphasize that the Majority of the other house has refused to cooperate again to provide the numbers, the in formation necessary to sit down and to put a sensible budget together.

I vote yes, but I also implore, I request that all, including the Majority in the other house, sit down seriously and begin working toward putting together a budget that the people in this state deserve.

Thank you.

ACTING PRESIDENT DeFRANCISCO: Senator Stafford in the affirmative. Please continue the roll.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Stavisky to explain his vote.

SENATOR STAVISKY: How quickly we change the script based upon who the governor

is. Some of you are old enough to remember 1992 when there was another occupant of the governor's office. His name was Mario Cuomo. He had a plane ready to go to New Hampshire to declare his candidacy, and this house would not let Mario Cuomo have a budget on time for fear that he might run for President of the United States.

He apparently was not invincible. We proved it in the 1994 election, but I don't believe that history should be written solely on the basis of who is the occupant of the second floor. If the Governor was responsible in 1992 for the failure to produce a budget, and I think the failure was really in this house, then that responsibility should carry over to 1995 regardless of the change in the occupancy of the Governor's office.

Again, on the issue of merit, are Senate interns, called Senate assistants, stud ents, to be denied their compensation? They receive the magnificent sum of $2500 for the

entire session, and we are denying the interns who work in our offices the right to be compen sated for food money while they get $2500 for the entire session.

If you want to have a standard, why not policy-makers and those earning in excess of $53,000? Why not make that the cut off point for all of the categories that are listed in this bill that are excluded from this bill. But you are now taking food money from the Senate assistants, for students and others who are not paid the sums that are given to the Governor and some of his staff.

I notice again the absence of the Lt. Governor. Her salary should definitely not be paid, and I was so impressed with the way that Randy Kuhl ran the Senate in her absence that I would be prepared to support Senator Kuhl for Lt. Governor or abolish the office and make him a permanent presiding officer (applause) or you, sir. That's where you can economize.

Where is the Lt. Governor? She hasn't been seen. We want a "Wanted" poster put

up or maybe a "Missing" poster put up with her picture and her name. But I think this is foolish. This is petty. This is partisan. This is mean-spirited. If you want to find the responsibility, continue it downstairs to the second floor.

I vote aye on this bill.

ACTING PRESIDENT DeFRANCISCO: Please continue the roll.

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Explain my vote.

ACTING PRESIDENT DeFRANCISCO: Senator Velella to explain his vote.

SENATOR VELELLA: Senator Stavisky, again, I've got to answer you. Don't worry about the Lt. Governor. She is merely keeping the schedule that Stan Lundine had, left over when he left here. You know, that house

hold name, that name that knew what he was doing at all times. You remember Stan Lundine. She's just following the commitment that he had made and left over when he left office.

But let me talk a little about history. You talk about rewriting history. That's what we're doing here today, when during the great Cuomo years, the years that led us to where we are now, when we have two parts of the puzzle firmly committed saying where they would spend the money, how they would raise the money and agreeing on exactly what would be done. We've showed our hand, we've put our cards on the table, and I just heard the Governor saying to Shelly, What did you want to sit at the table and bargain? How much money do you want to spend? Where do you want to spend it? And the Speaker still refuses until today to tell the Governor, to tell this house how, when and where he wants to spend the money.

How do you bargain with somebody who just totally refuses to even tell you what they want? It's impossible to deal with someone

like that. We've got an impossible Speaker. We've produced a budget. Two out of the three parties are ready to go. The third party refuses to negotiate and even tell us what his dream wish is, just to start the negotiation.

How can you possibly deal with someone like that and try to blame the Governor? The Governor is right. He has prepared a budget. It's been accepted by one of these houses. We put our cards on the table. Never before in the history of Mario Cuomo that I can remember was that done. The Assembly didn't pass his budget and say, We are completely agreed; now you go ahead, Senate. We've always had the burden of trying to get together with the Governor where the houses didn't agree with him, his own houses, so don't say we're rewriting history. You're the one rewriting history. We have two parts of the puzzle solved. The third party won't even put their request on the table. I vote aye.

ACTING PRESIDENT DeFRANCISCO: Please continue the roll.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

SENATOR WALDON: To explain my vote.

ACTING PRESIDENT DeFRANCISCO: Senator Waldon to explain his vote.

SENATOR WALDON: Mirror, mirror on the wall, on this issue. Who would prove to be the baddest of them all? I believe it is not the second floor who would be Superman or even our house nor the lower house or today some Kryptonite was thrown out in the path of this process. I believe the true Superman will be the Honorable Carl McCall, because tomorrow he will issue the checks and he will ensure that the little people are able to buy the bread and the victuals for their families, pay their rent and all other necessities of life.

It is most unfortunate that some of my colleagues have tried to paint a picture where it seems that we on this side of the aisle are stonewalling this process, are being

sanctimonious. There are no sacred cows here. We're all part of this process because we chose to be. I believe that the mean-spiritedness being shown by this Governor will haunt him forever, that his legacy was that he was a bully of the middle and the small and those who are not able to defend themselves.

There's a bigger law than the law which will allow Carl McCall to pay everyone tomorrow, and that is the moral imperative and those of us who are Christian readily recognize the phrase which says "that which you do to the least of My brethren you also do unto Me." And so I think that the moral imperative says that we must move forward. We must stop beating up and grinding down and grinding out the little people; we must stop feeding the rich with the poor in this process. We must ensure that everyone gets a fair shake.

Because of the fact that I totally support the union structure, I'm going to vote yes on this bill, but I want to admonish, as did Montgomery, I wish to admonish

the union structure they should not have gone forward for themselves unless every single individual impacted by this process would be paid.

However, this is a fait accompli, because we all know that everyone tomorrow will be paid. In fact, I believe -- I believe there was sufficient intelligence on the second floor to know that, if the appropriations were left in the bill, that everyone would be paid and therefore, space could be saved in terms of the newspapers and the media that, Yes, everybody was paid. I did what I thought I had to do, but in the final analysis the process took over and that is see why I wasn't able to maintain things as I promised that they would be maintained.

Those of us who are adults and sophisticated understand what's really going down here, and it's really O.K. It's O.K. It's part of the blue smoke and mirrors that is politics. Today the champion is us, the people of the state of New York; tomorrow the champion will be Carl McCall.

I vote yes because he will pay everybody tomorrow.

Thank you, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Waldon in the affirmative. Continue the roll.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT DeFRANCISCO: Please call the absentees.

THE SECRETARY: Senator Connor.

(Affirmative indication.)

THE SECRETARY: Senator Espada.

(There was no response.)

Senator Galiber.

SENATOR GALIBER: To explain my vote.

ACTING PRESIDENT DeFRANCISCO: Senator Galiber to explain his vote. I'm sorry.

SENATOR GALIBER: Yes, Mr. President. It's my understanding that part of this process is that in theory that staff, our

staff, will influence us and that's why they're not being paid. I had a meeting with my staff and they decided that someone had to stand up for all the staff here in Albany that is not getting paid. The unions are going to get paid one way or the other.

My vote is in the negative. The staff worked so very hard for us.

ACTING PRESIDENT DeFRANCISCO: Senator Galiber in the negative. Continue the roll.

THE SECRETARY: Senator Gonzalez.

(There was no response.)

Senator Goodman.

(There was no response.)

Senator Hoffmann.

(There was no response.)

ACTING PRESIDENT DeFRANCISCO: Results.

THE SECRETARY: Ayes 53, nays 4.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar 361, Senate 3958.

ACTING PRESIDENT DeFRANCISCO: The Secretary will read.

THE SECRETARY: Calendar Number 361, by the Committee on Rules, Senate Print 3958, an act making an appropriation for the support of government.

SENATOR SKELOS: Mr. President, is there a message of necessity and appropriation at the desk?

ACTING PRESIDENT DeFRANCISCO: Yes, there is.

SENATOR SKELOS: I move we accept.

ACTING PRESIDENT DeFRANCISCO: All in favor of accepting the message of necessity please signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

SENATOR SKELOS: Last section.

ACTING PRESIDENT DeFRANCISCO: Please read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

Senator Skelos -- excuse me.

Senator Stafford, why do you rise?

SENATOR STAFFORD: With Senator Skelos' permission, could I please remind the Finance members that we are in a meeting and come right back in, please. We have six nominees.

Thank you.

ACTING PRESIDENT DeFRANCISCO: There will be an immediate meeting of the Finance Committee in Room 332.

Senator -

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

ACTING PRESIDENT DeFRANCISCO: Senator Volker.

SENATOR VOLKER: Mr. President, with the permission of the Majority Leader, the Codes meeting that was -- excuse me -- scheduled for noon in 708 will be held at approximately 12:30 or as soon as the Finance meeting is done over here at the conference room. It will be in Room 708 and will be at 12:30 or as soon thereafter as we can do it after the Finance meeting is done.

ACTING PRESIDENT DeFRANCISCO: Codes Committee meeting in 708 immediately after the Finance Committee meeting or 12:30, whichever is earlier.

Senator Skelos.

SENATOR SKELOS: Would you recognize Senator Mendez?

ACTING PRESIDENT DeFRANCISCO: Okay. Senator Skelos yields to Senator Mendez.

SENATOR MENDEZ: Thank you.

There will be a Minority Conference at 1:00 o'clock.

ACTING PRESIDENT DeFRANCISCO: There will be a Minority Conference at 1:00 p.m.

Senator Cook.

SENATOR COOK: Mr. President, we will be having an Education Committee meeting at 1:00 o'clock.

Mr. President, I think considering the fact the Minority has a conference, out of courtesy to them, we'll delay the Education Committee until later in the day. I'll call it off the floor.

ACTING PRESIDENT DeFRANCISCO: All right. The Education Committee will be called later in the day off the floor.

Senator Skelos.

SENATOR SKELOS: Yes, Mr. President. A reminder that there is a Finance Committee meeting now, that Codes will follow them in Senator Volker's conference room in the LOB and the Senate will stand in recess until

1:30 p.m. sharp.

ACTING PRESIDENT DeFRANCISCO: Senator Seward -- okay.

The Senate is in recess until 1:30 p.m. sharp.

(Whereupon, at 12:11 p.m., the Senate recessed.)

(The Senate reconvened at 2:00 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order.

The Chair recognizes Senator Skelos.

SENATOR SKELOS: Yes, Mr. President. Is there a Resolution Calendar?

ACTING PRESIDENT KUHL: There is a Resolution Calendar.

SENATOR SKELOS: I move that we adopt the Resolution Calendar in its entirety.

ACTING PRESIDENT KUHL: The motion is to adopt the Resolution Calendar. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Yes, Mr. President. At this time may we return to reports of standing committees and, I believe there's a Finance Committee report at the desk.

ACTING PRESIDENT KUHL: We will return to reports of standing committees. The Secretary will read the Finance report.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: John A. Johnson of Buffalo, Director of the Division For Youth.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Would you please recognize Senator Stafford.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Stafford.

SENATOR STAFFORD: Thank you, Mr.

President.

We have a very fine nominee. We were all most impressed and I have the pleasure to yield to some fine Senators. I believe Senator Nozzolio first and we'll have some other Senators.

Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, my colleagues, I am very pleased to put forward for considera tion, for confirmation by this house as a report from the Senate Crime Victims, Crime and Corrections Committee and the Senate Children and Families Committee, along with the Senate Finance Committee, Governor's Pataki's nomination of John Johnson as Director for the New York State Division For Youth; that Mr. Johnson is extremely qualified in many diverse areas.

He has a great management con

sultant background, has worked for implementation of anti-drug and resident initiative action plans for the Department of Housing and Urban Development. He has worked with young people throughout his career in a variety of positions and comes extremely well recommended.

I think that before I yield to Senator Rath who would like to speak on this nomination, I would like to say that Mr. Johnson impressed our committee with his energy, his enthusiasm and his interest in working in a very difficult problem area in the criminal justice system, and that's with young people.

Mr. President, I would now like to yield to Senator Rath.

ACTING PRESIDENT KUHL: Senator Rath, excuse me for just an interruption.

The Chair recognizes Senator Cook for an announcement.

SENATOR COOK: Mr. President, I would like to announce the Education Committee will meet immediately in Room 124.

ACTING PRESIDENT KUHL: There

will be an immediate meeting of the Education Committee in Room 124, Room 124.

The Chair recognizes Senator Rath on the nomination.

SENATOR RATH: Thank you, Mr. President, my colleagues.

It gives me a great deal of pleasure to rise in support of the nomination of John Johnson for the position of Commissioner of the Department of Youth.

Many of the years that I was in the Erie County Legislature, John Johnson served as the Director of the Erie County Department of Youth Services and prior to that, he served as Director of the Erie County Department of Criminal Justice Services. I had many occasions to work with John and to know of the work that he was doing.

Some of the questions that were asked in the Finance Committee today dealt with what kinds of programs that such -- or was John going to be able to manage in relation to the kinds of resources that there were for him, and

resources to us usually transfers into dollars. Well, in Erie County we didn't have much more money than New York State has, and so - although the dollars are, of course, a great deal more here, comparatively, we worked out a very, very tight budget in Erie County, and John was well-known for the coalitions that he developed: Collaborative efforts with municipal youth bureaus, recreation departments, private not-for-profit agencies, United Way, Catholic Charities, Department of Social Services, on down the line.

John found a way to get the job done one way or another. If the dollars weren't in his budget to get it done, he went around the problem and went to one of the community agencies that was going to make it possible for him to get that job done for the young people that he had in his charge.

John focuses primarily on possibilities rather than on problems and he has a very forceful and, I would say, stern concern for how the young people in the facilities

behave.

He said this afternoon in the Finance Committee that the young people who had found themselves under the care of his department -- and in one of the facilities because they had been involved in gangs and that they expected those gangs were going to continue, through their time in the facility John was very clear that that's not going to be allowed and someone made it a simile to the bad apple spoiling all the barrel, John's comment was "We're not going to allow for that. The bad apples will be removed because the good young people who are trying to get a handle on their life and get a grip on what they're doing cannot be poisoned and spoiled by one or two very bad apples." As I said, I have a great deal of pleasure in rising in support of this nomination. I look forward to working with him.

And in conclusion, let me say that John worked with both sides of the aisle in Erie County. He'll work with both sides of the aisle here as well as everyone else out there in

the community. He's looking to go help the young people.

Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Saland on the nomination.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, I can't profess that I have known Mr. Johnson as long or as well as our colleague, Senator Rath. My contact with him has been of rather recent vintage, and I consider myself fortunate to have had the opportunity to meet with him, first privately and then in the course of a number of meetings in my capacity as the chairman of the Children and Families Committee and as recently as a few -- a couple of hours ago as a member of the Finance Committee, and I must tell you, he's impressed me as a very capable and dedicated individual, one who certainly appears to be rather bright and personable and with having said all of those wonderful things, I sort of question why he would want to be the head of DFY

given its somewhat rather troubled history over the course of the past several years, but I look to him as being a source of remedying some of the checkered events that have seemed to have plagued the Division for Youth over, as I said, some several years now. I think it's time for a new approach. I think it's time for a strong personality, one who, I believe, is both sensitive to the needs of our young people and yet, at the same time, understands that at times there will be the need to perhaps resort to means that the prior DFY officialdom would have looked askance at. Namely, there are those who have to be taken out of the population when their misconduct warrants it.

I wish him nothing but the best. I feel that we will have the opportunity to work well together and look forward to resolving some of the very same issues that I'm sure are number one on his agenda.

The Governor has made a superb appointment, and I think he will serve the people of the state of New York as well as he

has served in his various other capacities in the federal government and in Erie County government.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Nozzolio to close on the confirmation.

SENATOR NOZZOLIO: Thank you, Mr. President.

As was well stated by Senator Rath and Senator Saland, we have an excellent nominee here. I look to him to do great things with a very troubled society and a troubled agency in the sense that we need to, as Governor Pataki said, be firm enough, fair enough, strong enough, but ensure that we don't lose those children along the way in placing them in a setting -- in settings that would not be appropriate.

Mr. President, it's an honor for me to move the nomination of John Johnson.

ACTING PRESIDENT KUHL: The question is on the confirmation of John A. Johnson as Director of the Division For Youth.

All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is confirmed.

John Johnson, congratulations.

(Applause.)

And good luck.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, offers the following nomination: Charles A. Gargano, of New York City, member of the Port Authority of New York and New Jersey.

ACTING PRESIDENT KUHL: The Chair would recognize Senator Stafford on the nomination.

SENATOR STAFFORD: I would incorporate the remarks of the people on this side of the aisle when the ambassador was up for nomination for the office of -- or as the Commissioner/Director of the Department of Economic Development. He's a fine nominee.

He'll do an excellent job. I move his nomination.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Levy on the nomination.

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

Oh, I'm sorry, on the -- on the Kalikow nomination.

ACTING PRESIDENT KUHL: The question is on the nomination of Charles A. Gargano of Bay Shore to be a member of the Port Authority of New York and New Jersey. All those in favor of the nomination signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The confirmation is confirmed.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, offers the following nomination: Peter S. Kalikow, of New York City, member of the Port Authority of New

York and New Jersey.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Levy.

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

Briefly, because Peter Kalikow's name was before this Senate in late June to become a member of the MTA Board.

Let me say that the hopes of myself and so many others in this chamber that we were going to have a new breed of members of the MTA Board, types of leaders like Peter Kalikow who had a hands-on involvement in every phase of the operation of the MTA Board, were realized with his appointment and his going on the MTA Board because he has fulfilled that hope and that expectation. He has been involved in every single aspect of the operation of the MTA Board and we came to the very, very important issue of the merger of the Transit Authority Police Department into the New York City Police Department, though he and David Mack and other members of the board opposed the transfer of

that police department into the New York City Police Department -

ACTING PRESIDENT KUHL: Senator Levy, excuse me just a minute.

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, I'm very sorry to interrupt Senator Levy, but do we have a quorum here?

ACTING PRESIDENT KUHL: The Secretary informs me we do have a quorum, Senator Paterson.

SENATOR CONNOR: Request a quorum call. Ask for a quorum call.

SENATOR PATERSON: May we have a quorum call, Mr. President?

ACTING PRESIDENT KUHL: The clerk will call the roll.

THE SECRETARY: Senator Abate.

(There was no response.)

Senator Babbush.

(There was no response.)

Senator Bruno.

SENATOR BRUNO: Yes.
THE SECRETARY: Senator Connor.
(Affirmative indication.)
Senator Cook.
(There was no response.)
Senator DeFrancisco.
(There was no response.)
Senator DiCarlo.
SENATOR DiCARLO: Yes.
THE SECRETARY: Senator Dollinger.
(There was no response.)
Senator Espada.
SENATOR ESPADA: Here.
THE SECRETARY: Senator Farley.
SENATOR FARLEY: Here.
THE SECRETARY: Senator Galiber.
(There was no response.)
Senator Gold.
(There was no response.)
Senator Gonzalez.
(There was no response.)
Senator Goodman, excused.

Senator Hannon.
SENATOR HANNON: Here.
THE SECRETARY: Senator Hoblock.
SENATOR HOBLOCK: Here.
THE SECRETARY: Senator Hoffmann.
(There was no response.)
Senator Holland.
SENATOR HOLLAND: Yes.
THE SECRETARY: Senator Johnson.
(There was no response.)
Senator Jones.
(There was no response.)
Senator Kruger.
(There was no response.)
Senator Kuhl.
SENATOR KUHL: Present.
THE SECRETARY: Senator Lack.
(There was no response.)
Senator Larkin.
SENATOR LARKIN: Here.
THE SECRETARY: Senator LaValle.
(There was no response.)
Senator Leibell.

SENATOR LEIBELL: Here.
THE SECRETARY: Senator Leichter.
(There was no response.)
Senator Levy.
SENATOR LEVY: Present.
THE SECRETARY: Senator Libous.
(There was no response.)
Senator Maltese.
SENATOR MALTESE: Present.
THE SECRETARY: Senator Marcellino.
(There was no response.)
Senator Marchi.
SENATOR MARCHI: Here.
THE SECRETARY: Senator Markowitz.
(There was no response.)
Senator Maziarz.
SENATOR MAZIARZ: Here.
THE SECRETARY: Senator Mendez.
(There was no response.)
Senator Marcellino.
SENATOR MARCELLINO: Here.

THE SECRETARY: Senator Montgomery.

(There was no response.)

Senator Nanula.

(There was no response.)

Senator Nozzolio.

SENATOR NOZZOLIO: Present.

THE SECRETARY: Senator Onorato.

(There was no response.)

Senator Oppenheimer.

(There was no response.)

Senator Padavan.

SENATOR PADAVAN: Here.

THE SECRETARY: Senator Paterson.

(Affirmative indication.)

Senator Present.

SENATOR PRESENT: Here.

THE SECRETARY: Senator Rath.

SENATOR RATH: Here.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Here.

THE SECRETARY: Senator Santiago.

(There was no response.)

Senator Sears.
(There was no response.)
Senator Seward.
(There was no response.)
Senator Skelos.
SENATOR SKELOS: Here.
THE SECRETARY: Senator Smith.
(There was no response.)
Senator Solomon.
(There was no response.)
Senator Spano.
SENATOR SPANO: Present.
THE SECRETARY: Senator Stachowski.
(There was no response.)
Senator Stafford.
(There was no response.)
Senator Trunzo.
SENATOR TRUNZO: Here.
ACTING PRESIDENT KUHL: Senator Paterson, there are 31 members at that point that are present. The quorum is present.
Continue on the confirmation.

Senator Levy, you had the floor.

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

I was saying -- at the time that Senator Paterson asked for the quorum call, I was talking really about the job that Peter Kalikow did to ease the merger of the Transit Authority Police Department into the New York City Police Department, and I know that he is continuing to provide hands-on oversight to ensure on a continuing basis that the effort, the successful effort to combat violent and other crime in our subways and in our buses within the jurisdiction of the Transit Authority continues at the level of success that we have had in the past five years.

Peter Kalikow's hallmark and his tradition is one of being able to get people to work together and, as I said at the meeting of the Finance Committee, he reminds me so much - and I was an admirer of the job that was done by Dick Ravitch as the chair of the MTA and many, many of the qualities that Dick had that moved

that authority forward to really a high watermark of success that it had during Dick's tenure certainly have been demonstrated by Peter Kalikow.

Let me say, Mr. President, that we all know Peter Kalikow to be a successful business person. We are cognizant of the outstanding job that he did as the publisher of the New York Post, and I know that he will do a fine job as a member of the Port Authority, because there's a common thread between serving on the Port Authority, being involved and being a leader in transportation with the MTA and transportation on the regional New York, New York State, New York City and New Jersey bases that is the jurisdiction of the Port Authority.

The Governor is to be commended for this outstanding appointment, and it's my privilege, Mr. President, to move the confirmation of this nomination.

ACTING PRESIDENT KUHL: The question is on the confirmation.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: I just want to - I'm sorry. I was in a conference and I just wanted to get up to speed. We are now on the confirmation of Mr. Kalikow, is that it?

ACTING PRESIDENT KUHL: That's correct, Senator Gold.

SENATOR GOLD: Yeah. I would like to speak on this.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Gold on the confirmation.

SENATOR GOLD: In discussing the confirmation, I want to, first of all, address my comments directly to Mr. Kalikow.

Mr. Kalikow, you, fortunately or unfortunately, have spent most of your life in the business world where time is money, where decisions are always important, where time is always important and unfortunately for you today, there's a process under way which, by the way, will end, I think, with your successful confirmation because you deserve that, but you

are unfortunately in the midst of something which is a little different than the business world.

So I would say to you that, for the time being, if you just sit back and relax. There's no doubt in my mind based upon your resume and your work in the community that you will be confirmed, but it just might not happen in a minute or maybe a few minutes or maybe an hour.

Peter S. Kalikow is an individual who really has lived a -- not only an interest ing life, but a life which is very admirable in many, many ways. Lives in Manhattan, lost to Queens -- you should be in Queens, good place - and we're being asked today to confirm him to the Port of New York and New Jersey Authority, a job, by the way, which the Governor has given code POT-1177. His work number, I won't give you, because I assume if he goes to the Port Authority, there might be a different number for some of that time.

The gentleman whose place he is

taking is a former state Senator, someone I had the honor of serving with, Basil Paterson. I think some of you may remember him, a very, very distinguished colleague, and I can understand that the Governor would want to put in people who the Governor chose but, in all candor and with no disrespect to Mr. Kalikow at all, I think Basil Paterson was doing a terrific job. I think he did a terrific job while he was a member of the Senate. I'm trying to remember exactly which seat he sat in, but I don't remember.

This appointment, I guess, comes under Section 6405 of the Unconsolidated Laws which is, of course, very important. I don't know whether the record has really set out the history of Mr. Kalikow. I know that Senator Levy has said some very nice things from the heart, and I know Senator Levy knows Mr. Kalikow and those remarks are very important, but I want to make sure we don't miss anything.

Peter S. Kalikow has been the president of H. -- God bless you -- H.J. Kalikow

& Co., Inc., one of New York City's leading real estate companies for 21 years. Currently a board member of the Metropolitan Transit Authority, Mr. Kalikow is a former owner and publisher of the New York Post -- but I may vote for you anyway -- a major award winning daily city pap... I didn't write this. This is what is in the resume ...which he purchased in 1988 and sold recently.

Mr. Kalikow began his career in real estate in 1967 and became president of H.J. Kalikow Co., Inc., in 1977 -- I guess that's about six years later -- upon the election of his father, Harold J. Kalikow, as chairman of the board. I assume that's chairman of the board of H.J. Kalikow & Co.

Following his father's passing in 1982, Mr. Kalikow assumed the responsibility of all the Kalikow holdings, and I might put in at this point that that's a very huge responsi bility, and certainly very time consuming and educational and admirable.

Peter Kalikow -- and I guess

that's the same as Peter S. Kalikow, which is what they said in the first paragraph -- is the third generation to preside over the family's real estate companies. For over 75 years, the company has been widely recognized for its precision, organization and professional operation. Its products are buildings which are widely architecturally dramatic in appearance, yet efficient in operation and function.

Mr. Kalikow is an active partici pant in every major real estate association and has served as director of many organizations. He is also extremely active in civic affairs and numerous religious and philanthropic efforts. Many awards attest to his efforts, generosity and participation in these causes, and I'm going to get to that in a while and that is not an overstatement. I mean, this man and his family have done some wonderful, wonderful things of a philanthropic nature, and I'm going to discuss those. What a lot of people have the wherewithal and the capacity to do and they don't do, Peter Kalikow does, and I'm proud of

him for that.

In his industry, Mr. Kalikow was co-chair of the Board of Governors of the association -- Associated Builders and owners of the Greater New York which gave him the Young Master Builder Award in 1980 and the Golden Circle Award in 1981. In addition, Mr. Kalikow serves as director of the Rent Stabilization Association, the Real Estate Board of New York and the Realty Foundation of New York.

In his philanthropic efforts, Peter Kalikow is a governor of the New York Hospital-Cornell Medical Center, as well as the chairman of its pediatric development com mittee. His efforts and personal contributions established the new out-patient pediatric and ambulatory care center named in honor of his parents, Harold and Juliet Kalikow, at the New York Hospital-Cornell Medical Center.

Mr. Kalikow is a member of the Society of Fellows for the National Jewish Hospital Research Center in Denver. He continues to serve on the board of directors of

the Jewish National Fund and is also on the New York Holocaust Memorial Commission.

And, by the way, Mr. Kalikow, as you look down on this chamber, you should take some pride in the fact that about a year ago, we passed my law which now mandates that the holocaust and the evils of genocide and slavery are now taught it every school in this state, and New York is -- I think became the fifth or sixth in line nationally to do that.

I have to divert for a minute. I know that you were drawn into a business that your family had been in. I don't know whether many people know this story, but since we have time, I know you're going to want to hear it.

I have a daughter -- the Lord only gave me one, but I adore her, and she has been in the press business, so to speak, free-lance writer for a music magazine and, lo and behold, about some time last year she decided to get involved in politics. Where that came from, I don't know, but she has been the press person for a California assemblyman by the

name of Richard Katz -- no, no, she's smarter than that -- and apparently Richard Katz was the sponsor of the California law and, in a conversation with my daughter, she says, "Dad, I don't -- you paid for my education. You helped along the way. I ought to give you something in return", and she gave me this wonderful idea of Richard Katz that we ought to be teaching the holocaust in the schools. So we brought it to New York, and with the help of everyone in this chamber and Governor Pataki who was a Senator and, as everybody knows, a lot of my colleagues on the other side of the aisle do not like to vote for mandates, particularly in the educational field, and with my great gratitude and certainly to the honor and respect of my colleagues, they felt that this was one area where a mandate made sense. And so the law that Assemblyman Katz passed in California, and which had previously been voted on in the state of Illinois, was voted on here and we joined New Jersey and Florida to make it the law. I thought you would be interested because of your

work with the Holocaust Memorial Commission.

Mr. Kalikow is also a founder of the Long Island Jewish Hillside Medical Center and the Albert Einstein College of Medicine of Yeshiva University.

In 1976, Mr. Kalikow and his father were honored as Man of the Year by the UJA Federation as a tribute to their hard work. In 1979, they were given the Norman Tishman Award by the Anti-defamation League of the B'nai B'rith, a very extraordinary organization which, by the way, helps everybody. I think the work of ADL in contributing to our society is just very important and very extraordinary. Anti Semitism and hatred are not only in other parts of the world, unfortunately; we do have those problems here, and I'm told, Mr. Kalikow, that I ought to read faster. At any rate, I could go on and on, and I'm told it's now unnecessary.

So with that, Mr. President, I want to tell you that I do admire Mr. Kalikow. I appreciate your patience, sir. You are - running a business as you do, you are certainly

smart enough to know what is going on here, and I appreciate your patience.

With that, Mr. President, I would just suggest it's a good nomination. I'm going to vote for it.

ACTING PRESIDENT KUHL: The question is on the confirmation of Peter S. Kalikow of New York City as a member of the Port Authority of New York and New Jersey. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is confirmed.

Peter Kalikow who is with us today, congratulations. Good luck in your appointment, sir.

(Applause.)

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Peter W. Delaney of Peekskill, Commissioner of General Services.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Stafford.

SENATOR STAFFORD: Thank you, Mr. President.

It is a pleasure to yield to Senator Leibell for this very fine nomination.

Senator Leibell.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President.

I'm very pleased to once again have the opportunity to rise on a nomination that has been submitted to us by our governor, George Pataki, for our consideration and support.

Over the last few weeks, we have seen the Governor submit to us, and as was exhibited here already today, so many well qualified men and women who are coming forward and giving of themselves to join us in the public sector.

I'm very pleased today to have

the opportunity to speak on behalf of Peter Delaney who's been nominated by the Governor to what is certainly one of our most critical and important positions, that of Commissioner of our Office of General Services.

This is a particularly critical and important position as we, like the rest of the nation, talk about -- we talk about stream lining and changing government.

We are talking about a department that has, I think it's fair to say, absolutely huge responsibilities and handles a great deal of the public's money.

We're very fortunate that, with Peter Delaney, we have someone who is before us today who comes with a combination, the sort of combination that the Governor has been seeking in some many of these nominations, a combination of both public and private experience.

Although I have had the good fortune to know Peter Delaney for many years, I, quite frankly, until I had the chance to chat with him and see his resume, was not aware of

exactly how involved he has been.

He has been involved, of course, with many civic and community groups which identifies him as someone who is more than a private and public servant, but someone who cares greatly in all aspects about the communities in which he has lived.

But in the private sector he has been a successful businessman, someone who is intimately involved with the role of an entrepreneur and, in particular, such businesses as real estate and marketing. Beyond that, he also brings to us a very, very extensive resume. In fact, it would be hard to think of anyone who could have a resume more suited for a particular position than this nominee does.

He has served as administrator of the Westchester County Department of General Services where he has been responsible for directing and managing all the divisions and functions of that very large department, including their bureau of purchase and supplies, information systems, electronic data processing,

telecommunications, building management, leasing, automotive services and fleet management and radio communication; responsible for directing there a staff of approximately 300 people with an annual operating budget in excess of $50 million and a capital budget of $100 million. That's exactly the sort of qualifications we're looking for for this position.

He has served as general manager of the Westchester County Center. For those of my colleagues who are from Westchester County, you would, of course, be aware of this facility. It is a large facility that dominates the public life of our county. There he's been responsible for the managment and administration of that facility.

He has served also as -- in the Westchester County Executive's Office as assistant to the County Executive and also in the Westchester County Office of Economic Development where he was an economic development specialist and program administrator.

We are very fortunate to have Peter Delaney here before us today. As I noted, I have had the good fortune to know him and to be someone who has admired his work throughout his years in public and private service -- both sectors.

Mr. President, I have great honor to move today the nomination of Peter Delaney.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Farley on the nomination.

SENATOR FARLEY: Thank you, Mr. President.

I'm pleased to get up to second the nomination of Peter Delaney for Commissioner of OGS and to congratulate the Governor on this appointment.

You know, this is one of the more difficult jobs in state government, one that affects my district particularly, and Senator Hoblock's. Peter Delaney is eminently qualified. I think we can all attest to that, and we're very fortunate to have somebody that is willing to serve New York State with his

background.

I'm pleased to second this nomination and to wish him well, and we've had some great commissioners in this office and I'm confident that Peter Delaney will be one of the best that's ever served as Commissioner of OGS.

I wish you well, Peter.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Nozzolio on the nomination.

SENATOR NOZZOLIO: Thank you, Mr. President.

I rise as my colleagues have to support this nomination and echo the comments particularly of Senator Leibell. I believe this is an excellent appointment and that I remain continually impressed with Mr. Delaney's interest and activity in making New York State government more cost-effective and more efficient.

I'd share with my colleagues already his approach to looking at the way the state has been doing its business and saying, yes, as every family has had to find more

economies of scale, have had to show how each expenditure needs to be stretched. This gentleman -- this appointment in Mr. Delaney is an excellent example of how we can do things better.

I was extremely pleased with, before he even got on the job, his attention to looking at ways that we could move some of state services that had heretofore been sacrosanct as only provided by the state to look to the potentials to privatize some of those entities to save the taxpayers money and put more to work in the private sector than in the public sector.

I applaud the Governor's nomination. I think it's an excellent, excellent opportunity that we will see great things from this commissioner and I applaud his appointment and urge his confirmation.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Leichter on the confirmation.

SENATOR LEICHTER: Mr. President, we've had a tradition in the Office of General Service of having highly qualified commissioners

who run the agency in a very non-partisan way, and I'm thinking of John Egan, one of the superior public officials that I've ever met, also John Hudacs, most recently General Adams. I've had an opportunity to look into some of the background into Mr. Delaney. I've had a chance to ask him some questions and, frankly, I have have confidence that Mr. Delaney, in background and outlook and approach in what he has done so far, is going to carry on that non-partisan tradition of service to all the people of the state of New York, to run what is essentially a housekeeping operation rather than to run what is a political operation.

Mr. Delaney, as you've heard, was the Commissioner of General Services for the county of Westchester. There was quite a bit of controversy about his functioning in that -- in that position. There were a number of things that came up which gave a lot of concern to county legislators of both parties, and he was severely criticized for some of the things that he did.

One of them, which has particular relevance to us, was the leasing of some property in a building that had been abandoned, entering into a lease in such a way -- a structure so that at least initially he avoided the approval of the county legislature which, apparently, was inclined not to give that approval. So instead of making the lease for the full term that was really intended, he made it a five-year term with three five-year renewals and then moved a number of state - county employees into that facility. There's a dispute as to whether that saved money for the county or increased the cost to the county. A number of people think that it increased the cost to the county, but I think it has special relevance because we now see that same situation developing, not a perfect parallel, but there are certainly some similarities in the acquisition of the buildings of IBM, moving state employees down into those facilities.

As you know, questions have been raised about whether there are environmental

hazards. Questions have been raised about whether this is cost-effective. That, to me, indicates a somewhat insensitivity to what I would like to think would be the emphasis on the public benefit rather than maybe some political advantage.

Also questions were raised about the very large increase in the space that was leased and purchased by Westchester County while Mr. Delaney was a Commissioner of General Services.

Now, let me say in fairness to him and his answer to me when I raised that issue with him was that there had been a significant increase in the Westchester County work force in the early '80s, and that when he came in, there was just a strong need for additional space to accommodate workers that had already been hired, but the figures show that in 1985, the county owned or leased 437,000 square feet of office space for 4,809 workers. By 1994, it had 978,000 square feet, more than doubled, while the work force had grown by only

a couple of hundred workers during that period.

What I'm most concerned about, though, is that Mr. Delaney, while he was Commissioner of General Services -- or I should specify after having been Commissioner of General Services and having taken a leave of absence to run the campaign of the county executive, was involved in soliciting or at least in speaking to people about campaign contributions, people who had leased office space to the county of Westchester and had negotiated that with Mr. Delaney.

A New York Times article referred to the fact that he has been criticized for awarding lucrative leases to Republican contributors. His answer to the question when I asked him whether that was so certainly did not satisfy me that it was not.

I don't think it's efficient for somebody who is a commissioner, who is in a position to purchase goods or enter in the leases or buy property to say, "Yeah, I solicited but at that time I had taken a leave

of absence." I just don't think that's satisfactory.

I asked him whether he would abstain from fund-raising as the Commissioner of General Services of the state of New York. He refused to say that he would do so; made it very clear that he felt that he could still go out and raise money. I just think that's a terrible mistake.

This office with its potential for pressuring people or making people feel that they need to contribute has to be run in a completely non-partisan manner, and just as I was very concerned with Mr. Gargano's refusal when I asked him the same question considering his position in the Urban Development Corporation, that he would issue fund-raising, neither would Mr. Delaney and, from my mind, that affects his fitness for this particular office.

I will also point out that we've seen a number of people hired by the Office of General Services who seem to have been hired

primarily for their political background, and I must tell you that my impression is of this administration, when you take a look at their hiring, when you take a look at who's been put in particular positions, that it is highly partisan, highly political, highly geared to the potential of fund-raising for campaigns, certainly not, I think, what we would expect and, frankly, what I -- I know the people of the state of New York would like to see that -- a government that is run solely with the interests of the people in mind and not for political advantage or gain.

So I'm going to oppose this nomination. I just don't feel comfortable that Mr. Delaney has made those commitments to how he's going to run this operation that can give us the sense of security and comfort that he will carry on the tradition of OGS that I referred to.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Larkin on the confirmation.

SENATOR LARKIN: Mr. President, I

rise to support the nomination of Peter Delaney as the Commissioner of the Office of General Services.

I take issue with some of my colleagues that would like to stand here today and start to nitpick and find all of the things that, for some reason or other, they don't want to support the nomination. You know, it's a tough job.

I remember when we stood here and nominated General Bob Adams, some people on the other side of the aisle even said, "What does he know about the Office of General Services; he's only been a General." What does Peter Delaney know about being in the Office of General Services? He's been there. It's a tough job. That's why the Governor picked a tough man to do it. You know, they make the most of a little insignificant -- somebody took a leave of absence. I remember issues right here in this house and in the other house and on the second floor, Franz, where they took leaves of absence. I never saw headlines about what was

wrong or what was right.

We've got an individual who's been given a task to take this operation and make it the best at the least cost to the taxpayers of this state, and he's going to do it.

We saw earlier here a member of the opposition put a stalling tactic so we could get members in this chamber so they could harass the nominee, and that's exactly what it's going to be.

But time and time again, you scratch and scratch. You don't look at the qualifications. How bad can we make him look in the eyes of somebody in the media that's upstairs; never taken the opportunity to look at the accomplishments.

You know, I think it's a cheap shot that, for 20 years, you people have had the second floor and had the grandiose opportunities of hiring and firing who you wanted, and now we have a new administration that's hiring people qualified, totally committed and are willing to

tackle the tough jobs. You're not interested in that. That doesn't make headlines. What makes headlines is when you can try to get up and chop them down.

I want to tell you, I thank Peter for accepting the challenge and I look forward to working with him and the people of the state of New York will be a lot better off with Commissioner Delaney.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Hoblock on the confirmation.

SENATOR HOBLOCK: Thank you, Mr. President.

I rise as well in support of this nomination. As has been said by so many, this is not an easy job, Commissioner of the Office of General Services. It's a big responsibility.

I have not known Mr. Delaney that long, but in the few weeks that we have been dealing with one another, I found him to be not only receptive, but qualified in many of the areas which he's going to administer over the next three and a half years.

I look forward to -- because we have a number of issues that concern my district as well as other districts throughout this state and, although Mr. Delaney and I may have some disagreement, I think that his professionalism and attitude in coming to the table and trying to work through many of these issues are going to benefit all of us, and I look forward to continuing that dialogue and making sure that we resolve these issues for the best interests of all.

So I support this nomination. I applaud the Governor on his choice and I look forward to working with the commissioner to ensure that we do what is best.

Thank you, Commissioner.

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

SENATOR DOLLINGER: Thank you, Mr. President.

I didn't have an opportunity to be at the Finance Committee. I talked with a couple of my colleagues that have, and I rise

because I'm going to vote against Mr. Delaney, and I want to respond to Senator Larkin and perhaps explain why.

I won't deny that Mr. Delaney has been in the chair of running the Office of General Services in one of our largest counties in this state. What bothers me is not whether he's done it, but the question of what judgment he's exercised with that, and only one issue concerns me, only one, and I've asked Senator Leichter who was at the Finance Committee, apparently asked Mr. Delaney about the issue of whether or not when he was doing the property leasing, the five-year -- the three five-year leases to avoid the legislative approval, what Mr. Delaney's response was.

The New York Times article that I'm referring to says, "Mr. Delaney acknowledged that he had tried to avoid a vote by the Legislature on the leases", and that's what bothers me most, is that we're now about to appoint someone to OGS who proudly acknowledges, "Quite frankly, we were trying to get things

done", he said. "We knew we needed 12 votes to pass the leases. Quite frankly, we weren't sure we would have it."

Under those circumstances, what he did is he basically went around the back of the Legislature and I don't know how we in the Senate could have someone who's going to work for OGS who has in his -- exercise of his judgment decided that he would go around the Legislature. I would note at least again based upon the New York Times article and based on what I've heard from the Finance Committee, that both Republicans and Democrats in Westchester County criticized him for doing that, and it seems to me that one of the issues we can do is look at the judgment that people exercise in positions.

They may have qualifications. They may have dealt with the numbers. They may have dealt with the information, but the question is, what kind of judgment did they exhibit? And I don't think it's a cheap shot to question someone who's going to be in charge of

OGS having exercised judgment on a prior occasion when the consequence of that judgment was to avoid the elected representatives who are charged with the responsibility for determining where the people's money is spent.

I'm troubled by the fact that someone would have appeared to crow about the fact that he found a way around legislative approval. That bothers me. I think that's, in my judgment, an exercise of judgment on the part of Mr. Delaney that is -- raises a question about his fitness for this office, and I don't believe that we, who believe that this Legislature should have the final say on that spending, should confirm someone who has already acknowledged that he was able to get around the Westchester County Legislature when it came to leasing properties.

I would only point out with respect to Senator Leichter's comment that the newspaper article that I'm relying on which does talk about the leasing of those buildings talks about a pattern that seems to have some

familiarity to the IBM deal that we discussed earlier in this session, and that's the issue of whether or not the deal that was made for IBM is available to everybody or whether there was some kind of cozy relationship between IBM, Mr. Delaney and this administration. I won't comment about that. I don't know about that, but certainly what I can read in this newspaper article suggests that what happened with respect to the leasing in Westchester County bears some resemblance to what's happened to IBM.

However, while that raises a question in my mind, from my point of view, the exercise of judgment in avoiding legislative approval for the spending of taxpayer funds is a reason to vote against Mr. Delaney, and I will do so on that basis.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Libous on the confirmation.

SENATOR LIBOUS: Thank you, Mr. President.

I, too, rise to support the confirmation of Peter Delaney, and the last few

confimations, I guess, since January 1st in this chamber, I find quite interesting. It's kind of like a political campaign.

We refer to newspaper articles and we try to reinterpret them as we often do in mail literature or maybe in a television ad, but I have to say in all due respect -- and I do have respect for both Senator Leichter and Senator Dollinger, Mr. President -- that if the rules have changed here after 20 years, I didn't get a copy of a new rule book, and I would like one.

You know, these are political appointments, there's no question about it, but in the case of Peter Delaney, you are looking at an individual who is qualified, an individual that's going to take the Office of General Services and bring it into the 21st Century with technology.

You know, the word was mentioned as "care taker" and, in my opinion, that's what OGS has been, under the former administrators, nothing but a care taker agency, one where their

computer operations are something that, I think we would all be embarrassed to look at because in some cases it doesn't exist.

When we took at the technology - and, you know, Senator Dollinger, you mentioned in the article, Mr. President, that the commis sioner made a decision without going through elected officials. In the first six years I served here, every commissioner that served never called me before they made a decision, so they avoided the elected officials in this chamber, at least on this side of the aisle for the last six years.

We have an opportunity to take the Office of General Services and bring it into the 21st Century with an individual who is qualified, who's intelligent. He's articulate, and he brings the management style that this state needs, a management style that is going to turn this state around, and it's something that we have been lacking and it's something that's quite obvious as we look through the various departments in this state.

Mr. President, I think that after the hearings that took place last week, I know that I spoke to both Republicans and Democrats, both sides of the aisle, some who at one point were very concerned, very upset with Mr. Delaney. Once that hearing was over, I heard conversations from both sides of the aisle that this guy knows what he's doing. This guy's got a handle on what's going on and this guy is going to take this state and the office of OGS into the 21st Century.

Mr. President, it is without hesitation and with great pride I second the nomination.

ACTING PRESIDENT KUHL: Senator Velella.

SENATOR VELELLA: Mr. President, I can understand how some of my colleagues, looking from the West Side of Manhattan up toward Westchester County or looking from Rochester down toward Westchester County, might misunderstand what was going on in Westchester County.

Let me explain to you that, while you were looking down from Rochester and trying to evaluate what happened while you weren't in Westchester County and while you were trying to evaluate what was happening in Senate Finance while you were in your committee -- in your party caucus, you got a wrong message from Senator Leichter.

The response was not "I went around the Legislature." The response was "On three different renewals, the Legislature had to vote and pass on the propriety of that lease." So there was a vote and it did have to be submitted to the Legislature and that's what the candidate had indicated, but that's not important because it seems to me that every time somebody comes up for confirmation who may have played a part in somebody's campaign that happened to have been a Republican, the rhetoric on that side of the aisle goes up and we start talking about campaign contributions, and we start talking about how much money they raised for a candidate.

You know, Mario Cuomo was no slouch when it came to that. His commissioners did a pretty good job and I commend them, as long as they didn't break the law. If you want to change that process, put in a bill and change the law. If you want to go to public financing, fine. Put the bill in, let it be decided by both houses and if it flies, great, but let's not try to give people who have worked hard, who have earned the great reputation in government, bad names because they followed the law and they're doing something that is perfectly legal, perfectly ethical and perfectly proper. If somebody was in a position and they made a contribution, fine.

Mr. Delaney went through a very meticulous explanation of how he left office, took a leave of absence; worked as a campaign manager. There are people in this house, and there is evidence of members in this house who haven't gone through those very careful considerations. There have been some very serious problems with members in-house that I

need not mention about people working on campaigns while they're still on public payrolls, not Mr. Delaney. He didn't go on the public payroll. He got off the public payroll. He did take a position as a campaign manager and he did keep the law and he did not break or violate any ethical standards. All of this innuendo is something that is not worthy of the Senate. These are cheap shots. They don't deserve to be made in this chamber.

I vote in the affirmative.

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

SENATOR WRIGHT: Mr. President, I rise to second the nomination also of Mr. Delaney, and I reflect that I might, in fact, have a county government bias, having also spent my time managing county government, but I think Commissioner Delaney is going to bring us from that county experience some of the management capabilities that our state agencies so desperately need. He's going to bring us a work ethic that's inherent and necessary to changing

the directions of these agencies.

He's going to, I believe, epitomize what we've been talking about since January, and that's a smaller, more efficient, more effective state government.

We're already seeing it. He takes a very hands-on approach to how he's managing that agency. He's starting to consolidate. He's unified and consolidated administrative positions, taking two and three units and putting them together under one individual. I think those are all steps in the right direction in terms of changing how we're going to govern our state agencies, how they're going to service us in the direction that we're going to take.

He's also demonstrated he's willing to make the hard decisions, the tough choices that we all have to face. I think perhaps some of those -- those of us who are serving in this Legislature to learn from Mr. Delaney's choice in making those hard decisions in moving ahead.

I think it sets an example for what we expect out of this administration. He brings us credentials to this job. I think the Governor should be recognized in Mr. Delaney for moving ahead in OGS.

As a result, I vote aye.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Gold on the confirmation.

SENATOR GOLD: Thank you.

Mr. President, I just want to clear one situation. Senator Velella is a real pro and I don't know whether he's teaching Skelos or Skelos is teaching him; it doesn't matter but it's interesting, whenever there's an issue raised on an individual with specificity dealing with their conduct in another office and the issue of what they will do in office, you people yell and scream about things which have nothing to do with anything and it's all political, and what I think you do is you add credibility to the situation.

We, on this side, are in the same position that you have been in the past.

There's a Governor who we did not vote for, but who is the Governor, and entitled to that respect, and we have voted time and time again, to confirm people who are ardent Republican operatives, to positions, and they had a right to be ardent Republican operatives, and if they're qualified, they're entitled to that position.

Now, the bottom line is that in those few circumstances where there have been problems, the problems have not been of the nature of their campaign involvement, although Senator Leichter has pointed out that, in his opinion, maybe we should change the law, and when Senator Velella says, "Put in a bill", Senator, the bills are in. You people won't put them out. The macho Republicans in this house have such problems with their own ego that they think that if they take a Democratic bill some place, it is somehow diminishing them in the legislative process. I think it's an absurd attitude but you people seem to get your kicks that way.

What can I tell you? We certainly have put them -- the bills in. Senator Leichter has certainly put them in, but the bottom line is that there are nominees today - I cannot believe that Peter Kalikow has not put up significant money for your party and, from my point of view, that's okay. He's qualified for the job, and I don't have a problem supporting him.

There have been other people. There's a Mr. Johnson today. I looked at his resume and, from my point of view, I don't think the man's background has been under Democrats. It's been under Republicans, and I find him to be very well qualified, and I have to assume that in his politics, he's worked very, very hard for Republicans. That just isn't the issue.

The issues that were raised by Senator Dollinger and and the issues that were raised principally by Senator Leichter deal with their reactions to Mr. Delaney's work in public life, and whether you agree with it or not, they

are certainly entitled and, you know, I keep seeing in my own mind a Republican majority in the United States Senate in Washington going through these resumes if they came down from Bill Clinton and these people being destroyed because that's what the junior, whatever he is from New York, would do and that's what some of the others would do and they would say, "Wait, this isn't party politics. We are now the representatives of the people." But you people won't do it because -- what's the expression, lockstep, somebody keeps saying; you're so in lockstep? So if somebody raising an issue with an individual, let's stop the nonsense because -- and accuse those members on our side who raise those issues of playing politics. It has nothing to do with politics.

Governor Pataki has offered us some very fine nominees, and those nominees are being congratulated by my side of the aisle as well as your side of the aisle, but we are allowed to have disagreements without this gibberish about the politics, and there were

situations on our side -- because I want to tell you something, if you ever opened up the books, which you have been afraid to do for years, we would really find out where the millions and millions of dollars of taxpayer money went down the drain in your campaigns.

So, yes, there was a public situation; we all know about it, but I'm prepared to have a public debate and have you open the books for the last seven years.

Now, let's stop that. Mr. Delaney comes before us with experience, and you may admire that experience and some other people may question it, and that's all that this debate is really about.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Spano to close.

SENATOR SPANO: Thank you, Mr. President.

You know, when you look at Pete Delaney and you try to get a phrase to describe him and you talk to the people in Westchester County who have worked with him and for him and

the people he's worked for, they will tell you that he's a guy who just knows how to get things done.

And I recognize that he has taken the position as Commissioner of General Services for the state of New York. He's taken a $6,000 pay cut, by the way. We still haven't figured out why he wants to do that and come up here and put up with us and take this abuse and make $6,000 less a year, but he's a real brass tacks guy, and if you talk to the county executive of Westchester County, when there came a time when there may have been a problem in Westchester County government, it was Pete Delaney who was dispatched to handle that problem.

When the county's premiere entertainment facility, the county center, when things were lacking in terms of a reconstruction of that program, it was Pete Delaney who was sent there and put it together, and he has been credited for his work in moving that entertainment center on track as they underwent some major renovations.

To give you an idea of just to what level of detail he'll go to, when they had the opening night and they had Liza Minnelli there, he had everything planned. He had everything in place, including the -- which color M & Ms that Liza Minnelli wanted in her dressing room, and that tells you the level of detail that he goes to. He's a guy who detests the bureaucracy. He hates red tape, who feels that he wants to take the Office of General Services and move it forward and has appointed quality managers to work as members of his team.

He has answered the questions that were raised by Senator Leichter with respect to contracts in Westchester County. He answered those questions very well during the Finance hearings. Those are all questions that have been on the public record, have been debated, not only in the county Legislature, but in the newspapers as well, and when you look at all of the record, both his personal record, his work record as a member of a very strong family with roots in Westchester County -- and I -

Senator Leichter, while you remainuncomfort able, I am very comfortable in supporting the nomination of Peter Delaney as the office - Commissioner of the Office of General Services, say that I commend the Governor for sending someone to us who understands the system; who has served as a commissioner; who has put together the type of innovative ways to streamline county government and keep our costs down as he has done in Westchester County; and it's my pleasure, in addition to all of that, to call him a friend.

Mr. President, I move the nomination.

ACTING PRESIDENT KUHL: The question is on the confirmation of Peter W. Delaney of Peekskill as Commissioner of General Services. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

SENATOR STAFFORD: Mr. President,

I would just explain my vote very briefly. After yielding to all these fine people who have said so many good things, I have to say, I just want to make it very clear so there isn't any question, I'm not being critical, just factual.

Please don't tell me that the commissioners in the previous administration were not involved in the political process. They were and, as a matter of fact, if they aren't, I suspect there's something -- something wrong.

Now, about avoiding the Legislature, Senator, this is an example of one man's floor being another man's ceiling. That's what an old farmer told me up in the Canadian border. In other words, we look at things differently.

You can look at it but you kept it out of politics. You had the lease, it could be renewed, but it didn't have to get involved in politics. It was a business venture, and they saved money doing it.

And finally, I would only say

this, that when we can get a professional such as Peter Delaney as has been stated so well by Senator Spano and all, we are indeed most fortunate.

Thank you, Mr. President.

SENATOR LACK: Mr. President.

ACTING PRESIDENT KUHL: Senator Lack.

SENATOR LACK: I, too, rise to explain my vote, Mr. President. Not only am I happy to vote for Commissioner Delaney this afternoon but, Senator Gold, I want to thank you because you have taught me a political lesson this afternoon, and that is that in my 17 sessions here, I realize, not you all but it's we who have made a mistake for these 17 years, and that is all the time that I was here under Governors Carey and Cuomo when all these appointments came through that I thought that we had the responsibility when we, the Senate Majority, the Republicans, put that nominee on the floor to support that nominee and, indeed, we did, and the Governor sent it down.

I didn't realize 'til I learned the political lesson you taught me this afternoon that, what I should have been doing for these 17 sessions, as you have, is I should have been playing politics. I should have been standing up and finding every innuendo and twist that I could make with respect to somebody's character and standing up and complaining about it on the floor so I could show that I was in the responsible Minority when there was a Democratic governor.

I'm proud, Mr. President, to vote for Commissioner Delaney and I thank Senator Gold for the political lesson I learned.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold to explain his vote.

SENATOR GOLD: You couldn't leave me alone. I was minding my own business.

Senator Lack, the political lesson I'm trying to give you is that we have a responsibility not to the party but to the people, and I'm shocked -- shocked, Senator

Lack, to learn from you today that you believe in your recollection that Governor Cuomo was sending us people for appointment with resumes that had federal corruption investigations - and, by the way, this is not Mr. Delaney, I'm sorry -- but federal corruption investigations, partners who are being indicted that they didn't know about, et cetera, et cetera, and you guys just close your eyes to that? Baloney, you closed your eyes to that! You didn't see it, and if you think that your concept of party loyalty means that you have to shut your eyes to questions of corruption and wrongdoing in people's background in public life, then I'm telling you and my political final words to you, Senator Lack, you don't know what you're talking about, and the truth is you wouldn't do it, because I know you and you're an honest, honorable man and if, in fact, those items were in resumes, Senator Lack, you would have been doing what you think is right.

And the last thing I'll say is just a reminder, I've told you this before.

When I first came to this Senate in the early 1600s, Nelson Rockefeller was the governor and I suggested, you know, guys and gals, in the United States Senate, they do confirmations. They take it very seriously. We ought to investigate or whatever, and you fellows and gals at that time said to me, "Don't worry about it. Don't worry about it", and then lo and behold Hugh Carey got elected and some of you came over to me and said, "You know that old idea you had of real investigations? It makes sense."

Thank you. I vote maybe.

ACTING PRESIDENT KUHL: Senator Mendez to explain her vote.

SENATOR MENDEZ: Mr. President, I was not planning to speak on any of the nominees today because I really feel that all of them are highly qualified, but I really want to mention the following:

In the case of Mr. Delaney, after intense but fair prosecutorial questions, he answered all those questions dealing with ethics

in the most truthful and honest fashion. I am totally convinced that the man is highly qualified for the job and, just for the record, I want to state the following:

When asked as to whether or not he had diverted -- has diverted influence of the local board of county executives, he explained the situation very clearly, and that was, number one, originally, he made a lease for a space. Eventually that lease ended up saving money for the county, but what was most fascinating is that at the time after the first five years of the lease, it was, in fact, the board managers who voted to renew it and they did so another five years afterwards.

In fact, the papers, the local papers at the time, did comment on it -- they did comment on the excellent job that he had done on that.

So that to me, that was a moot question. Everything had been answered properly, and I am -- I do very gladly stand up here to support his nomination and to vote for

it.

Thank you.

ACTING PRESIDENT KUHL: Senator Dollinger to explain his vote.

SENATOR DOLLINGER: Mr. President, I just have to comment on the colloquy between Senator Lack and Senator Gold in explaining my vote.

I come to this chamber not as a member of the Finance Committee. I didn't participate in the interview of Mr. Delaney. I'm trying to go on the best available information that I can get from my colleagues, and I'm disappointed that we don't have the approach that Senator Gold talked about.

I don't know why we wouldn't have a hearing not just on Mr. Delaney -- I've said this before with respect to other nominees, some of which I voted for, some of which I voted against -- in which the issue of judgment which is my particular issue in this case, where that could be explored at length, where there could be witnesses, such as the chairman of the

Westchester County Legislature at the time. We could quiz him on his view of Mr. Delaney's actions today as to whether they were appropriate then. We could find out from the developers what the deal looked like. We would get a lot of additional information, put a bunch of people under oath; have a little fact finding to find out what the truth was, then I would be making a much more informed judgment.

However, here today exercising my constitutional prerogatives, based on the information available to me, I still have some questions about Mr. Delaney's judgment in this particular case with respect to whether or not he circumvented the legislative power. That's what disturbs me most. I think it ought to disturb everybody in this chamber.

Everyone in here complains about those regulators who get out of control because we give them a little bit of power and then they eventually go out and use the power to do something we don't like. That seems to be the same pattern that could be present in this

nominee and perhaps the evidence in Westchester County is that, on one prior occasion, he did so. So every time you lecture me about the regulators or the agencies being out of control, this may be one of the ways that it starts.

I will be voting in the negative, Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter to explain his vote.

SENATOR LEICHTER: Mr. President, I want to apologize to Senator Mendez.

Senator, I want to apologize to you because I was sitting next to you in Finance and I must have rattled the paper so hard and you probably didn't hear Mr. Delaney's answer.

The fact is that the lease for this building was never approved by the county Legislature. It was entered into as a 20-year lease in the guise of five years which did not need approval and the -- that was in 1951 or 1952. The renewals do have to be approved but they've never come before the county Legislature because the five years aren't up.

But for all of the reasons that I stated and Senator Dollinger stated and also for the reasons Senator Mendez has stated, Mr. President, would you please vote me in the negative.

ACTING PRESIDENT KUHL: The nominee, Peter W. Delaney, is confirmed as the Commissioner of General Services.

We're very pleased to have Commissioner Delaney and his wife Mary with us here in the chamber.

Commissioner, good luck.

(Applause.)

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Robert L. King, of Pittsford, Director of Regulatory and Management Assistance.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Stafford.

SENATOR STAFFORD: Thank you, Mr.

President.

I would just like to say again today that we have before us five of the finest nominees that you could have. I've been here awhile. I was here before Senator Gold. I assure you that I have never seen better nominees than we have coming before us today, Robert King who we are considering at the moment, but John Johnson, I -- and Ambassador Gargano and Peter Kalikow and Peter Delaney we just confirmed.

I think the Governor is to be commended. This bodes well for the state. We have professionals, and on the gentleman that we're considering right at this moment, he comes here so well recommended. He had a fine career in the Legislature. He's been a county executive, that will all be explained, but he has a responsibility and he intends on carrying it out and making a real difference in this state.

And with that, for a more articulate delivery, I would yield to Senator

Nozzolio.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Nozzolio on the confirmation.

SENATOR NOZZOLIO: Thank you, Mr. President, and thank you, Senator Stafford.

Senator, I can never improve on your articulation, but I certainly am pleased to stand before my colleagues and discuss the appointment of the Director for Regulatory and Management Assistance.

Certainly, I have a great deal of praise for the Governor for making this appoint ment. From a very personal standpoint, I think that Bob King has demonstrated through his years of service and government to be one of the finest public servants anyone could ever hope to be.

Ten years ago I was serving in the New York State Assembly, and working with a couple of my good friends and colleagues who have gone on to other endeavors, then Assemblyman Bill Paxon and Assemblyman Dick Wesley, Bill now a Congressman and Dick now a

member of the Appellate Division of the Supreme Court, the three of us went to Rochester to encourage another young aggressive type to seek office and run for the New York State Assembly, and that young man was Bob King.

We were extremely impressed then, continue to be impressed with Bob's thorough ness. It was a tough sell to get him to run for state office, but after he decided in weighing the situation that he could best throw his energies into what was happening at the state level and we are very pleased that he did.

After throwing his hat in the ring and being elected to the New York State Assembly, he served with great distinction and honor in that body, worked very hard on a number of economic and other reform issues to make government work again. Bob was, I believe, more than any of us in that house, one who looked to channel a new direction to state government.

He decided in 1991 to seek the office of County Executive of Monroe County. That was a difficult task and Monroe was faced

with many problems, and Bob decided to pursue that position and the voters of Monroe County graced him with the office of County Executive of Monroe, and there Bob continued his efforts to reform government at all levels.

He became nationally recognized as a county executive who cared and who moved for change, who not only talked about change but was pursuing change through the revolution at the local government level of making government more responsive and providing a new direction for the way our governments in New York were headed.

This effort was certainly recognized by a number of people statewide and nationally, and one of those individuals who recognized Bob's talents very early on and who encouraged him to leave the county executive office, which I have often said is a loss to Monroe County, but nonetheless, a gain to the state of New York, in the selection of Bob King as director in this new capacity of regulatory reform.

Bob has already, prior to confirmation, crisscrossed the state, met with business leaders, met with government leaders in trying to unshackle the shackles that we have seen placed on government and on business and on those units of state government that have heretofore not been equal partners as we would like them to be.

Bob has set a course already to make business and to make government a partner again with the state of New York and he is to be applauded for that effort and congratulated for that effort.

Mr. President, I could go on. There are others who wish to speak on this nomination, but I can say very sincerely as one who has stood with Bob King in our days in the crucible in the New York State Assembly, generating many ideas for government reform, now Bob King has a great opportunity to put many of those concepts into action as he already has demonstrated.

It is with great pride and a

tremendous privilege to move Bob King's nomination for Director for Regulatory and Management Assistance.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Rath on the confirmation.

SENATOR RATH: Mr. President and my colleagues, I rise also to second the nomination of Bob King as the Director of Regulatory Reform in New York State. This is getting to be a habit, Bob. Every week there are two or three meetings where we meet and I'm seconding the nomination and I'm getting very used to this. I think this may be my last opportunity, but it's not the last that we're going to see of each other because of what you do, we'll be doing, and what I will continue to do with the Administrative Regulations Review Commission.

Let me start my remarks by giving you a quote of one of our more famous people today, Bob King and he said, quote, "I told the Governor I would measure my success by how many

new jobs are becoming available in New York State as a result of our efforts."

I don't think I have to explain that, but let me just paraphrase it a little bit. The documentation of how "constricting" - that's a Bob King word -- and "intrusive", another Bob King word, regulations have become on the businesses of the state of New York, it is legion, the information that has been developed in the quick three months that Bob King has been here and in office for only two and a half months, maybe, his efforts to date have uncovered some of the examples that we have been looking for, the clear-cut messages that we need to send back to business to tell them this isn't reasonable. You are having intrusive and constricting regulations. Tie your hands from expanding your business or maintaining, indeed, your business in New York State.

Those of you in the Finance Committee heard the wonderful one -- the wonderful example today about the bakery regulations when Bob talked about that and what

a simple solution came about or is in the process of coming about brought to my mind the fact that New York State regulatory reform headed up by Bob King at the request of Governor Pataki and supported by all the members of this house in one form or another, is the right place at the right time. It is a national agenda item. It's on the agenda of every state that has business interests at heart and we in New York State are going to be on the cutting edge of how to translate federal policy to the state and back to the businesses who so much need our help.

Let me give you a number. New York State now employs 1800 people in regulatory jobs, just 48, however, in the offices that help citizens and businesses deal with regulators.

I think we have to talk about that, Bob. I think that's something both you and I are very interested in as well as the reform of the State Administrative Procedures Act, another item that is in desperate need of reform.

And again, let me give you another Bob King quote. I love this one. This one just came off the Rochester Times Union. You may be one of the more quotable people in this government, Bob. Quote -- and here's one -- Senator LaValle is not here. There is some other Long Island types that will appreciate this one. Quote, "if you live on the south side of Long Island and you own property, at the end of the winter, often the sand will blow up on to your porches. Well, the Department of Environmental Conservation now requires that you get a permit to return the sand to the beach."

How dumb is that? Well, obviously that's pretty dumb and that's one I'm going to quote over and over again, Bob, because I think that's the kind of thing we're bringing to light and it's the kind of relief people all around New York State need. This is one that the home owners will be very gratified if they don't have to go down and get a permit in order to sweep their porches and get those sand dunes out in front of their cottage, instead of in

front of their front door.

As I close my remarks, let me say first of all how delighted I am that the Governor has appointed you with your kind of experience in the New York State Assembly, your experience in western New York, because we do count Monroe County as western New York, and as a county executive, and because as a county legislator I know how tough the regulations are that counties have to deal with and you know that firsthand having been a county executive, and government very often acts like some extraterrestrial power, not an institution that exists to serve us. The bureaucracy almost never deals with real life problems in a way that reflect an understanding of the situation.

We seem to have achieved the worst of both worlds, a system of regulation that goes too far while it does too little.

Hail to our new chief of Regulatory Affairs. Good luck and Godspeed on what will be a wonderful adventure.

ACTING PRESIDENT KUHL: The Chair

recognizes Senator Jones on the confirmation.

SENATOR JONES: I rise today for two reasons: First of all, to let you know when someone good comes along, even a Democrat recognizes it and also to speak about Bob King.

Even though we come from opposite sides of the aisle, you know, I can't help but stand and let you know that I recognize that Bob King definetly did a lot for Monroe County.

He identified early on that a healthy business climate is healthy for a community and he worked very hard at fostering that and making sure that business did grow in Monroe County and they were recognized as being important to the community.

He certainly has spent a lot of time talking about mandates and over-regulation and fees, so I think he's the perfect person to handle this kind of job at the state level and bring some of the expertise and some of the things he did in Monroe County so the rest of the state can benefit from him.

I think if you hear TQM forever

and ever in Monroe County, it will always be synonymous with the name Bob King, and I also have to add, Bob, just as an aside, Bob is probably the only elected official who got stuck with a serious deficit as happened this year in government, and I will be honest and tell you it was by someone on my side, even though I wasn't involved, and he not only was able to pay it off, he convinced the community that they were dying to be taxed to help him do it.

So there aren't many public officials, Bob, that could pull that off like you did, and I give you a lot of credit for that.

I also liked what he said today about Workmen's Comp'. We all know that that's one of the biggest regulations that are going to have to be looked at and dealt with and Bob made it very clear that he intends to include not only business and government but labor as well in this debate while we try to come up with a system that not only helps business but also helps the people that are in most need of the

Workmen's Comp' themselves.

So I just want to stand today and commend the Governor for choosing Bob. I agree with Senator Nozzolio. It is a loss to Monroe County, and I will share with you what I said today at Finance. If you had any doubt about the good judgment Bob has, just look at the fact that he's here and not back in Monroe County facing the $5 million deficit we're about to send him.

So I just want to say good luck, Bob, and I know you'll do a good job.

ACTING PRESIDENT KUHL: Senator Dollinger on the confirmation.

SENATOR DOLLINGER: Mr. President, I rise in support of this nominee.

I guess I would add as evidence of Mr. King's good judgment, he's not down here on the floor not getting paid. He's instead going to be paid in his position as the regulatory policeman for New York State so that may be further evidence of his good judgment.

I'll be blunt with everybody

here. I've never voted for Bob King before. Bob ran for county executive. I strongly supported his opponent in the losing effort against Bob King. I was on the county Legislature when Bob was the county executive. I did my best as I've tried at times in this chamber to give everyone a little bit of agita. I tried to give Bob a little bit of it as well.

However, through all of that, I have recognized Bob's intelligence and Bob's skills, and I think he brings those skills. He certainly brings a knowledge of government and significantly not only government generally in New York State, but the relationship between elected officials and the bureaucracy and the importance of that. I think Bob King knows that, understands it, understands how it works and I think that's important.

I would conclude, however, one of my concerns for Bob is that, in this environment in which everybody is pledging to cut the regulatory power of state agencies, I'm fearful that we had a bill before that would give, as

you know, the counselor to the Governor, the Governor's counsel, the ability to review all the regulations which would seem to cut Mr. King out of the equation.

I hope we will have the good sense to reconsider that bill and perhaps pass a two-house bill that vests the entire regulatory authority in a single person. That way we would have a system in which one person will be responsible.

Again, at this point I'm relying on my colleague, Senator Jones, who said that Mr. King was willing to be judged by how many new jobs he brings to New York State. I think that's a laudable goal. What I would hate to have happen is have several people try to control the regulatory environment, have divided responsibility and if new jobs didn't appear, then have Mr. King be blamed when it would actually be several people rather than his efforts.

So I think we need to give him clear direction. I think this Governor has

given him clear direction. My hope is we will give him equally clear direction, that the bill that we talked about for regulatory reform, we will rethink and we will give him the power that he needs to make these changes.

But don't make any doubt about it. Bob King has been a good public servant and, Bob, I'm now batting 500 because, though I voted against you once before, I'm voting with you today.

ACTING PRESIDENT KUHL: Senator Libous on the confirmation.

SENATOR LIBOUS: Thank you, Mr. President.

I don't know, after hearing Senator Dollinger's comments, I may reconsider my vote here, but I can't do that.

Mr. President, I too rise to support the nomination of Bob King. I can honestly say that I don't know Bob King as well as maybe some of the other members of this chamber, but I have had the pleasure of knowing him in my time in the Senate while he served as

an Assemblyman, but I'll tell you a story that comes to mind.

A couple years ago a group of us went to Rochester and Bob had just taken over as the county executive and a friend of mine was with the newspaper and we had some time to chat a little bit. This friend of mine I know is probably not someone who is a very strong Republican, probably very much on the other side of the aisle. I asked him "How is the county executive doing? " And he said, "I like Bob King's approach. He brings a balanced approach. He's willing to listen to people and he's actually moving things along so that we can get things done. We've had some tough times in this county."

I think he brings that same approach to this position and, Bob, I can say that, if you can help to untangle this spider web of bureaucracy and regulation that has hampered business for the last 20 years, then I think we will honor you in another way at some time down the road.

But, Mr. President, it is certainly a pleasure for me to stand before this body and to second the nomination of Mr. King.

ACTING PRESIDENT KUHL: Senator Leibell on the confirmation.

SENATOR LEIBELL: Yes, Mr. President, if I could just briefly comment.

After all these other speakers, I also would like to lend my support. Probably like a couple of other members in this chamber, I have had the good fortune and honor to serve with Bob King in the other house, in the state Assembly, and I can tell you those years we served there together, it was certainly for me a great pleasure.

I know I can tell you with 100 degrees of certainty that Bob will bring to this position all the dedication and zeal that can be imagined. He was in our conference and in the Assembly, a great leader. He spoke out on tough issues during very difficulty times.

I've heard Bob speak a number of times about TQM and quality management. Well, I

think Bob will be the quality that will be brought to TQM in New York State government.

I'm very pleased to support my old friend and colleague.

ACTING PRESIDENT KUHL: Senator Wright on the confirmation.

SENATOR WRIGHT: Thank you, Mr. President.

I, too, rise to support the nominee. If Senator Dollinger was still in the room, I would assure him that, if Bob King were on this floor, he'd be calling for less spending, less taxes and a budget on time, and it's the kind of individuals like Bob King that we're missing sometimes.

As the sponsor of the legislation that created ORMA, the Office of Regulatory Management Assistance, I'm very pleased to have Bob King serve as the head of that office. I think he brings the necessary background and experience that we're looking for to head that office.

He understands the business

community. He has demonstrated his ability to work successfully with the business community, but he has also demonstrated his understanding of public trust and public responsibilities and he's blended that very well in achieving the balances that are necessary to successfully manage county government, to successfully meet the needs of the business community and the people of Monroe County.

I think Bob King brings us the kind of background and experience necessary to ensure the balance that's so essential to bringing regulatory reform to this state. I applaud the Governor in his nomination. I'm very pleased to see Bob King seek and receive this office.

Thank you.

ACTING PRESIDENT KUHL: Senator DeFrancisco on the confirmation.

SENATOR DeFRANCISCO: I rise to speak on behalf of the nominee. I believe that we have here a situation that, I think, few of us would have taken up.

Bob King, a very dedicated, bright and articulate county executive of Monroe County was asked to come into this administration and do probably one of the most difficult jobs that is in the administration, get through the morass of regulations and try to make this a more user-friendly state. He still has a bright political future but was willing to sacrifice that because he's a true believer in what has to be done in the state, and there's not many of us here, I think, that would have taken that step, and we've got to congratulate the Governor on making this nomination and, more importantly, the nominee in being willing to sacrifice himself for the good of this state and sacrifice his political career for the good of all of us, because it's so important that we have more true believers in this state in what is needed to turn the direction of this state to the direction it should have been for the last 20 years.

Those are the reasons I'm voting to support Mr. King, but I learned of three

other reasons on the floor today;

Reason number one, Senator Dollinger voted against him for his last election;

Reason Number two, Senator Dollinger supported the other candidate against Bob King, and;

Thirdly, as a county legislator, Senator Dollinger tried to give Bob King agita as he's given many of us, so we can truly, truly feel very close to Bob King because we've all experienced that same agita on this floor every day of every session.

So I congratulate the Governor and wish Bob King the greatest success.

ACTING PRESIDENT KUHL: Senator Johnson, on the confirmation.

SENATOR JOHNSON: Mr. President, I spent a few years as many of you know as chairman of the Environmental Conservation Committee in this house, trying to get some sanity in environmental regulations without much success.

Mr. President, it's kind of interesting, I have in my hand a letter from a vice-president of Environmental Affairs, Inter national Paper Company, by the name of Thomas C. Jorling. He just testified that he has become aware that there are too many regulations and the massive statutory authorization has been enacted, the ream of implementing regulations that have been promulgated, extensive and elaborate guidance has been issued and judicial decisions have been interpreted extensively, all of this in a cyclical pattern, media by media, we reach a point where the complexity is so great the understanding exceeds the capacity of a human mind, on and on and on, so he would like to test the theory, being a vice-president of International Paper, that you can have rational regulation and economic process that do go hand in hand.

It's wonderful and enlightening on the part of Commissioner -- former Commissioner Jorling. I think if he were here and a convert now, we wouldn't need Bob King

but, of course, we do need Bob King because all the regulatory impediments that have been out there and established and enshrined for years and somebody's got to dig into it and throw it out. That isn't necessary. You take away those things which impede progress and don't provide any environmental protection.

I'm very happy that Bob King is in the position he is, and I can just testify that the problem we had dealing with bakeries that existed for a year and a half or more which I couldn't resolve with the previous administration and their commissioner, is on it's way to being resolved by the action of Bob King, and that's only one thing he's done. There are a lot of other regulations.

Mr. President, I would just like to say that Bob King is going to have to lead us into a new era of rationality and regulation and progress and economy of our state, and I very wholeheartedly support his nomination.

ACTING PRESIDENT KUHL: Senator Maziarz to close debate on the confirmation.

SENATOR MAZIARZ: Thank you, Mr. President.

I, too, rise in support of the nomination of Bob King for the Director of Regulatory Management Assistance.

For the first 12 weeks of this year, Mr. President, I had the occasion to spend an awful lot of time in western Monroe County talking to business leaders, town supervisors, elected officials, school district personnel, and one name that continually came up in conversation and always spoken about with a high degree of respect and administration was the name of their county executive, Bob King.

I believe firmly that the Govern or has make an absolutely great appointment in Bob King. When I was campaigning, I stopped at a small business in the down of Gates in Monroe County and I asked the gentleman there how busi ness was, and he said, "Business is profitable until I get my Workers' Comp' bill every quarter", and I know that Bob King has a great task ahead of him and, although I don't know Bob

personally, haven't known him personally for a very long time, everyone that I talked to, particularly one person that I hold in the highest degree of respect, my predecessor John Daly, once told me that 20 years from now when people are going to be reviewing the Pataki administration and Pataki appointments, the best appointment that the Governor makes, aside from his Commissioner of Transportation, would be Bob King as the Director of Regulatory and Management Assistance.

Mr. President, I move the nomination of Bob King.

ACTING PRESIDENT KUHL: The question is on the confirmation of Robert L. King, of Pittsford, New York, as Director of Regulatory and Management Assistance. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The confirmation -- the nomination is confirmed.

We're happy to be joined by Robert King. Bob, it's nice to have you here. Good luck.

(Applause.)

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Senator Leichter.

SENATOR LEICHTER: Yes. May I have unanimous consent? I want to be recorded on a vote and ask just 15-20 seconds just to explain why I'm doing it. I want to be recorded on the negative on a confirmation we did earlier, Mr. Gargano, for the Port Authority, because it came to my attention after the vote that Mr. Gargano, to qualify for this position, changed his registration or registered in New York City on March 27 of this year, seemingly from what we would call a "voter's residence," not his true residence which just on a confirmation a month ago he had told us was Dix Hills. I question the bona fides of what he did and whether he is really qualified under the

statute for this position.

Therefore, I ask to be voted in the negative.

ACTING PRESIDENT KUHL: The record will so reflect, Senator Leichter.

Senator Skelos.

SENATOR SKELOS: Yes, could -

SENATOR DOLLINGER: I want to follow Senator Leichter and also be recorded in the negative.

SENATOR SKELOS: Without objection.

ACTING PRESIDENT KUHL: Senator Dollinger, the record will reflect that you would have voted in the negative or you voted in the negative on the confirmation of Charles Gargano.

SENATOR DOLLINGER: Yes, thank you, Mr. President. My views on that candidate are well-known.

SENATOR TULLY: Mr. President. As you know, Mr. President, the Finance Committee -- when Mr. Gargano's credentials were

presented, that he indicated clearly on the credentials that there was an address in New York City as well as an address in Suffolk County. Do you know that, Mr. President?

SENATOR SKELOS: Thank you very much, Senator.

Can we proceed to the noncontroversial calendar.

ACTING PRESIDENT KUHL: Secretary will call the noncontroversial calendar.

SENATOR SKELOS: Oh, I'm sorry, Mr. President, one minute.

Senator Volker?

ACTING PRESIDENT KUHL: Chair recognizes Senator Volker.

SENATOR VOLKER: Mr. President. I would like to call a meeting of the Codes Committee as soon as possible in Room 332, the conference room down the hall. 332, meeting of the Codes Committee.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Codes Committee in the Majority Conference Room, Room

332.

Senator Skelos.

SENATOR SKELOS: Mr. President. Can we take up the noncontroversial calendar?

ACTING PRESIDENT KUHL: Secretary will read the noncontroversial calendar.

THE SECRETARY: On page number 9, Calendar 122, by Senator Levy, Senate Print 429, an act in relation to authorizing the Commissioner of Transportation and others to develop and implement a unified statewide system.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

165, by Senator Marchi, Senate Print 2496, an act to amend the Public Authorities Law, in relation to and for the purpose of enabling the Dormitory Authority to construct and finance dormitories.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 184, by Senator Velella, Senate Print -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 193, by Senator Johnson, Senate Print 1847, an act to amend the Real Property Tax Law, in

relation to providing an exemption for capital construction costs.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 214, by Senator LaValle.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 236, by Senator Velella, Senate Print 1851, an act to amend the Penal Law and the Criminal Procedure Law, in relation to forgery and illegal possession of vehicle identification numbers.

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 237, by Member of the Assembly Eve, Assembly Print 2659, an act to amend the Civil Practice Law and Rules, in relation to the personal property exempt from application to the satisfaction of money judgments.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first day of September.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 58, nays 1. Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 259, by Senator Nozzolio, Senate Print 2244, an act to amend the Correction Law, in relation to limiting time allowances for good behavior for sexual offender.

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 287, by Senator Cook, Senate Print 3441, an act to allow police officers of the Town of Saugerties to be covered under the provisions of Section 384(d) of the Retirement and Social Security Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Lay the bill aside.

THE SECRETARY: Calendar Number 304, by Senator Levy, Senate Print 380, an act to amend the Vehicle and Traffic Law, in

relation to making it a felony to operate a school bus while under the influence of alcohol or drugs.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

ACTING PRESIDENT KUHL: Senator Skelos, that completes the noncontroversial calendar.

SENATOR SKELOS: Mr. President. Could we proceed to the controversial calendar.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar Number 184, by Senator Velella, Senate Print 2704A, an

act to amend the Public Health Law, in relation to disclosure of confidential HIV-related information.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Velella, an explanation has been asked for by Senator Paterson on Calendar Number 184.

SENATOR VELELLA: Senator, this bill is one which has received a great deal of publicity. It's a bill which I'm sponsoring along with Assemblywoman Mayersohn over in the Assembly, and it's become known as the "Baby AIDS Bill."

Basically, what it does is, under current law, every baby that's born in New York State is tested for the presence of the AIDS antibody. The results of those tests are blinded. That means that nobody finds out who the individual was. What this bill, in essence, will do is say that when that test is taken by the state, the results are given to the Health Department and the mother or caregiver for that child is notified if there is a positive

result.

There are various reasons which I am sure many of you will ask during the course of the debate on this bill. I don't want to prolong the introduction to it. Very simply, that is the essence of the bill, to let the parent or the prime caregiver know the result of the test.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. This is an extremely controversial issue. The sponsors of bill, both Senator Velella and Assemblywoman Mayersohn, the sponsor in the Assembly -- although this is not the exact bill -- have worked very hard on this particular issue. They have been quite forth coming about information. We had a conference about this bill, some of the members of the Minority, and we were happy to have Senator Velella's counsel in that meeting along with representatives from Senator Goodman's office. Senator Marcellino on his third day in the

Senate came himself, and it was really a revolutionary concept, one that just came to me.

In discussing this bill, there are a number of correlative issues; and, therefore, Mr. President, would Senator Velella be willing to yield for a few questions.

ACTING PRESIDENT KUHL: Senator Velella, do you yield to Senator Paterson?

SENATOR VELELLA: Certainly.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator Velella, my first question is, just generally, what will the disclosure impact fee be of this particular bill? There are about 1800 cases of women who tested positive at the birth of their children; and as a result of a mandatory testing, what number do you think that may rise to.

SENATOR VELELLA: I couldn't project what the number might be, Senator, but the result would be, I believe, that we would

have an excellent chance of prolonging the lives of some young newborns, providing some services for them so that their life would be a little bit more comfortable, and possibly keeping them alive long enough to the point where we might find some kind of cure to deal with their affliction. That's what I think would be the ultimate result.

SENATOR PATERSON: Thank you very much, Senator Velella.

Mr. President, through you, Senator Velella.

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

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PATERSON: I notice in this year's budget that there is no increase in the general funding for treating the AIDS disease, the HIV virus and some of the ancillary diseases and medical care problems that are caused by it. So if there is a significant

increase, I am just suggesting that the disclosure does not relate to the prevention or to the treatment; and so what I'm just asking you is how do you propose that we can increase the treatment when we may not have the resources?

SENATOR VELELLA: Senator, the best response I can give to you -- and I would assume that you are talking about the budget that the Governor and the Senate have put into place, because I don't know of any other budget that's around town that we might be looking at, so I would have to take a look at our budget; and I would say that the earlier detection would allow us to do things like put those young people who have been identified on drugs that will be strong antibiotics to prevent the pneumonias that cause the serious problems and complications that in the long run cost us a lot more money to administer. Once the disease has manifested itself and once it has certainly become evident in the child, the expenses are much higher.

So that we would be able to identify these young people early on in their stage before they develop the pneumonias, before they develop all the afflictions that come along with the disease and prevent a lot of the expense, so it probably would save money if we passed this bill. It should be, at worst, cost neutral or slightly expensive, but I think in the long run it will save us money because of the high cost of administering to all the needs of these young people when they get the full-blown AIDS virus.

SENATOR PATERSON: Mr. President, Senator Velella, I am maintaining decorum here but I don't know how you can say that we would ever save money when you admit that what we're doing is we're prolonging a virus. Let's be clear on one point, Senator. If we prolong the virus, we are incurring greater expenses because, even when we prolong life, those heavy costs, as you mentioned, that come toward the end of life in treating the AIDS disease are still there; and so the prolonging of life is

not in any way going to decrease the expense.

The only way we could decrease the expense, Senator, would be if we could actually find a cure to the disease.

So what I'm -- I'm asking if you are in support of additions to the budget to fund what would be really a great task on the part of our society to undertake this?

SENATOR VELELLA: Senator, maybe my explanation to you wasn't clear. What I'm trying to say is that by early identification and by treatments with antibiotics, strong anti biotics, we prevent a lot of the pneumonias that develop. Those pneumonias will develop if we didn't know that the child had the AIDS virus, that the child had the disease, and would cost a substantial amount of money to treat those maladies that would fall upon them without the necessary antibiotic treatment.

By early identification, giving that antibiotic treatment, we will be able to prevent a lot of the expensive illness that develops around AIDS. Absolutely the ultimate

point, the final point, where the terminal facet of the illness takes place, would be revenue neutral, but certainly we would be able to eliminate a lot of the expensive medical attention that's necessary if we could prevent some of these pneumonias which cause complications.

If you had attended, and I don't know if you did, some of the press conferences that we held with some of these young people who did not know they had AIDS, came home from the hospital with their parent or with a legal guardian or foster parent and found out only after the pneumonias took place and after they were in the hospital, you would see the deformities and the maladies that befell them that cost a lot of money to administer to.

SENATOR PATERSON: Would Senator Velella continue to yield?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: Now, Senator,

point of clarification. The federal standard through the CDC, as far as I understand it, is that you don't start treating the infant with Bactrim until after they receive the -- until after they receive -- until after they have actually gotten pneumonia.

SENATOR VELELLA: My understanding -- and, again, I would stand corrected if you have some medical information, but my information is that one of the reasons why you want to identify the presence of the antibody early on or as early as possible after birth -- and I might add in my explanation, my bill addresses after the child is born. This does not address something I think is needed in this state, something we may see before the end of this session, testing upon the finding out that a woman is pregnant. That would be something that I believe we might address later on. But I believe that you will find that the three reasons, and I cited this last year when we discussed the Tully bill at that time, was the possibility of reinfection through breast

feeding by the mother, the need for a change in inoculation schedule because of the weakened condition of the child and its immune system, and the third reason was the introduction and treatment with antibiotics to prevent pneumonias. Now, that I have gotten from many medical sources, and I would assume that some medical sources might differ, but I have gotten that from some very reliable sources.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Senator, I have here a portion of the federal clinical practice guidelines for the treatment of HIV and it says that the treating -- the treatment for pneumocystis (PCP) pneumonia begins after the baby has already contracted pneumonia, and the reason that that is the case, Senator -

SENATOR VELELLA: Senator, would you yield to a question? You don't treat something -- you don't treat something until it's occurred, but there is a prevention mode that is used. There is a difference between

prevention and treatment once the thing is diagnosed. You are talking about treatment. I agree, you don't treat something until it manifests itself.

ACTING PRESIDENT KUHL: Senator Velella, I didn't hear the question, but -

SENATOR VELELLA: Is that correct?

SENATOR PATERSON: Is that correct?

ACTING PRESIDENT KUHL: Senator Paterson, you have the floor.

SENATOR PATERSON: Let me put it this way, Senator. No.

In other words, I don't believe it is correct, and let me explain to you why this is the case. Fifteen to twenty-five percent of the babies that are born testing positive for the HIV virus sero convert. They are born with the antibodies of the mother and they inevitably develop their own immune systems. So one of the real problems here - and I'm not -- I'm not saying this either to

advocate or to oppose your legislation. We are just talking about facts here.

I'm saying this to point out that just the result of the test leading to a positive definition does not necessarily mean that the infant is going to contract AIDS through the HIV virus, so the reason that the CDC has a federal standard for when to introduce Bactrim is not as a prevention. It's really as something that takes place when there is some physical evidence that the virus is taking effect. Now, as you know, there is a test in which women who are in the sixth and seventh month of pregnancy are being treated with AZT, and this apparently is a preventive measure because fewer babies are born testing positive after that.

But the actual test, the one that is advocated for in this bill, does not necessarily tell us what the future is going to lie for that particular newborn; and the danger is -- from the past few years, is that there was a time when we started treating newborns

instantly with AZT, not Bactrim; and what we really did was we destroyed the developing immune systems in those babies, and those babies succumbed. So, in other words, to just get a positive test and then start treating the baby with Bactrim is not necessarily a preventative measure. It is, in fact, something that could actually exacerbate the problem, and so that's why I would answer your question, "No," not to say the Bactrim can be very effective after the baby has contracted pneumonia but that, at least in the time period that we are discussing, it is somewhat dangerous to start creating this type of treatment before we really know that there is a problem.

ACTING PRESIDENT KUHL: Senator Stavisky, if Senator Paterson is through.

Senator Paterson, are you through?

SENATOR STAVISKY: Will Senator Velella yield to a question?

ACTING PRESIDENT KUHL: Senator Stavisky, just a minute.

SENATOR VELELLA: Yes, Senator.

ACTING PRESIDENT KUHL: Senator Stavisky. Senator Stavisky. I may have cut Senator Paterson off unintentionally.

SENATOR STAVISKY: I'm sorry.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR STAVISKY: I would rise for the purpose of asking Senator Paterson if he would yield.

SENATOR PATERSON: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR SKELOS: Mr. President. I know a lot of people want to speak on this bill, and certainly nobody is going to be cut off, but perhaps we can have a list established so that it's known by the members, so some won't wonder why somebody was called before me or after me. So if members wish to speak, so we can also manage the process today, if they could indicate to the President that they do want to speak, he will establish a list and we can move

forward on the bill.

ACTING PRESIDENT KUHL: Senator Paterson had the floor, Senator Stavisky. I thought he was done. That's why I recognized you because you are next on the list.

Senator Paterson.

SENATOR PATERSON: Mr. President. I just want to make sure, if Senator Stavisky was beginning his questioning, I would ask him to let me complete mine; but if it was just a point on this particular issue that anybody would like to raise, I would certainly welcome it.

Senator Velella, if you would continue to yield?

SENATOR VELELLA: Yes, I yield.

ACTING PRESIDENT KUHL: Senator yields, Senator Paterson.

SENATOR PATERSON: One of the hospitals in my district, Harlem Hospital, Senator Stavisky, has been gradually having beds decertified; and what I'm asking is would there be a reregistration of beds, in other words, to

increase the number of beds being used by the hospital as a result of this crisis in which 56 percent of the victims, the mothers who are giving birth to newborns and then testing HIV positive, these individuals? What I'm worried about preliminarily to even our discussion as to the treatments which we've been discussing is whether or not there is going to be additional care for these individuals?

SENATOR VELELLA: Senator, with all due respect, and you know I do hold you in a lot of personal high respect, I think that's kind of a silly question to ask me.

What we're talking about here is identifying something that's in a child that's born. If we close our eyes, it's not going away we're going to have to deal with that problem today or tomorrow. You know, it's the old question of pay me now or pay me later.

What I'm saying to you is the earlier we detect it, the earlier we deal with it, the better we are. So what I'm trying to say is whatever beds are out there, whatever

dollars are out there, they are going to be out there. We will have to marshal our assets to deal with the problem as it develops the best we can, but, certainly, it's inexcusable to close our eyes to the problem and say, "We don't need more beds, we don't need more money, because the problem doesn't exist. We can't identify these kids; we can't give them the treatment anyway.

We will have to marshal our assets, make them work wherever we can, and do the best we can. But not knowing is the worst excuse.

SENATOR PATERSON: Thank you, Senator.

Mr. President. I don't know if this is a silly question, but haven't we closed our eyes to the mothers? I don't see anything in this legislation that would treat the mothers now that they have tested positive for the HIV virus.

SENATOR VELELLA: Senator, I guess we might have a difference of opinion there. I think we're doing a tremendous service

to the mother when we let her know the realities of what her condition is, what she might be spreading to a child, what she might be spreading to a person that she lives with, what she might be spreading to another child that's home that hadn't been infected. I think there is a tremendous amount of advantage that we're giving to that mother, letting her know her condition and maybe we just might save a child along the way.

SENATOR PADAVAN: Mr. President.

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

SENATOR PADAVAN: Senator Paterson yield for a question?

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

SENATOR PATERSON: Without a doubt.

ACTING PRESIDENT KUHL: Senator yields without a doubt.

SENATOR PADAVAN: Senator, are you aware of the fact that for statistical

purposes babies are already tested for HIV?

SENATOR PATERSON: Yes, I am, Mr. President.

SENATOR PADAVAN: Are you also aware that in many cases the baby if breast fed will be more likely to be susceptible to HIV manifesting itself in a very serious problem as opposed if they are not breast fed? Are you aware of that connection?

SENATOR PATERSON: I'm aware of the connection between breast feeding and contracting the HIV virus, yes, I am, Senator.

SENATOR PADAVAN: Now, therefore, my question, Senator, and this is the end of it, does it not make sense for that mother to be notified of the result of the test, and I understand there's about 1800 or maybe even more than that annually in New York City alone, irrespective of the number because, frankly, if it's even one, it's important. But does it not make sense to advise that mother so that at least that one precaution would be taken? We would say to her that, in effect, "We strongly

suggest to you, based on this test data, that you not breast feed your child. It may mean the difference between life and death of the baby. Doesn't that make sense?

SENATOR PATERSON: Mr. President, unfortunately, I don't think that's actually what happens in these particular situations. The determination, Senator Padavan, of whether or not the mother is going to breast feed can not come as a result of a test, if you understand me. It has to come as a result of counseling.

SENATOR PADAVAN: Mr. President. Will the Senator yield just for clarification?

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

SENATOR PATERSON: Absolutely.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PADAVAN: If the law does not require that the issue of HIV testing of the mother is such that we mandate this communication, then the counseling, which I have

no problem with -- I think there ought to be extensive counseling, but we're talking here about the mandate of identifying the circumstance. If we don't first deal with the mandate, then the things that follow -- in this case, the breast feeding -- I think is very, very critical.

I don't take quarrel with many of the things you said previously, but I think it's intrinsic to the initiative here that we in the course of mandating that parent be notified about a half a dozen other serious problems that are identified in the maternity ward if they should occur, many that were adopted by this Legislature over a period of years, and we would be adding one more, that if the mother is so notified along with a statement of fact, "You should not breast feed because you compound the problem, place the child's life in danger." One must follow the other. You can't have one without the other. Isn't that true?

SENATOR PATERSON: Mr. President. I will look at you, but Senator

Padavan should know that I'm thinking of him.

ACTING PRESIDENT KUHL: Senator Paterson, excuse me just a minute.

Senator Mendez, why do you rise?

SENATOR MENDEZ: Will Senator Paterson yield for a question?

ACTING PRESIDENT KUHL: Senator Paterson, do you yield to Senator Mendez?

SENATOR PATERSON: Yes, but I have to answer Senator Padavan first. I have a list.

(Laughter.)

Mr. President. I think the point at which Senator Padavan and I are missing each other is that the test itself takes two or three weeks to finalize a determination of whether the mother is HIV positive. If the mother is not breast feeding -- if she's not breast feeding, she can't start two or three weeks into the life of the newborn. If she is already breast feeding, then she has been breast feeding this child for two or three weeks, and there is no relevant medical data, Senator Padavan, that

there will be any change based on continued breast feeding, although we can assume and it would be correct for her to stop breast feeding.

So what I'm saying is that this bill is talking about the testing of newborns. Now, if we had a bill talking about testing of women while they were pregnant, that would be a different story. But this bill is relating to the testing of newborns.

And so I'm submitting, Mr. President, that the issue of breast feeding is really not a related issue in this particular case other than the fact that Senator Padavan is in favor of the counseling prenatally to encourage high-risk women that they should not breast feed because breast feeding is a way in which the virus is transferred from the mother to the child, and that is actually our current policy.

ACTING PRESIDENT KUHL: Now, Senator Paterson, do you yield to Senator Mendez?

SENATOR PATERSON: Well, without

a doubt. If I yielded to Senator Padavan, I would have to yield to Senator Mendez.

SENATOR MENDEZ: Thank you. Thank you. I know, Senator Paterson, that all your life you have been fighting, like many American citizens do throughout our democracy - you have been fighting to eliminate double standards; right? So, in 1983, when the issue came forth pertaining to people receiving blood transfusions, and many individuals, unfortunately, did in fact -- were infected with HIV, with the HIV virus, through transmission, the issue became a very controversial one, but, eventually, the need to know whether or not you, an adult, that has received a blood transfusion that contained the HIV virus was resolved by letting that adult know. Do you think that in the case of babies born with the mother's antibody and 10 or 25 percent of them with the HI-Virus that this baby should be treated differently? They should receive a double standard -- should apply to them a double standard?

SENATOR PATERSON: Mr. President. It's not that the 10 to 15 to 25 percent of the babies are born with the HIV virus. It's that a significantly higher number of them test positive when they are born, but they all don't have the HIV virus. So that's the difference between this test and one of blood transfusions in 1983. In other words, what I'm saying is, what I think we're missing here is some of the same treatments that we're using for the HIV virus -- and this is why I think we have some polls out where everyone is saying that they're for this, but what everyone is really saying is that we're for the protection of babies. That isn't just 80 percent -

SENATOR MENDEZ: Senator Paterson.

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

SENATOR PATERSON: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR MENDEZ: Getting back to double standards, Senator Paterson, doctors in New York State, do advise the lover of an individual found to be infected with HIV. The doctors are allowed, in fact, they must, in New York State to alert the lover of a person that was found to be infected with HIV. Why can't the mother of a child that was born either with the mother's serum or with the HIV virus, why shouldn't that mother be told? Is it one standard for adults and another standard for babies?

SENATOR PATERSON: Mr. President. First of all, doctors advise that. That is not mandated. There is no standard for adults. There is no mandated disclosure of an HIV test as it stands right now. So even if it was the case, it wouldn't be a double standard; it wouldn't be inconsistent with what we're doing now.

Now, as far as the babies are

concerned when we are really testing -- when we're testing the newborns is we're testing the mother. We are really not testing the baby because we don't know whether or not the baby is infected with the HIV virus. We know that there is a possibility that the baby is infected with the HIV virus if, in fact, the mother has the HIV virus.

Now, to just continue the point where I was just a moment ago, before Senator Mendez wanted to ask me another question.

SENATOR MENDEZ: Will the Senator yield for one more question?

ACTING PRESIDENT KUHL: Will you yield, Senator Paterson, for one last question from Senator Mendez?

SENATOR PATERSON: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR MENDEZ: Thank you, Senator Paterson. Do you know, Senator Paterson, that there is in New York State

mandatory testing of both parents and infants with notification for the Tay-Sachs disease and for sickle cell anemia? Did you know that?

SENATOR PATERSON: Yes. There are actually seven diseases where they're mandatory testing.

SENATOR MENDEZ: For these two diseases, for these two illnesses, parents and babies are mandated to be tested, and they are mandated to receive the results of those tests.

Why in the world couldn't the results of a baby's test that is being conducted at the present time, why should those results not be given to the mother?

SENATOR PATERSON: Mr. President. Senator Mendez named two of the diseases that are -

SENATOR MENDEZ: There are seven.

SENATOR PATERSON: Yes, and there are actually seven; and in those cases, there is a mandatory requirement that there be notification. So the question is why would the

same health departments that have allowed for there to be mandatory revelation of those tests suddenly oppose it with the HIV virus? And it goes back to a point that I was starting to take up with Senator Velella, and so I wish that he would be free to join in at this point, and Senator Mendez, if she would like.

SENATOR VELELLA: Mr. President, I'm free.

ACTING PRESIDENT KUHL: Thank you, Senator Velella, for informing us of that.

Senator Paterson, Senator Velella says he free.

You may continue, Senator Paterson. You have the floor.

SENATOR PATERSON: The issue that I'm rising is effective intervention. That is what I was talking about when I was saying we have polls now that show that 80 percent of the population is actually in favor of mandatory testing and the results of informed consent - you know, the passing of that information.

What I'm saying is, and it's

tragic to stand here and say this, and I think it's something that we're all feeling the pain of is that we don't have an effective intervention; and in the case of newborns, we did intervene. We treated babies years ago with AZT, and those babies succumbed. Those babies died because we didn't know at the time that we were treating an immunodepressant virus with an immune suppressant drug.

And what I'm saying is that AZT exacerbates the virus. There is no one on this planet that's been treated with AZT for a period of four years that hasn't suffered significant dismantling of their immune systems. Now, in the cases of newborns, they have started to use Bactrim, which is really a drug that does not have any real history. We don't know what the effect of it is.

What we're doing today in some respects -- it doesn't matter whether we pass this bill or we don't pass this bill, but we are institutionalizing a treatment that has failed. Any doctor will tell you that. That's why a

significant number of medical associations are opposing this bill today. That's the point that we're actually missing.

If we had a cure, there would be no question. I would vote for this bill. We wouldn't be having this debate, but we don't have a cure; and when Senator Velella said a few moments ago that maybe one of the babies will be cured, there is no cure. Nobody knows one.

But what we have -- and this goes for children and adults -- is the systematized treating of the HIV virus with drugs such as AZT, DDI, and DDC, which only exacerbate the virus. They prolong life, but they actually attack the immune system at a greater rate; in other words, there are more people who experience sudden death with the drugs that treat the HIV virus than actually succumb on a long-term basis. It's just that the average of people who are treated with the drugs live longer, and that is positive in the sense that we can extend life.

But when you have a situation as

you have with newborns, where they originally test positive but they sero convert, 65, 70, 75 percent of them, in the first eighteen months of their lives, what you now have is a situation where if we start treating the babies at birth and we don't know whether or not they're going to get the virus, we're going to kill them. That's what it really comes down to.

Now, we're not doing this by intent. Everybody here is trying to accomplish the same thing, but it has been a perpetuation of misinformation that, in my opinion, Mr. President, has caused us as a society to take so long to really start to try to find the cures, and this is a mistake we -

SENATOR VELELLA: Senator yield?

SENATOR PATERSON: Excuse me?

ACTING PRESIDENT KUHL: Senator Paterson. Senator Velella, why do you rise?

SENATOR VELELLA: Would Senator Patterson yield?

SENATOR PATERSON: Absolutely.

ACTING PRESIDENT KUHL: Senator

Paterson yields, Senator Velella.

SENATOR VELELLA: Where in this bill do you see any requirement that a positive hit or positive test on a newborn infant requires administering of AZT?

SENATOR PATERSON: Oh, not at all. None.

SENATOR VELELLA: Okay.

SENATOR PATERSON: In fact, I'm saying that's what we used to do, but I'm saying -

SENATOR VELELLA: Well, Senator, would it not be wise, if you'd yield to another question -- Senator yield to another question?

ACTING PRESIDENT KUHL: Senator Paterson, do you yield to another question from Senator Velella?

SENATOR PATERSON: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR VELELLA: Would you agree with me, Senator, that the medical decision of

the treatment of a positively identified child would be best left to the medical societies and the medical professionals than to this legislative body to try and mandate any kind of medical treatment, but yet identifying them so that the medical community can deal with the problem with the best available technology would be the smartest thing to do?

SENATOR PATERSON: Mr. President. First of all, the overwhelming number of the medical societies oppose this bill.

SENATOR VELELLA: Point of order. Let's state the truth. Let's not misstate it.

There is no -- there is no memo from the New York State Medical Society opposing this bill. There was a memo last year supporting Senator Tully's bill but not opposing our bill. I have seen none. I spoke to the Medical Society yesterday. They have taken no position on this bill. They do support the Tully bill. They do not oppose this bill.

SENATOR PATERSON: Mr. President. I stand corrected if I said the New York County Medical Society.

SENATOR VELELLA: Upstate.

SENATOR PATERSON: I didn't say any medical society.

SENATOR VELELLA: Oh.

SENATOR PATERSON: I just said I felt that the majority of them oppose this bill. But, Senator Velella, you are correct. There is no mandated treatment as a result of the passage of this bill.

In fact, there is no care at all that is necessarily prescribed in this particular bill, and what I'm trying to point out to you is that the determination, that moment in time that exists when we test, that result, what I'm saying is if it were an adult, it would be one thing. It's very clear about what happens to the mother, but the HIV positive/negative rating of the child is something that is an inertia inherent. It is not static. And I'm just saying that an

immediate treatment upon the diagnosis could be a very harmful thing.

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

SENATOR MALTESE: Mr. President. Would the Senator yield for a question?

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

SENATOR PATERSON: As a matter of fact, Mr. President, I would like you to record at the desk that I am permanently available for questions. Somehow I thought this was Senator Velella's bill, but I will -

ACTING PRESIDENT KUHL: A very popular guy today.

Senator Maltese, Senator Paterson yields.

SENATOR MALTESE: Mr. President. Was it Senator Paterson's position that since there was a lengthy period of time between the time of the baby's birth and the time of the diagnosis that, therefore, it was futile to inform the mother that since she would have

already -- that since that time was lengthy and she would have already started breast feeding that there was no benefit to the child to advise the mother of the results of this test?

SENATOR PATERSON: Senator Maltese, what I was just saying is by the time the test results are in, the best feeding is now into its third week and so the test is actually late.

And, again, in answering your question, I'm not giving on that particular answer any suggestion to you as to which way to vote on this bill. I'm just pointing out to you that if, let's say, the bill had asked for babies to -- I mean for the mothers to be tested during their pregnancy, that would be a little different. If a mother tests positive at five months, for instance, then you can start treating her with AZT which has been very effective. These kinds of drugs are very effective in short-term, extremely dangerous medical situations, and so, yes, it would be.

But this bill addresses newborns,

and I'm just saying, Senator Maltese, that we're into our third week of breast feeding before we find out that result.

SENATOR MALTESE: Mr. President. I yield to Senator Paterson's obvious knowledge of this bill, the treatment, and other medical situations connected with this bill, but I am advised that there are treatments, and one is called PCR that is a test -- I'm sorry, not treatments, but a test that the results can be provided within days or hours.

In addition, I am advised that right now the reason that some of the tests take such an inordinate period of time is because there is no reason for speed since the mother is not advised at any rate; but that if there was a rationale behind expediting the tests, the test would be made much more expeditiously and possibly be more helpful to the child.

So my question, Senator Paterson, is that if a test can be made expeditiously and if the result of that test can be given to the mother and if the mother then can make an

informed decision as to whether to breast feed the child and if, further, that if the further breast feeding of that child would harm or increase the risk to that child, would you then support this bill? If that can be shown to you, that chain of facts can be shown to you, would you then support this bill on the theory that you would save some lives and you would lengthen possibly the lives of other infants until a more effective cure can be found?

SENATOR PATERSON: Mr. President, to Senator Maltese. My point of view on this bill does not turn on this particular issue. I was just pointing this out to you as a matter of what I thought was fact.

Now, the ELISA test has to come first even if the PCR test -- the one that you're talking to, which is a biomolecular test, that comes later. The PCR test to which you were referring is an extremely expensive test, Senator Maltese, and to conduct it is going to really involve a vast expenditure of money, and that was why earlier in the questioning I asked

Senator Velella about the care. My concern, Senator Maltese, is that we will now have a way of identifying who has HIV; and as a result of identifying these individuals, we can cause problems, abandoned babies, for instance, when the mothers know that the babies are born positive for the HIV virus, a number of problems that would inure based on the fact that you are taking people and making them find out that they have a disease that may be actually incurable.

But in answer to your -

SENATOR MALTESE: Mr. President.

SENATOR PATERSON: Just quickly in answer to your question, if we could -- if we could actually effect that, Senator Maltese, I think that would be a good thing, to get the test so we have the test a couple of days ahead; and you are absolutely right, that would increase the opportunity of survival because you have now increased the time that it takes the mother.

But just one last point. Any woman who is in any risk situation, long before

any test, is advised not to breast feed.

SENATOR MALTESE: Mr. President, through you.

ACTING PRESIDENT KUHL: Senator Maltese, excuse me just a minute.

Senator Skelos, why do you rise?

SENATOR SKELOS: Perhaps when Senator Maltese and Senator Paterson finish, at that time -- and this is in consultation with the Minority -- I understand that we have the rare occasion of Senator Dollinger offering up an amendment; that we should take up that amendment and debate the amendment and perhaps the bill at the same time since they are inter related, if there is no objection.

SENATOR PATERSON: If the Majority Leader chooses, Mr. President, let me yield at this time and let Senator Dollinger put in his amendment.

ACTING PRESIDENT KUHL: The chair would note that there are at this point seven speakers who have indicated that they would like to speak on this bill, and Senator Dollinger is

at the end of that list, but with the consent of the Minority and the Majority Leader, we will recognize Senator Dollinger at this point for the purpose of offering an amendment.

Senator Dollinger.

SENATOR SKELOS: Mr. President, also, if we could, on behalf of Senator Stafford, there will be an immediate meeting of the Finance Committee in Room 332 of the Capitol followed by a meeting of the Rules Committee.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee in the Majority conference room, Room 332, to be followed by a Rules Committee meeting.

Senator Dollinger, for the purpose of offering up an amendment.

SENATOR DOLLINGER: Thank you, Mr. President, and I want to thank my colleagues for allowing me to do this out of line, the Deputy Majority Leader as well as the Deputy Minority Leader.

Mr. President. I believe there

is an amendment at the desk. I ask that it be called up. I waive its reading and ask for an opportunity to make an explanation.

ACTING PRESIDENT KUHL: Senator Dollinger, the amendment is at the desk. The reading of it is waived, and you are provided the opportunity at this time to explain the amendment.

SENATOR DOLLINGER: Mr. President. This amendment is the supposed Tully-Silver bill that was done last year, I believe unanimously approved in this house. This bill differs from the bill that is before the house today.

Strike that, then. I thought it was unanimously approved in this house, but I may be mistaken. Let me just explain the bill.

The purpose of this bill is to require mandatory counseling of all women before they deliver their child. I would commend -- in the context of this amendment, let me commend Senator Velella, Assemblywoman Mayersohn and others who brought this issue to the fore.

I think this is not only one of the most interesting issues, but is a fascinating discussion of science, a fascinating discussion of public policy in the context of science, and one that certainly is worthy of debate.

But let me emphasize the benefit of this bill for every woman in the State of New York. A lot of the discussion that has gone on previously with Senator Paterson, Senator Mendez, Senator Maltese and Senator Velella, has all dealt on the issue of what happens after the child is born. The wisdom of this bill is that this bill turns our attention and turns the attention of the people of this state to the most critical time when we can actually stop the transmission of this disease, when we can stop it, and the way to stop it is to identify women who are HIV positive.

This bill would require mandatory counseling to inform them of the benefits of HIV testing and to tell them if they take the test and find out that they are HIV positive, we have

something that can substantially reduce the incidence of HIV being passed to your child, and it's called AZT. It can be taken during the period of pregnancy, and the evidence is dramatic. It reduces the rate of infection from approximately 25 percent of women who pass it on to their children to approximately 8 percent of women who pass it onto their children.

Seventeen percent of the women in this state who would pass HIV on to their children will find that they don't do it because they took the test before they delivered and because they took AZT during the period of their pregnancy. That holds the greatest promise for reducing the transmission of this infection.

What this bill does is this bill says it will be the policy of this state to require that women get counseling to take the test, take the test when it really matters, when we can stop the prevention -- when we can stop the spread of the disease.

One of the issues that Senator Paterson spoke about is how do we deal with the

issue of breast feeding? What could happen is a child could be born to an HIV positive mother. The test results would come back three weeks later and advise the mother that the child has the antibodies. In three-quarters of the cases, that child will not develop HIV. In one-quarter of the cases, they will. But the great danger is, and I acknowledge this is a danger -- is that during the breast feeding period, there is some medical evidence that suggests that a mother could pass HIV from her own system into that of her child by breast feeding.

But what's the one way we can tell a woman not to breast feed her child, do not do it at all? Test her while she's pregnant.

If you test her while she's pregnant and it turns out she is HIV positive, then what we have to do is simply say to her, "Listen, when your child is born -- when your child is born, take AZT." That will reduce the chance of passing the infection to 8 percent. Then what we do is to simply say to her, "We are

going to advise you that if you breast feed your child, you could increase the incidence from 8 percent to some unknown number," which ideally medical knowledge will tell us -

ACTING PRESIDENT KUHL: Excuse me, Senator Dollinger. Senator Marcellino, why do you rise?

SENATOR MARCELLINO: I would ask, Mr. President, if Senator will yield for a question?

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

SENATOR DOLLINGER: In a moment, Mr. President. I will just finish explaining the other details of bill. I will be glad -- I believe there are others. Senator Velella has that look of a question about him.

ACTING PRESIDENT KUHL: Senator will yield in a moment.

SENATOR DOLLINGER: Senator Gold does, as well.

Let me tell you what this bill also does. Not only does it require that there

be counseling, not only does it require that medical care be given to the provider -- medical information be given to the provider as well as the mother so there would be complete disclosure of information prior to the test once the woman decided to take the test.

It also requires that a pregnant or postpartum woman receiving HIV-related counseling be presented with a form for signature and that of a health care provider acknowledging receipt of the required counseling.

It would direct the Commissioner of Health to engage in a series of services to help with the problem of HIV-positive children, and I think it sets up a series of additional protections to monitor the system and find out how well it performs.

This was a bill that in my recollection passed this house unanimously as an indication of the sentiments of this chamber about how to deal with the problem. I don't know that anything about HIV has changed in the

last eight months that dictates we would suddenly do a reversal of form and instead go to mandatory testing after birth rather than mandatory counseling before birth.

I will now respond to Senator Marcellino's question.

ACTING PRESIDENT KUHL: Senator Marcellino, Senator now yields.

SENATOR MARCELLINO: Mr. President. I would like a clarification of exactly what this amendment would do to this particular bill. Would it eliminate the provisions of this particular situation and substitute the previous one?

SENATOR DOLLINGER: Yes, the purpose of the amendment, through you, Mr. President, is to take the current bill on the floor and to substitute in toto the bill that we approved last year and strike out the remaining portions of the bill that is on the table -- on the floor today.

SENATOR MARCELLINO: Thank you.

SENATOR GOLD: Mr. President.

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

SENATOR GOLD: I was going to ask the gentleman to yield.

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

SENATOR DOLLINGER: I'll be glad to yield to Senator Gold.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR GOLD: Senator Dollinger, if I understand it, just so I get it right, your bill is one which gets in there early, tries to give counseling, encouragement, et cetera, et cetera, but the testing is basically voluntary. Is that correct?

SENATOR DOLLINGER: That's correct.

SENATOR GOLD: Senator Dollinger, if you will yield to one more question.

SENATOR DOLLINGER: Yes.

SENATOR GOLD: You asked what changed from last year to this year. Isn't it a

fact that the one thing that changed is that last year we couldn't get the Mayersohn-Velella bill on the floor, and this year we've got it?

SENATOR DOLLINGER: Mr. President, through you to Senator Gold. I don't know. I don't know. I know that we had this bill on the floor, and we voted on this bill, and I don't know why the Mayersohn-Velella bill wasn't on the floor last year, although, frankly, with the sponsor here, I don't know why it wasn't on the floor.

SENATOR GOLD: Senator, if you will yield to a question.

ACTING PRESIDENT KUHL: Senator Dollinger?

SENATOR GOLD: My recollection - and I could be wrong, but my recollection is that there were many of us, including me, who believe that as a minimum the Mayersohn-Velella bill should be on the floor, entitled to a hearing. There was a lot of negotiating back and forth, and I believe that Senator Tully, who had a bill which mirrors your amendment, was

able to bring his bill out; and I know from my point of view -- I may have even made these remarks on the floor -- while I would have preferred to vote for the Mayersohn-Velella bill, if we're not going to take that up and we're not going to do it, I wasn't going to vote against this bill or your amendment because it was a program that might help and might save lives.

But I'm just saying to you that it seems to me -- and you tell me if I'm wrong -- there is a substantial difference between last year and this year in that this year we have the chance, if there are 31 votes, to pass the Mayersohn-Velella, Velella-Mayersohn bill. That is, it seems to me, a major difference.

SENATOR DOLLINGER: Is that -

SENATOR GOLD: Forget the question. When it is my chance, I would like to speak.

SENATOR MALTESE: Mr. President.

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

SENATOR MALTESE: Would the Senator yield for a question?

SENATOR DOLLINGER: Yes, I will, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR MALTESE: Mr. President, through you. I have listened as Senator Paterson has given us a fairly extensive and apparently very knowledgeable exposition of the detrimental effect of AZT, and now you have risen and indicated that one of the benefits of the counseling incorporated within the confines of your bill is that you would be able to administer AZT much earlier and that it has very beneficial effects.

My question, Mr. President, is has Senator Dollinger's medical experts consulted with Senator Paterson's medical experts and have they come to a conclusion as to the efficacy of AZT?

SENATOR DOLLINGER: Mr. President. Just in response to Senator Maltese,

I believe that the experts are right in both cases, because what I believe the experts I was talking about is as a result of a study in which pregnant women took AZT in the last trimester of their pregnancy and what they found was that the transmission from mother to child, the rate of transmission, dropped from 25 percent to about 8 percent.

What I believe Senator Paterson is making reference to is once the child is born and once the child begins to be treated with AZT as a child that that affects -- and I won't speak for Senator Paterson, but my recollection of what he said was that when you treat the child with AZT, it has an effect on the immune system.

I think that in this instance, the predelivery treatment of the mother with AZT has a very significant impact on reducing transmission. The postpartum treatment of the child, I believe -- and I will let Senator Paterson speak for himself -- I believe that the evidence is that that does have a potentially

compromising effect on the immune system. But I don't know that. I'll leave Senator Paterson with his science.

But I believe in this instance, in direct response to your question, the science is correct in both instances.

SENATOR MALTESE: Mr. President, then, through you. Your bill, like Senator Velella's bill, does not mandate or even recommend any course of treatment, AZT or any other course of treatment. It simply indicates that there are opportunities for this course of treatment that would be enhanced for prenatal attention by virtue of enacting your bill?

SENATOR DOLLINGER: Correct, Mr. President. What this bill says is that if you really want to stop transmission -- and, believe me, Senator Velella, Assemblywoman Mayersohn, I think have done this state a tremendous service by bringing this issue up and by proposing a solution. We may disagree, but I don't for a second -- even though I'm making this proposed substitution, I don't want to infer or have

anyone suggest that Senator Velella, Assemblywoman Mayersohn, and the people who support this bill, aren't concerned about the transmission problem, because I hear it loud and clear that they are.

But the issue becomes how do you stop transmission, and I believe the science says that the best way to do that, to stop transmission -- the issue of dealing with the child who has this disease after birth is another issue. But to reduce the transmission, I believe the science is on the nose and suggests that if you have the test earlier, if you create mandatory counseling that says: You have exposed yourself to potentially high risk. You ought to have this test because if you have it now, you can actually prevent the transmission. You can take AZT which reduces the incidence, and then we will tell you -- we will tell you not to breast feed the child so that we don't back our way into the disease after birth, which is the other danger.

That's why I think this bill, as

far as mandatory counseling before delivery, is a better approach.

ACTING PRESIDENT KUHL: Excuse me, Senator Dollinger.

Senator Rath, why do you rise?

SENATOR RATH: Will Senator Dollinger yield for a question.

SENATOR DOLLINGER: I'll be glad to, Mr. President.

ACTING PRESIDENT KUHL: Senator yields to Senator Rath.

SENATOR RATH: Yes, through you, Mr. President. Senator Dollinger, you just indicated that when someone had been a high risk, had led let's say a high-risk kind of lifestyle, that with counseling it would be recommended that they should take this test. But I think if we go back to a year ago, it was late and it was at night, and there were two bills that were being talked about. The finances of being able to do both bills was one of the questions at that time; and although finances were talked about very early on in the

debate today, no one has talked lately about whether we would be able to afford both bills if both bills should pass; and it's my recollection that last year nothing passed because it wasn't decided as to where the money would be best spent, whether it would be best spent in counseling someone who might indeed decide not to take the test even though they admitted to a high-risk lifestyle or whether the money should go to the Mayersohn-Velella effort for the testing. Can you answer the question as to whether there have been dollar attachments to the amendment or if you are aware as to where the emphasis might go dollarswise.

SENATOR DOLLINGER: Yes. Through you, Mr. President. I raised the issue in the Senate Health Committee and have had discussions with Senator Hannon's staff. I should also commend Senator Hannon because he's been very forthright in the debate over this bill and providing information about it.

What happened, it's my understanding -- and I'll preface everything by

saying this is my understanding -- there was $5 million in the state budget for prenatal services. That money was originally designed under the prior version of the Velella-Mayersohn bill. The language in the Public Health Law - I believe it's the Public Health Law -- was changed. What it originally said was that the $5 million goes for mandatory counseling for counseling before birth and also for treatment after birth.

In the first version of this bill, the mandatory counseling provision was struck out and only provided that the $5 million could be used for services after birth. My understanding now in the revised edition and the current amendment which is before the floor is that that deletion of a portion of the $5 million for mandatory counseling has now been eliminated. We fall back to the current language in law which says it can be either used for counseling or for postpartum treatment.

And, again, I think it's a good addition to this bill. I think it's the right

thing to do.

But the second issue is where is the $5 million? In my consultation with Senator Hannon's staff, they said that the $5 million has already been spent. It is already encumbered under the state budget, and my understanding, further, is that there is no reappropriation. In the current draft of the budget that sits approved by this house, there is no reappropriation of $5 million for those particular services.

Now, I see Senator Velella looking around. I can easily stand corrected, but my understanding is there is no additional $5 million.

The second consideration about finances is who is going to pay for the test? My understanding is -- through Senator Hannon's staff is that the federal government currently pays for the cost of the test, and what happens is the test is provided here in Albany. What the federal government has told us -- and, again, I owe this to Senator Hannon's staff.

Someone can correct me if I'm wrong. But what I was told was that if the test becomes unblinded, the federal government will no longer pay for the cost of the test. That would mean that the cost of the test would now have to be paid for by the State of New York.

I should add -- and I would have to again look to Senator Velella for clarification, but the test isn't really all that expensive. I mean the test is probably a couple of million dollars to actually conduct the test. I don't know that, but it's not a sizeable number, Senator.

And the issue when the first draft of this bill came out with respect to finances was, should we put all that money, that $5 million, into treatment after, for the babies, or should we put it in mandatory counseling beforehand?

I have continued to favor and with this amendment I favor that any money we're going to spend under that portion of the primary care focus in NYPHRM, which was a part of

NYPHRM, that we focus our attention on mandatory counseling because of the scientific as well as disease transmission prevention benefit that we get downstream. My position is, and I believe this amendment addresses that, is that our money should go to that effort.

SENATOR RATH: Mr. President. When it's appropriate to speak on the amendment, I will speak. There may be other people that want to.

ACTING PRESIDENT KUHL: I do have a list. There are eight -- nine people who are wishing to speak. Chair would also note that this debate started at 4:00 o'clock, so we're an hour into the debate. I would hope that the nine members would keep that in mind. There are many of their colleagues who wish to speak on the bill.

Next person on the list is Senator Stavisky.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Don't we have to move the amendment before we go through the list?

ACTING PRESIDENT KUHL: We can do it any way you'd like, Senator Paterson, with the consent of the Majority Leader.

I thought that the agreement was between the two of you that, in fact, we would propose the amendment so that the entire issue could be taken through the course of the afternoon, so that the debate could be raging on both of them, not necessarily on the amendment or on the original bill.

Now, if your understanding was different than that, please correct me. But the chair would simply say I would entertain discussion on both the amendments and the bill in accordance with the list of people that we have in that order.

SENATOR PATERSON: All right. Well, in that case, Mr. President, I yield to Senator Stavisky.

ACTING PRESIDENT KUHL: Senator

Stavisky, on the bill or the amendment.

SENATOR STAVISKY: I learned my lesson about an hour ago. Don't be a nice guy when you are asked to yield the floor, because I was the first one on that list and suddenly a whole series of people got on the list ahead of the first list that was prepared. So much for that. I won't raise the issue again.

There were 278,000 live births in New York State last year.

ACTING PRESIDENT KUHL: Senator Stavisky, before you get into your point, may I interrupt and recognize the Acting Majority Leader for an announcement?

SENATOR RATH: Yes, Mr. President. There will be an immediate meeting of the Rules Committee.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee in the conference room or the Majority room, 332.

Thank you for your indulgence, Senator Stavisky.

Senator Stavisky.

SENATOR STAVISKY: Mr. President. We keep having announcements. We might be able to hold the Senate session in the telephone booth and all of us will fit in there.

I think that in the discussion of counseling, understand that last year alone, there were 278,000 live births in New York State, and I am not certain how effective counseling would be and how much would be spent on reaching the 278,000 people involved here.

Also, there is no mandatory testing in the amendment. The amendment speaks about mandatory counseling for those people who agree to the test, and that approach has unfortunately not succeeded thus far in encouraging a lot of people to take the voluntary test.

It seems to me that the issue could be best handled if we were to put aside the names of the sponsors and have something which would call for mandatory testing of the

babies which is the present law coupled with counseling of mothers in the prenatal stage; and in that way, the best of both worlds would perhaps be accomplished.

We have not answered the question as to why in the absence of a cure for AIDS we are prepared to spend money, and I believe we should, for research, counseling and treatment of those people who do have AIDS, and we are not prepared to give the same protection and guarantee for babies who can not speak for themselves, and I think that that is a fallacy in the objections to this original bill introduced by Senator Velella and Assemblywoman Nettie Mayersohn.

If you want to merge the two bills in a single piece of legislation, I would gladly support the merger and, in fact, proposed an amendment to the bill that was on the floor in the Legislature, in the Senate, on the last night to accomplish that, but it was never called. We can not deny on the basis of age resources, research, treatment or assistance, to

anyone in New York State who is at risk. It is unconscionable to deny to children, to babies, strategies that might prolong their lives and might have the advantage of enabling them to live long enough in order to be saved from death.

We presently mandate testing of all babies in hospitals. That's not a new mandate. That is the existing law. Why should we not tell the mothers who have a right to know that the baby who has already been tested pursuant to existing law has shown HIV positive in that currently mandated test? If you can answer that question, then I believe the Velella-Mayersohn bill should be defeated, but I see no rational answer to that question. A mother has a right to know. The baby can not get up there and say, "I want you to protect me." If the baby lives long enough, maybe the baby will be able to make that statement.

It is our hope that perhaps by suggesting -- not compelling -- suggesting that mothers whose babies have tested HIV positive

should not continue breast feeding, and there is nothing written in stone that the results of the test have to take a full month before the results are made known to the mother. That's what the basic bill is about.

What you would do in substituting the amendment, Senator Dollinger, is to eviscerate that protection which would indicate not in a blind test but in a revealed result only to the mother or the guardian, not circulated anywhere else, what has happened with that test; otherwise, why spend the money for the testing if you are not going to share the results with anybody, particularly the mother of that infant.

It is sometimes politically correct to take certain stands, and I suspect that political correctness is behind the opposition to the Mayersohn-Velella bill. Political correctness that suggests that we must not tinker with the confidentiality. Nobody wants to tinker with the confidentiality, but a mother has a right to know, and a mother has a

right to make an informed decision, not a decision in the dark.

We don't have a cure, a definitive cure for AIDS. Does that mean we should spend no more money in the State of New York in order to produce a cure for everybody? Nobody is suggesting that we cut off funds for AIDS research and treatment to adults. Why are we denying the very same guarantee to an infant who can not advocate the cause for himself or herself.

I think that we are sometimes blinded by the ideological cross-currents in this state. There are groups that are advocating defeat of the Mayersohn-Velella bill because they fear it would compromise the confidentiality. Make that confidentiality as strict as possible, because I'm with you on that issue. It's nobody else's business, but it is the business of the mother and the doctor, both of whom should be informed if the baby has tested HIV positive and if the resumption of breast feeding would further endanger the safety

and life of that child, then caution the mother, counsel the mother. I'm using your own language, that that might be the best way to deal with the situation.

I hope that the advocates on both sides of this issue will come together on an agreement on prenatal counseling and for release of the information on a mandatory testing of a baby which is the law right now. Come together with a combined piece of legislation. Let it be known as the Silver-Velella-Mayersohn-and-Tully bill, and those of us who want to join in it, I'm sure will be given the courtesy of co-sponsorship.

But let it not be an ideological bloodbath, which is what I fear is occurring, and nobody has mentioned beneath the surface there are groups that are advocating defeat of the bill before us because they are fearful of compromising confidentiality on other issues.

Do not compromise confidentiality. Encourage counseling of the mother, and reveal the results of the baby AIDS

test to those who have a right to know, the mother and the physician or the guardian. I hope, for the time being, your amendment which wipes out the guts of the Velella-Mayersohn bill -- I hope for the time being your amendment is defeated so that we can get a comprehensive amendment that would deal with both sides of the issue; therefore, I'm asking for the defeat of the amendment, and I'm supporting the passage of the original bill.

Thank you.

ACTING PRESIDENT KUHL: The chair would recognize Senator Marcellino.

SENATOR MARCELLINO: Mr. President. I would like to thank Senator Velella and Assemblywoman Mayersohn and Senator Paterson for their concerns; Senator Paterson, who held a hearing in his office which I was privileged to attend on my -- he was absolutely correct -- on my third day here, and these two people for their courage in the face of some staunch opposition to bringing this bill to the floor of this chamber.

Since I have been a Senator, the level of this debate on this particular measure I think is probably the highest I have heard, and I truly believe that's one of the reasons I came here and that's one of the reasons I'm enjoying today. I think I've enjoyed today more than just about any time in the past two and a half weeks, so I thank you for that.

There is an old saying, "Ignorance is bliss." In this case I think ignorance is death. We can't afford it. And I would urge Senator Dollinger, whose amendment I believe is well-intentioned, to withdraw it rather than have this chamber have to vote it down, because I think, as Senator Stavisky just said, it does take the guts from this particular bill, and I think this is a good bill.

We have to do what we have to do. The mother is entitled to know. And I agree -- confidentiality. Maintain it. Hold it. The mother, the doctor, they should be the ones to determine that. But if she never is told, she will never know; and the nature of the

person who is at risk is that they will never inquire, and they will never take an opportunity to be part of the situation, and they will never take the opportunity to get the proper counseling. You are not going to get them in unless you have the information; and if you have it, reveal it to that person so that she can be informed and make a decision that will perhaps save her life; and if she's breast feeding, she will stop. I mean it certainly is known that if she's been breast feeding up to a period of time and she's told she has HIV, she will stop. She should be advised to stop. So what if it's three weeks? What if she breast feeds for the next six months? Isn't that worse?

The idea is to give the informed decision-making authority and power to the person who should be making the decision, the mother. This bill provides that. I think this bill will ultimately save lives and ultimately save money and prevent an awful lot of human tragedy.

So I urge you, sir, please

withdraw that amendment because I don't think it's going to work out, and I really do think it will do more harm than good, and I would join in Senator Stavisky's call that we should perhaps put these two things together in a more appropriate measure and recombine it and do the right thing with respect to counseling because I do think that's a most important part of it.

I also suggest defeat of the amendment if it's not withdrawn and support for the bill.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Rath.

SENATOR RATH: Yes, Mr. Chairman. Mr. President. I am speaking on the full bill combined with the amendment. Last year, as a freshman here, this was probably one of the most defining moments in my first year in the Senate as a co-sponsor of the Tully bill and not on the Velella-Mayersohn bill, which I would have been on, but somehow I wasn't and felt badly that I wasn't. I was on the other bill.

And I, in the late -- in the dark of the night as this issue was coming down, I got off of one bill and threw my support to the other bill because, as it was explained then and as the issue still is before us, I don't think we have an awful lot of choice when it comes down to common sense.

I won't belabor the issue. Senator Marcellino has done a good job of speaking of it. Senator Stavisky has come to the same point, Senator Maltese much of the same point. We don't have a choice right now. But in a perfect world, yes, we should have counseling early.

Yes, in a perfect world, I would think that if there were dollars that everyone who was pregnant should be tested early. I don't think we're going to see that perfect world very soon. Yet the point Senator Marcellino made was my point, when I knew I needed to stand up and speak on the bill. If a woman is breast feeding for one, two, or three weeks, I think that the numbers and the

percentages that we saw at the press conference that Senator Velella and Assemblywoman Mayersohn held several weeks ago, the doctors reported that there are dramatic percentage drops in the possibility of the child actually coming to full-blown HIV if the mother stops breast feeding or, indeed, never breast feeds in the first point.

I thought someone made the point earlier, Well, couldn't we speed up these tests that are done on the newborn so that we can know within two or three days or four days? Then, maybe the mothers would never breast feed. I think maybe three or four or five days maybe could go by before people had to make a committed decision.

And so I think we have a lot of things at play here, the most important of which -- and back to Senator Paterson's early comments -- everyone wants to support more children being saved. I mean that's the bottom line, that we want to save the lives of children. I believe that the Velella-Mayersohn

bill does that presently, and we need to be working towards more enlightened legislation to make sure that more babies will be saved and that more mothers, hopefully, as the scientific world moves along, will also be able to be saved when some sort of a solution is found to this horrible circumstance.

ACTING PRESIDENT KUHL: Chair recognizes Senator Mendez.

SENATOR MENDEZ: On the amendment? I will -

ACTING PRESIDENT KUHL: Either one, Senator.

SENATOR MENDEZ: Is this on the amendment?

ACTING PRESIDENT KUHL: Either on the amendment or on the bill.

SENATOR MENDEZ: Okay. We're dealing here today with a very simple bill. That bill states that whenever a newborn child is born and tested as they are being tested today, the mother should be advised. We choose -- we choose here in New York State to insure

that if an adult is given a transfusion and has reason to believe that that blood was -- had the HIV virus, she or he had the option, that adult must be told and is told that the blood transfusion gave her or him the dreaded disease. We are dealing here with cases of doctors in New York State. They go right away in a minute whenever they find out that an adult man or woman is found infected with the HIV, then that doctor calls the lover of that man or woman and advises her or him that the lover is infected with HIV. Again we're talking here about adults.

And the reason behind all the opposition to this bill stems from nothing else like from a paranoia that the issue of confidentiality will be, in fact, violated. So then, some people take the attitude, because that child is going to die anyhow, we don't have to do anything for that child.

I take a different view. I think it's -- to expect these women, 54 percent of women that are giving birth nowadays to HIV

children are African-Americans, about 30 or up percentage are Hispanics. Some Puerto Ricans must be included there. Many of these women are marginal women, women who don't even know -- who don't even know what safe sex is, either because some of them to support a drug habit have become prostitutes or because, if they are just poor and the information hasn't gotten to them, they submit to the lover or their husbands who happen to be infected and then they become infected and pregnant. So these women will not be the kind that will be going for counseling because she will not be suspecting in the least that, in fact, she is infected by that virus.

There are a lot of prominent doctors nowadays that they are advising -- very seriously advising the need to unblind these tests. We all should keep in mind that there is not one single human right that is absolute in nature. We all believe in human rights and the freedom of each individual but we should be very careful and think that my right -- when my right stops here because your right, Mr. President,

starts where mine leaves.

So to be so blinded by feelings of paranoia to the point of thinking we don't have to do anything for those babies because they are going to die anyhow, I think that is a very callous attitude to take.

With this bill, the pediatricians will be able to take care of the medical needs of the child because in pediatric medicine new things have come about. Because of this bill, the mother because she just realizes that her child might be affected with the HIV virus or has the antibody, she might be more prone to go and seek help, and there is help out there.

So I really believe that we here all want the best and we want to legislate legislation that is fair, legislation that is just, legislation that is compassionate. So this is the time that we have to really forget about private interests and think about a group of women in New York State who are marginized and have been marginized for many, many years and that, through this bill, we will be able to

do something for her and her child.

I will be voting yes.

ACTING PRESIDENT KUHL: Chair recognizes Senator Espada on the bill or on the amendment.

SENATOR ESPADA: Thank you, Mr. President. With your permission on both, but will my friend and colleague from the Bronx yield to a question? Senator Velella?

SENATOR VELELLA: Certainly.

SENATOR ESPADA: Thank you. The question is, the issue of universal counseling and testing is not something that you are adverse to, is it?

SENATOR VELELLA: No. Matter of fact, I'm glad that you are asking that because I just want to clear up something. The bill that Senator Dollinger is offering as a substitute to my bill was on our Third Reading Calendar at the end of session last year. It was not voted on. One which was very much similar to it was voted on earlier in the session, the Tully bill. That was pretty much

aligned with this. This was a modified bill that had some technical changes to it.

But I voted for that bill then. If Senator Dollinger -- and I sometimes what to rethink my position, because I agree with him on this, and he may want to change his. If he were offering this at the right time and the right place, I would be supporting it. Unfortunately, he's got his times crossed again and it's not going to work today.

But this bill is something that is being worked on. I have had conversations with the new Health Commissioner who wants to do a testing program and a mandatory counseling program. Senator Tully continues to be deeply involved in bringing this bill out, polishing it up, making it a better bill. Senator Hannon is working on it. There are a battery of people working on it and I assume over in the Assembly also.

We will see a better counseling bill this session, hopefully we will, regarding HIV virus or a bill that will give us the

opportunity to vote for that, but that may be a side bill. We will see a counseling bill like this, and, yes, I do support the concept. It is just where this bill fails and where the people fall through the cracks that this bill will be -- when they don't get the counseling and they don't realize the necessity to be tested. My bill will be the safety net to catch them and save those lives that otherwise will fall through the cracks with this bill.

SENATOR ESPADA: Thank you, Senator Velella. On the bill, Mr. President. I have spent better than seventeen years directly involved in the provision of primary care services to a community that is medically indigent and that is, by many, many standards in terms of its infant mortality rate, Third World in terms of the quality of that service and, of course, other services as well.

Since 1987, about 12,000 women have given -- 12,000 HIV-positive women have given birth in this state. Six thousand of them have been undiagnosed. This bill will not

remedy the flawed health care system that I have served in for seventeen years. This bill will not improve access to primary prenatal care services that I referenced earlier. In fact, one of my political problems with this bill is not where the various interest groups sit on one side or the other of this issue. My political problem is with respect to the inherent contradictions and hypocrisy of a political system, whether it's Democrat or Republican in nature, that would at once vote to have unwed mothers and their babies not receive Medicaid or cash -- public assistance cash benefits -- we will at once do that, but also sing the praises of, "My dear baby, let's be kind to babies; we all love babies," when in fact we are so very, very bad to them and their mothers at times when we can be also supportive.

And so it is to that body politic, it is to that hypocrisy that I have a great deal of problems. But certainly in terms of the issue of those 6,000 undiagnosed women losing in the cruelest, worst scenario some

privacy rights, while it is a very difficult decision, while in medicine we believe in informed consent, when you weigh in the balance, you have to come out on the side of the child, and I think most mothers and we as a society must do that.

The political correctness issue has been dealt with, and I just for a moment would like to touch on the fact that, you know, discrimination is not a political correctness issue. Persecution of people with HIV and AIDS is not an issue of political correctness, and the alienation that comes with being diagnosed. Many of my doctors that worked for me are afraid to deal with someone who has the HIV virus. When you go to the hospital to visit someone, people will whisper in the corridors saying, "Room X Y Z, be careful, there is an HIV positive individual there." So we are not only rampant with infection and with ignorance, but we also have these discriminatory policies that are in effect, de facto, even with very strong confidentiality laws.

So I don't take very lightly this whole issue of political correctness and the political interests that are fearful of losing some of their rights and being persecuted. I think that they have a right to that; and, quite honestly, I think they have reason for concern not so much because of this bill but because of the attitudes in society that we can't just turn our back on after passage of this bill and others like it that will come before us.

So this bill, while it unblinds, it doesn't unbungle things a bit, and it certainly doesn't provide for a clear vision of the problem. But on its face, it is the right thing to do, and I would vote in favor of it.

Thank you.

ACTING PRESIDENT KUHL: Senator Maltese.

SENATOR MALTESE: Mr. President. Earlier, it was said by one of my distinguished Senate colleagues that since he came here, a relatively short time ago, he was impressed by the level of debate here on this particular

legislation. I have been here somewhat more than six years and I would like to say that I firmly believe that this is if not the most important legislation that we have discussed than certainly one of the most important pieces of legislation.

This should be the most basic decision for all of us here. This is a decision that can only be argued against on extraneous, superficial grounds. We here in this house hear very often about hypocrisy when we're discussing abortion or death penalties or matters of conscience. This is definitely a matter of utmost concern and certainly a matter of conscience. This is talking not about very ambiguous medical terminology or methods of medical treatment going deeply into various and varied methods of treatment and the efficacy of those methods of treatment. This is talking about saving babies lives. This speaks of making available to mothers, those most vitally concerned with the welfare of their children, and their physicians, the results of a test that

has been mandated, a blind test that has been mandated; and we in the Legislature are standing in the way of making this test result available to the mother and those most vitally concerned.

A few weeks ago, I was at a press conference with a mother who had not been aware that she had transmitted AIDS to her infant and imagine the horror, the dismay of this mother to know that had she been advised earlier she could have, by voluntarily ceasing breast feeding, improved the chances of her child and -- nay, not improved, made almost impossible the transmission of AIDS to her child.

We have facts and figures that are undisputed in this house or anywhere else that 75 percent of the children, the newborns of these infected mothers, will not contract the disease if and only if their mothers do not continue breast feeding over a protracted period of time. My good colleague, Senator Paterson, speaks of early detection, delay in detection. The truth of the matter is that as expeditiously as we can get that information to the parents,

we should do so; and those and the parent, the mother, should immediately cease breast feeding. But the truth of the matter is that many of those mothers are not aware that they can even transmit or continue to transmit this deadly virus to their infant.

So we are faced with parents, mothers, who not only must bear the burden of knowing that they themselves are infected and very, very likely to perish before their children grow up, but they also must face the horror of knowing that they may have by breast feeding, perhaps an act that is synonymous with mother love, that they are sentencing their children, giving their children a virtual death penalty, a death verdict, transmitted by the mother to her own newborn.

Mr. President. The logic of this bill speaks for itself, but I suggest to any who would oppose this bill visit a hospital in Queens as I have, Elmhurst General Hospital, in connection with a foster grandparent program, speak to volunteers as I have, like a lady from

Ridgewood, Clara Mannheim. They volunteer as foster grandparents, and that sounds very, very salutary. It sounds like a wonderful program, but it's more than that. I take my hat off and I admire every foster grandparent that goes to that hospital annex, because what do these mostly ladies do?

They provide love and affection to newborn infants who are absolutely, positively doomed to perish within a short period of time. These children are AIDS babies who either have been abandoned by their parents or their parents or their mother has died either in childbirth or shortly thereafter. Most of them are born with terrible afflictions, blind, misformed, without arms, without legs, and they don't have mother love, and what these grand parents do is they hold them, they nurture them, they caress them for their relatively short lives, which in most cases is for a relatively few months. They give them mother love. That's what they give them, and then, when the child dies as most of them do, they go on to another

child and do the same thing.

And no person, no human being could go there and not be emotionally affected to watch these foster grandmothers, in most cases, as I say, although there are some men that are hardy enough to do it, because it is very, very difficult to do. Picture, if you will, a foster grandparent holding a little infant, lavishing affection on it, perhaps blind, misformed, and tears running down her eyes at the very same time she's doing it because she's knows that this child is going to perish in a relatively short time; and despite the disadvantages, the emotional heartache of fastening on to one child, most of these foster parents stay with one child most of the time until the child dies.

Now, these are AIDS babies. These are children doomed to die, but there are other babies that we can prevent dying by our actions in this house and in the Assembly.

Mr. President. There is absolutely no doubt that this legislation will

save lives, will save newborn lives and save the destruction of lives for parents, mothers and fathers, who unintentionally doom their own children to a certain death. We must act. I urge the passage of this legislation and I urge it as expeditiously as possible.

ACTING PRESIDENT KUHL: Chair recognizes Senator Abate on the bill or the amendment.

SENATOR ABATE: Yes, on the bill and the amendment. If I had more time, Senator Velella, I would like to ask you a number of questions, but I know that the time is limited, and it is very difficult, and I have thought a long time about not only what my position on the bill is but how I would characterize my position, and this debate is very similar to the death penalty. Many people feel a great deal of anger, a great deal of emotion around this issue, and it's an issue that is very popular among many people.

So what I'm trying to do is cause a debate that is thoughtful to reach the

rational side of people's minds, and maybe if you would take a moment just to listen to how I progressed to my position.

When I first heard about this bill a year ago, my initial reaction was, "Of course, I favor it." I was a mother and I viewed myself all the women in the world would react the way I react as a mother. There is little I wouldn't do to protect my child; and in the course of my making my decision, I was told if you are pro children, if you care about women and children getting into treatment, that you must favor this bill. If you don't favor the bill, you are un-American.

What I have heard today, which is interesting, if I oppose the bill and these are the words from the floor, I must be irrational. I'm superficial. I'm stupid, uncaring, paranoid. I'm politically correct.

Although I don't necessarily think I'm politically correct. I think if I oppose this bill, I'm unpopular; and through the course of this debate, until I reached the

decision, I called a number of medical providers. I called the Commissioner of Health, and I said I need to understand. Am I looking at this bill simplistically? Is this bill more complicated? Is the rhetoric true?

And I spent a lot of time talking to medical providers, the Commissioner of Health, and the majority -- and we can debate how many people are on either side, but it's clear the majority of people who are in the business of caring and providing medical services are opposed to this bill.

So then I had to ask, "Why?" I mean I'm just -- I was at that time Commissioner of Correction. I had no idea other than the limited health services we provided at Correction. I had to understand why these individuals were firmly against the bill.

And I now understand at least in my mind more clearly. We all have the same goals, whether you are for or against the bill. We all support that women and children need to be tested. We want them to be tested and

encourage them to be tested, and we want them to be in treatment and we want to do everything possible to prevent the transmission of AIDS.

What we disagree about here today is how do we get women tested? How do we get them information that they can act upon in a rational way, and how can we prevent unnecessarily the transmission of AIDS?

So I have now decided that I can not support the bill, and I think the reason why it's so confusing is that we say that women who have the right to know should know. Well, right now, women who want to know know. Let me repeat that again. Women who want to know about the condition of themselves or their babies can get that information. Women who want to be tested today can be tested. Let me repeat that again. Women who want to be tested can be tested today. That's very important.

So I believe that mandatory counseling makes sense because it's about informed consent. It's about developing a relationship between the provider and the

patient that's cooperative, and I believe when women are adequately informed they will do the right thing. So why are we doing mandatory testing? Because, let's get in the real world, there are a subset of women that don't want to know or don't understand the health care system, and these are women who are isolated, alienated. Many of them, when they leave the hospital, abandon their children, are substance abusers.

So mandatory testing? Why do we think if we test the women who now know that they can be tested can get this information, why do we think mandatory testing will bring this subset of women closer to treatment and that they care for their babies? I don't think that's the reality.

I think the profile of the woman we are trying to reach through mandatory testing will benefit the most through mandatory counseling. I can only draw upon my own experience, and I think all of us reach decisions based on those experiences. We ran a

program at Rikers Island. It was a nursery program, and I was overwhelmed, and these were a subset of women who could keep their babies while they are in jail, and I looked at the women and how they cared their children. They spent -- up all night playing and reading to their children and nurturing their child, and I would say to the women, "It's remarkable how you care about your child; it must be your first child." And time and time again, the women would say, "No, this is not my first child. It's my seventh child and this is the first time because I went to Rikers Island and I got into this program, I learned about nutrition, I learned about health care, I learned about AIDS. I've never gone to a doctor before. I never went to primary care. I never went to a dentist."

I heard that from hundreds and hundreds of women. So the profile of the woman we're talking about -- and I say get into the real world. It's not Senator Rath, it's not Senator Mendez, it's not Senator Smith, it's not

Senator Abate. These are women that need to be reached through prenatal care and education, and there is no evidence that shows me. If there was evidence that could show to me that we could draw these women into the health care system through mandatory testing, I would support this bill.

Unfortunately, this bill feels good. It sounds good. I don't believe notification should replace prevention and treatment. This is too little, too late, and I don't believe notification is health care. Health care is a program, is a policy. It's a process that brings women closer to treatment, brings their children into treatment, gives them the capacity to care for their child under the umbrella of a health care system.

This bill does not do that; and for these reasons I can not support it. I think we must again reexamine mandatory counseling.

ACTING PRESIDENT KUHL: Chair recognizes Senator Gold on the bill and on the amendment.

SENATOR GOLD: Thank you very much. Senator Abate, I will concede to you that I didn't hear every remark that was made, and I was a little shocked to hear that you could interpret remarks made on this floor as suggesting that you were dumb or superficial or whatever. I think if those remarks were made I think we all owe you an apology or if people should feel that way.

I think your remarks, which I don't happen to agree with your conclusion, are as sincere as the remarks of anybody else, and this is a debate that's been characterized in many different ways. I can not believe that anybody that stands up today has anything but sincere feelings.

When you say the majority in this business are opposed, Senator, I didn't do that kind of a count, but I can imagine a lot of reasons why you asked why. I can think of a lot of reasons why, and I say to myself, "Out there today is the kind of dogma that kills." People get worried about certain kinds of principles,

and I always say to myself, "You ought to come out with the right result." If you are following a set of guidelines or rules and it leads you to the wrong result, I don't know the purpose of these rules and guidelines; and I appreciate confidentiality and I respect the medical profession.

But if concepts of confidentiality tell you that as between a woman and her natural instincts to want to take care of her child we have to come in between that and for some reason that makes very good logic the child dies, I don't understand the logic -- I don't understand it. You say that women who want to know know. Senator, you are a good lawyer. We have a lot of situations in the law where guardians are appointed for children not because their parents don't love them but because something happens and we say, "Well, in this case, why don't we have a guardian for the kids."

I don't know, maybe if this doesn't become the law, we're going to have to

start setting up guardians before kids are born, and I can imagine that when we start getting into that, the abortion questions and nonabortion questions, what that's all going to raise.

But a woman doesn't want to know. A woman is scared. There are women, Senator Abate, who believe in the concept of natural childbirth, and there are women who say, "I want to have a kid in the worst way; I want them to take me and knock me out and tell me in an hour or two after that I got a boy or a girl. I don't know want to know."

Women are entitled not to want to know about a lot of things, but what we're talking about is the child. The child that is born and is a human being at some point.

Now, I don't disagree with the concept of counseling. I think education is terrific, and I'm not going to repeat everything Senator Stavisky said because I thought today was brilliant. He really laid it out beautifully.

We are not against counseling; and if you can talk people into doing the right thing and learning, that's fine. I don't have any problem with that.

And when it comes to AIDS funding, I think we're all crazy, all of us are crazy. We don't put enough money into it, and you may not want to put money into it because you think it's one group or another in society and to heck with them. I think we're all nuts to have this kind of an epidemic and not be putting serious money into it.

But when all is said and done, when all is said and done, there is one question that just can't be answered; and that is, you have information that can help a child to live and you don't want to use it in that way, and I have tried to find some logic for that, and, believe me, I don't want to do the wrong thing legislatively any more than anyone here does, and we are going to cast votes today, 61 if we're all here, and not one of those votes is going to be cast by a Senator who wants to do

the wrong thing. We're all trying to do the right thing.

So I say to myself, you know, there ought to be counseling, and we ought to be reaching out, and I agree with Senator Abate. It's not this particular community. It may be that community over there. Well, let's reach in. Let's give them everything, and now we have done everything. We have done mandatory counseling; we've done everything; and then some little tyke gets born and testing shows that HIV is there, and we are going to say, "Tough", "Too bad", "Not our fault; the mandatory testing was there. Your mother didn't want to know. Your mother doesn't want to know today." I can't understand that. I can't understand it, and I don't believe it.

I don't believe that if a woman, a decent, loving mother believed that I had information which might hurt her but could help her kid, I can't believe she wouldn't want to know that information. But we're being told you can't give it.

And I tell you, Senator Dollinger, I don't think your idea is a bad one, and I won't repeat what was said over here and what was said from the gentleman from Nassau County. If we had both bills, I could vote for both bills. But I'm not going to take this opportunity and sabotage it, because this is just too important.

As a matter of fact it's interesting. We live in a world where we get a new education every day. The way we treat our staffs, sexual harassment, et cetera, et cetera, it's all new sensitivities. We're all very sensitive now to things called child abuse. What could be more abusive to a child than for a parent to ignore a health problem. We would all go bananas if we knew -- if a parent knew that a child was laying in the other room with fever and the parent went out to a card game.

Well, why isn't it child abuse, philosophically, for us to deny legislation which says if you have information which can help a child to live you pass it on to the

parent. You don't take an ad in the New York Times. You certainly don't take it in the Post. You don't make it public but as between the parent and the child, in a sensitive way.

You know, there used to be that old joke, and the bottom line of it is you'd walk into the ward, there's five women, and you'd say, "Who here -- raise your hand if you have a child that doesn't have AIDS. Un-uh, not so fast, Mrs. Brown."

I mean I'm not talking about being a bull in a china shop. We're talking about sensitivity. But how you as a doctor, nurse, lab technician, have in your possession information which if it was transmitted to a mother -- and this is a real case -- these aren't statistics. This isn't philosophy, deep philosophy. This is the real world. You've got information in your hand; and if I give it, I may help. I think it may help. And if I don't give it, I know it can't help. Maybe that kid will get better, maybe that kid won't get better. Maybe the mother will breast feed,

maybe the mother won't.

But I have the shot. It's only a shot at helping. How do you not take it? I don't understand it. How do you not take it?

I respect the people who oppose this bill. I respect their medical expertise. I respect their right to come to a conclusion, and they may be as intelligent or more intelligent as the people who are in favor of the bill. I don't think that's the issue. I think when all is said and done, I go back to a case I had as a young lawyer and the courts ruled a certain way. It was against me, and I took it on appeal, and the judge in that case, the Appellate Judge said, "You can look at all the technicalities you want in the law, but you can't find a technicality that justifies doing the wrong thing." Thank God I was on the right side. It got reversed.

But you can't do it today, either. How do you look at a technicality? How do you look at a medical principle, and how do you develop principles that lead you to the

wrong conclusion, a conclusion that can jeopardize a young baby?

So with my deepest respect - deepest respect, sincerest respect for those people who will disagree with me, I'm going to cast a proud vote for this bill. I think that Senator Velella has no problem handling himself, but I think the toughest guy in town is Nettie Mayersohn; and, thankfully, she's in a fight, she sticks in the fight, and she took a lot of abuse, and a lot of other people would have quit. But if you know Nettie Mayersohn, you know she doesn't quit; and if you know Guy Velella, you know he doesn't quit.

And so we are on the floor today with an opportunity to do simply a decent thing. Is it the best thing, Senator Dollinger? I don't know. Is it the only thing? Probably not. But it's something that I think will save lives, and I think that's enough of a reason to vote for it.

Thank you.

ACTING PRESIDENT KUHL: Senator

Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Mr. President. I believe someone earlier -- one of my colleagues -- said that -- something about political correctness and the popularity of this bill and this issue, and I look at the people who are opposing mandatory disclosure, and I do not think that these people are people that are very, you know, involved with political correctness. I don't think they are particularly involved in civil liberties. You know, names like the American College of Obstetricians and Gynecologists, the American Medical Association, the New York State Nurses Association, the American Public Health Association, the American Academy of Pediatrics, the National Association of Social Workers, you know, these aren't people that I think care very much except for public health and the health of children and mothers, and I tell you the truth I look to authorities when it comes to an issue which I'm not particularly knowledgeable about, and I think none of us in this chamber are

anywhere as knowledgeable as these people I've mentioned, and these are pretty much national positions. Sometimes New York State positions, but mostly national positions, and it looks to me like just about every major medical provider in the United States is opposed to this.

And I really don't have the kind of information that they have. I know I believe very strongly in the voluntary counseling and testing. I think it is essential that there be this counseling if we're going to have behavioral changes and changes to health care and nutritional care and education and involvement with the baby; and these mothers, for the most part, have not demonstrated, at least the mothers that I believe we are talking about, have not demonstrated interests in either the health care, the nutritional care -- if they had, I think they would have gotten involved in the health care system well before this point where we are dealing with a baby. They should have been getting some kind of care prior, and they would have probably asked before the baby

was born to have themselves tested so that they could take the best care possible of the baby.

I think if this -- the bill that we call the Tully bill from last year, the counseling bill, if that had come forth first, I think many of us would have found it easier to support this bill because then it would have been those mothers that didn't avail themselves of the counseling; and, therefore, those reprobate mothers, "Well, this is what we have to tell you at this point."

But I think we would have felt much more comfortable with the Tully bill before us, and we could say, yes, we support the counseling. We support the advice that has to go into changing behavioral attitudes and methods and policies that just don't seem to be apparent in most of the -- you know, the mothers that we're going to be dealing with in this issue.

I think the attention is taken away from where the focus ought to be. The focus ought to be to grab that mother and say,

"You have to know about this. This is mandatory counseling and this is what you have to know and if you know this, then this is the action you should take." I think it is really too late to be dealing with the baby.

ACTING PRESIDENT KUHL: Chair would recognize Senator Paterson to close for the Minority.

SENATOR PATERSON: Mr. President. Without Senator Velella's efforts, we wouldn't be discussing this entire issue today, so I again compliment him on the work that he has done.

I heard in this discussion a lot of conversation about confidentiality. Confidentiality is not an issue in this discussion because we as a society have already addressed the issue of confidentiality because there are seven diseases that we do require mandatory testing and mandatory information that is shared with those who are tested, with the mothers of children who are born with these different diseases.

So this is not a question of confidentiality. This is a question of consent. If an individual does not want to be informed on this particular issue, what we are saying to them is that you have to be informed. You must be informed because it is public policy that the value of your knowing is more important than your own privacy. That's something we can do. We do that in the case of seven diseases that Senator Mendez pointed out when she was speaking.

But the problem with this particular bill and the problem I have been hearing in the discussion all afternoon is the problem of treatment. At the point that we become aware that an infant is tested positive for the HIV virus, we have continued through this discussion to ignore the fact that 70 to 85 percent of these infants will never contract the AIDS disease. The overwhelming majority of them will not develop AIDS.

So the discussion even of the treatment is somewhat irrelevant because as we

discussed earlier our federal regulations through the CDC say, for instance, in the area of treatment by the use of Bactrim we don't use Bactrim until the pneumocystis PCP, the pneumonia, kicks in.

So, now we have a mother and this mother is informed that she has the HIV virus. What are we going to do? What is our treatment? What is anybody here suggesting be our treatment at that point?

The reality is that in the case of infants because there is not a static situation, because there is a change in their condition -- in four out of five cases, they are not going to develop the virus -- we can't treat them with any drugs. We used to treat them with AZT. We lost all of those babies.

Nobody seems to want to address that issue. But if we're really talking about saving babies, we sure in the late '80s did not do that. So, now, what is it that we as a society gain from knowing that the women who happen to test positive for the HIV virus and

have infants who are testing positive, what is the value of us knowing that information?

I don't -

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

SENATOR MENDEZ: Will Senator Paterson yield for a question.

ACTING PRESIDENT KUHL: Senator Paterson, will you yield? Senator yields.

SENATOR MENDEZ: You are saying that the percentage of the babies born, we never develop what actually they are born with is the mother's antibody, and what you are saying that because of the -- of the possibility of infec tion, assuming all those that just have the antibodies of the disease and those are the ones, 12 to 25 percent, that are born with the AIDS virus. You're assuming that all of them will be treated with one of those two drugs, so if this bill doesn't go through then, and we know that you don't want babies to be treated with those drugs, then are you assuming -- are you stating then, let those that are -- that are

O.K., leave them like that, the other 12 or 25 percent let them die. They're going to die any way. Is that the assumption?

SENATOR PATERSON: Senator Mendez, that's not an assumption. Those 12 percent of those babies are going to die unfor tunately, and it's tragic to say this. They are going to die at a point whether we treat them or not.

I'm not saying we shouldn't treat them, but I'm saying that they are going to succumb; that is correct.

SENATOR MENDEZ: Then it becomes -- there are new things that are being developed that could, in fact, make it possible for those children who have the virus to be treated, so -- so I'm losing my trend of -- of thought. They will be -- those will be -- those will be treated.

Oh, I'm so sorry, I had a loss of memory, because this -- this subject matter, in my mind, I find that it is -

SENATOR PATERSON: You have a

worthy assistant here, Senator Velella, and he's saying in the future -

SENATOR MENDEZ: I want to apologize. It's just that this issue is so important to me.

You're also saying that these women, who are marginal women, women who behave differently than middle class women who, whenever we have a little problem, any money so they go to the therapist or they go to the psychiatrist, to discuss their feelings about A or B or C, but this, the experiential world of these marginal women is totally different. So if we think that we're going to have these women go for counseling, when we -- when they don't know what is at stake and they know that their babies were born with the antibodies or the HIV factor, then they will have a motivation to go for help.

Then they will go; then we will be able to help them first practice safe sex so they wouldn't give the -- the horrible disease to anybody else and, secondly, to understand the

things that have to be done so that their babies would have a better life. After all, with all the things that have come about in the treatment of AIDS, thank God, people are living longer.

Why can't a child that is born with AIDS couldn't be helped to live longer?

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: First of all, what Senator Mendez is advocating is a mandatory testing period, and that's what I'm afraid we get to.

SENATOR MENDEZ: Mr. President.

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

SENATOR MENDEZ: I think that I haven't been very articulate, because I -- I just heard my esteemed colleague saying that I am advocating mandatory testing. I am not advocating mandatory testing.

ACTING PRESIDENT KUHL: O.K.

SENATOR MENDEZ: Mandatory testing exists. All these children are being tested for the AIDS virus, all of them.

ACTING PRESIDENT KUHL: Senator Mendez.

SENATOR MENDEZ: The only question is, should the mother know or should we as a public policy keep it away from her? In doing so, we are condemning her to -- not to get treatment for herself. In doing so we are condemning that child to an earlier death, and I think that that is a very callous public policy.

ACTING PRESIDENT KUHL: Senator Paterson to continue to close.

SENATOR PATERSON: Yes, Mr. President.

When we are advising people that because they have the HIV virus that we now have tested them and are now advising them to practice safe sex, that is not related to what this bill does. That's why I thought that that was an argument for just general mandatory

testing.

What this legislation does, and even the sponsor of the legislation is not advocating that there be any penalty that the woman would suffer from learning that she has the HIV virus. What I understood this legislation to be serving was the children, so I think we need to focus on the issue of the children.

Now, the length of time that people are living for those who have contracted the HIV virus has never in any study been related to the drugs that they receive. It's been related really to the longevity of the existence of the virus itself.

But on the issue of children, what I'm saying is that we cannot in a sense have a preventive hit in this particular situation because since we don't know who the young newborns are who are going to sero-convert and who is not going to sero-convert because we don't know who that is, we can't start entering into the kinds of treatment.

The preventive treatments have been effective, and this goes back to a question that Senator Maltese asked earlier, when the woman is actually pregnant, but when the new born actually comes onto the planet, past experience treating the newborn with immuno suppressant drugs has been fatal, and so when - Senator Mendez?

SENATOR MENDEZ: Will the Senator yield to just one more little question?

ACTING PRESIDENT KUHL: Senator, do you yield to one little question?

SENATOR PATERSON: Well, I -

ACTING PRESIDENT KUHL: The Senator does.

SENATOR MENDEZ: Senator Paterson, all the kids are born, 75 or 80 percent of them with the -- with the -- the antibodies and 10 to 25 percent with the HI virus. You are saying that nobody knows which of those children have the virus versus which of the children will -- you know, will grow out of the virus. But what they do know is that

children from three months to six months of age -- of age, three months to six months, they develop the pneumonia that is characteristic ally associated with AIDS.

SENATOR PATERSON: Well, those -

SENATOR MENDEZ: So that we have between the three months and the six-month period that will be the time in which the children will develop either that kind of pneumonia or any of those other parasitic inflammations that take advantage of the immunological, so that I felt that I had to remind you of that.

You are so concerned that all the kids are going to be given AZT or all the kids are going to be given the other drug that you're talking about, O.K.?

SENATOR PATERSON: Well, Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Senator Mendez has actually explained the reason why I contend

that this bill should be defeated. She just explained it herself. Maybe inadvertently, but she just explained it.

She said at the time that the children are born, no one knows the difference between those who have the HIV virus and those who are going to sero-convert but, as Senator Mendez said, between three and six months those that have the HIV virus will develop the characteristic pneumonia. That's when you know they have it. That's when you start treating them with Bactrim, and that's why the test, the mandatory nature of the test does not necessarily need an absolute conclusion that the mother be aware, because in the cases where the young people, the newborns are going to go on and develop the HIV virus, you will know that, in the majority of cases from three to six months, and that's exactly why at the time you conduct a test for newborns, there is absolutely no reason that the mothers being informed has to be involved, and I thank Senator Mendez for bringing that to our attention.

Now, if I can close on the bill, Mr. President, I would just like to say that one of the reasons that I have a problem with this bill is that we haven't discussed all day, just involves the treatment itself and this is the treatment not only for the children but for the adults. 75 percent of the children won't have the HIV virus, but one thing we haven't discussed today, that means that three out of every four people that have the HIV virus are going to be the mothers, and there isn't anything that I see, no funding, no increase in registration of hospital beds in communities that need this, nothing is being -- is going with this bill that is going to really treat the real problem, which is the number of people that have the HIV virus.

And one other point. The research on this particular virus, in my opinion, has been stagnated and has been obfuscated. Last year, after the debate, I was confronted by one of the advocates for the passing of this legislation, and they described

some remarks that Senator Gold made on the floor and some remarks that I made on the floor as being bizarre about the alternative therapies the people are using to treat the HIV virus.

Unfortunately, one of the issues that's come up today, and I -- it doesn't matter to me, everyone has to vote your conscience, whether you vote for the bill. Senator Gold is for the bill, but he's also for a much more concentrated, much more extended research on the legislation. But there has been a tendency in the debate today to institutionalize the treatment, in other words, to actually believe that the treatment has had positive effects.

The only positive effect that any study has really demonstrated hereto, one is that if you treat the pregnant woman with AZT you can diminish the number of newborns who test positive for the HIV virus, so that's something we should do.

Now, technically, what the sponsors might have done is to have moved the test back at the time that the women were

actually pregnant. The second thing is that the drugs we're using now, drugs like DDI and DDC, are actually prolonging the lives of the individuals who have it, but they are also making them higher risks for a -- an earlier death. In other words, the average time is longer, but because these drugs exacerbate the virus, many of these people are dying younger than they would have; and so what I'm saying is, this time period, the newborn, the test at birth does not have the value that the very good hearted people, sponsors and those who've debated the bill, think that it actually does and what it's doing, it is allowing all of us to leave this chamber feeling reassured that modern medicine is making every attempt to treat this virus, when I contend that that is not happening.

We are treating it with a bunch of prescription drugs. AZT which was actually used as a drug for cancer, chemotherapy, treats and assists 12 percent of the patients, but 15 percent of them develop a new cancer. It's

taking a giant step backwards, and what I'm saying is we need a Galileo. We need a Columbus. We need a Copernicus. We need the kind of research and the kind of funding - Velella? We need a Velella too.

We need people who are fighting to try to find a cure for this virus. What I like most about this bill and this discussion is the fact that we're addressing this whole issue in terms of this bill, I honestly feel that we're rearranging deck chairs on the Titanic, that we are not actually able, through the information that we get from these tests, to really help the victims whether we disclose it to the mother or not and, if we find something that is really tangible, something that's really effective, our law has already covered that. We will mandatorily inform the mother, but until then, what we're saying is you have to take the test. We have to tell you the results.

We'll tell you that it's going to be confidential and then, in the meantime, if you do have the HIV virus, we'll keep an eye on

your child to see if they develop it because there's no real treatment we can give at that time. There's no real treatment we can give at that time and at the same time what will we do for you? Well, according to this year's budget, not a whole lot in terms of the area of funding and that is the reason, Mr. President, I feel that I would want to oppose this bill.

But I would close just by reminding all of us that those inventors, those individuals who brought knowledge onto the face of this earth, were always opposed by the societies that they lived in. Thousands of years ago or whenever it was that the first person invented fire, I think they were probably burned at the stake because they taught their brothers and sisters to light, but they offered the world a gift that had never been perceived before and forever lifted darkness from the face of the earth.

But throughout the centuries, the great creators, the scientists, the inventors, were opposed. Every new thought was denounced;

every new idea was opposed. Fortunately, those creative men and women went ahead. They fought, they suffered and they paid, but they won and they won by bringing forth onto our society and other societies new knowledge and new information.

We are not going to find that knowledge by spending most of our time deciding whether or not we're going to deny consent. We are going to find that knowledge by pouring as many resources as we can into AIDS research before, as a society, this cancer envelops us all through the ancillary diseases that we're finding out, cryptosporidium in our water and certainly tuberculosis, the affectation of AIDS and a whole lot of other very serious diseases that are being spawned by this menace.

That's where I think our concentration must lie, and that's why I'm so happy that Senator Velella is working on this legislation because it gave us an opportunity to discuss it today.

Thank you very much.

ACTING PRESIDENT KUHL: Chair recognizes Senator Velella to close debate.

SENATOR VELELLA: Yes, Mr. President. I have probably six pages of notes that I'd like to refer to, but I realize that we're already over the limit and that we are - we have additional work ahead of us tonight, so I'm going to sum up as quickly as I possibly can.

Let me say that I've heard a lot of misstatements of fact here tonight and this bill in no way, Senator Paterson, even begins to deal with the issue of treatment. Obviously you have some very strong feelings about what drugs should be used, what techniques should be used, what doctors have told you, what should be done, what shouldn't be done.

All this bill says is that we're going to let someone know that that baby that was born has the potential of developing the AIDS virus, and we're going to try to deal with that and do the best we can for that child.

Now, that doesn't mean that we're

going to give it AZT. It doesn't mean that we're going to do anything else except take the same precautions that the Centers for Disease Control is now writing the protocols for to start early treatment with -- with antibiotics to prevent those pneumonias that I was talking about. Atlanta is telling us that they are on the verge of successfully putting together a program where that prevention can be used, not to save the life maybe, not to make that life very much longer, but to let that infant have a little more comfort level. It may be that extra antibiotic; it may be a pain killer at some point, but we want to make that child live out its life to its fullest and in the most comfortable fashion, hoping that around the corner there is a cure for this disease.

Now, this is a very strange disease, and last year I mentioned it and I mention it again. It's the only politically protected disease known to man. 39 pages in the Health Law telling us what we cannot do about people who have AIDS, nothing about what we can

do.

Let's start turning the things around. Let's start talking about what we can do. We can look at reality. People won't forget anything that we're doing up here and understand the political battles that we fight, whether we have budgets, whether we don't have budgets. There's a side -- there's an argument on each side, but when we put our heads in the sand and deny reality, that's inexcusable. When we cause innocent babies to suffer and to lose their lives because we refuse to look at things in a realistic way and give political protection to one disease. If you have syphilis, you're tested for that when you get -- when you're pregnant. You have a battery of other diseases. If you have tuberculosis, we can take you and physically restrain you and hold you in a room and isolate you because the good of the people is to protect against that contagious disease.

This is a contagious disease. We have to fight it. We have to stop the ability

of this disease to spread amongst our society, and the way you do that is by letting people know what the facts of life are about this disease. If you have it, you have to deal with it. You have to prevent other people from getting it. There are going to be a battery of bills that will be coming to the floor on these issues, the issues of whether ambulance workers have a right to have people tested that have - that they have had an exchange of fluids with. The issue of a woman who is raped, does she have the right to know whether or not that man that has raped her had the AIDS virus and has possibly passed it on to her?

But this is probably the most basic issue, an innocent life, a baby that is born that may be able to be helped and may be very possibly in the near future may be able to be saved, but yet we, the Legislature, put our heads in the sand.

Now, there's another issue and I'll be quick on this because I know we're running over, the issue of the amendment.

Senator Dollinger, I -- you were out of the room but I told you I support fully the concept of counseling, but again the wrong time and the wrong place. There's going to be a bill out on the floor, the Health Department, Senator Tully, Senator Hannon, various people from both houses, both sides of the aisle, are working out a realistic counseling bill, a mandatory counseling bill. All of us are for that. This is the safety net.

Suzi Oppenheimer basically said, and I just jotted it down, Suzi, that you take the woman and you say, if you know this, this is what you must do. My bill says, when you take the woman and you say if you know this, this is what you must do, and if she says no, my bill takes over. It saves her child in spite of her. That's what we're trying to do. We want to convince her to take the test. We want to convince her to do all of the things that are necessary, but when she says no, that child that is now a born human being, alive outside of her own body, has a right to the best medical

treatment to make its life comfortable, to make its life as long, to extend its life as long as possible.

That is all this bill does. It does nothing more. It gives those innocent babies a chance. Senator Gold says it does, a shot. Is it the answer to the problem? No, but we'd better wake up in this state if we're going to deal with this disease and realize that we can't afford to politically protect diseases. It's got to be treated like every other contagious disease. The people that have it have to be treated and have to be dealt with so that they do not spread that disease to other people whether it be their own family or strangers. That's the way we traditionally have dealt with every other contagious disease from tuberculosis on down the line. We've dealt with it effectively and efficiently for the good of the people of this state, and we ought to deal with this disease the same way. No political protection, no special treatment. No 39 pages in the laws of this state telling us what we

can't do about AIDS, but yet no other disease has that same volume of prohibitions.

I think what we have to do is defeat this amendment. I call for its defeat and pass the bill, Mr. President.

ACTING PRESIDENT KUHL: The question is on the amendment. A vote in the affirmative is a vote for the amendment. A vote in the negative is a vote against the amendment. All those in favor of the amendment signify by saying aye.

(Response of "Aye.")

Opposed nay.

(Response of "Nay.")

The amendment fails.

Secretary will read the last section of the bill.

THE SECRETARY: Section 4. This act shall take effect September 1st, 1995.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator

Tully to explain his vote.

SENATOR TULLY: Thank you, Mr. President.

I first want to commend the efforts of all of those who are working to combat the tragedy of HIV and in the case of this particular bill, the transmission of HIV from mothers to children.

During my tenure as the Senate Health Committee chairman, I was privileged to sponsor a landmark law to address the serious maternal and child health care problems in this state, plus the frightening epidemic of HIV. I know as well or perhaps better than anyone in this chamber of the severity and complexity of these issues and of the need to support those seeking solutions.

Last April, this house unanimously passed legislation that I sponsored to address maternal HIV transmission. That approach required that HIV counseling, appropriate testing with consent and treatment be made a basic standard of prenatal care for

all women in this state.

That legislation built on the maternal and child HIV initiative included in the NYPHRM V law that we sponsored the previous December. It was further based on the new research results showing an approximate 70 percent reduction in risk of maternal to child HIV transmission by administering AZT to pregnant women infected with the virus.

It had the support of the state and regional hospital associations, the state Medical Society, the state College of Obstetricians and Gynecologists, the state Nurses' Association and countless other organizations and experts involved in public health, maternal and child health and HIV prevention and treatment.

Comments originally made by the state Health Commissioner, Dr. DeBuono, during and after her confirmation proceedings, suggested that she too supported the approach that we took last year. Candidly, I expect based on those and other comments that we would

be working jointly towards that end. However, now that the Senate Health Committee voted last month to send us this alternate approach before us today for a vote, the commissioner is apparently now willing to consider it as well.

On the bill, Mr. President, I share the concerns that have been expressed that this bill is not the best step for New York infants or women or for the public health at large. The reasons are numerous, have been repeatedly stated and are evident in the many memoranda that have been filed. I know of few other issues that this house has deliberated which have been so complicated and, unfor tunately so broadly misunderstood, especially as reported by the media.

Let the record show that I continue to recommend the approach passed unanimously by this house last year or one similar to that. Minimally I would have preferred to have been reviewing for this vote today a bill that had three-way agreement. However, this is not clearly what is before us

at this time. I understand the Assembly has not yet agreed to the bill on this floor and that further negotiations are expected; so I'm assuming that this issue in revised form would be revisited for more definitive action as the session continues, and I intend to work towards that end with Senator Velella and the Assembly sponsor, Assemblywoman Mayersohn.

While I continue to share the many concerns that have been expressed, I feel that the even greater tragedy would be to allow the issue to continue to languish without resolution. I will, therefore, vote in favor of this bill in order that deliberations might be escalated and an effective state response be developed without further delay.

I vote aye.

ACTING PRESIDENT KUHL: Senator Tully in the affirmative.

Just for -- ladies and gentlemen, we are on a fast roll call. Could I ask all of you who have voted against this to again raise your hand. I'll continue to take explanations.

Senator Leichter to explain his vote.

SENATOR LEICHTER: Mr. President, I must say this is about as difficult and as complicated an issue as I have faced in my many years here, because I think the initial logical response is to say, Well, of course you ought to tell the mother, and initially, I think when Assemblywoman Mayersohn approached me on this and let me -- let me pay observance to her and acknowledge how hard she has worked on this issue and how committed she is to it, and also Senator Velella.

But if you -- if you then go and speak to the health professionals, the people who are working with a very difficult population, you'd begin to understand or at least to see the arguments against it, and I think what so often happens, we certainly do it in the field of criminal law. We apply the logic that we would apply, that the people that we're trying to reach unfortunately are outside of the mainstream of behavior and there's real

concern that they're going to, instead of responding, are in fact, going to take action that's going to be not in the interest of the child or the interest of the mother, and I must assume that it's for this reason.

I take a look at the organizations against it. I mean these are not ideologues, these are organizations that work each and every day to combat the AIDS epidemic, whose job, whose function, whose purpose, whose commitment, whose mission is to save lives, to save lives of children: The Medical Society, the American College of Obstetricians and Gynecologists, the American Medical Association, the Hospital Association, doctors and our medical centers.

This is not their self interest. I think Senator Tully and others have said it here, that the real answer is the mandatory counseling during pregnancy, and I'm also concerned that by passing this bill we're going to close up shop and we're going to say we've taken care of the issue.

Senator Velella says no, we're going to come before you. We're going to have a counseling bill. Why weren't all these bills put out together, if we're looking for a comprehensive unified approach that should have been done.

So for these reasons, Mr. President, and following the advice of organizations that I think know much more about this problem and what needs to be done than we do in spite of of all our good facility and all our desire to deal effectively with the problem, I'm voting in the negative.

ACTING PRESIDENT KUHL: Senator Leichter in the negative.

Senator Jones to explain her vote.

SENATOR JONES: Yes. I've listened very carefully today and as I did last year to all the debate and the discussion on this, and I think as I mentioned before I had the opportunity even to visit Harlem Hospital last year and, after talking to the doctors and

everybody there, I came away thoroughly convinced that this is not the right way to go, that this bill is the wrong approach, and I truthfully haven't changed my mind on that.

Senator Tully is correct in what he's saying, but two things came across to me today. One was a word my colleague on this side said when he used the word "minimum," and you also heard Senator Velella say "fall through the cracks." Confidentiality is clearly not an issue to me. The issue is the spread of the disease for which as of today there is no cure no matter what we want to say about it.

The problem is we're putting the cart before the horse. I totally agree that the right approach is to get the woman prenatally, do everything you can, and I think Senator Velella is really saying the same thing because when you get to the end here and you've got this small group of women who refuse or didn't take advantage of that, then clearly we need to step in and do something for that child.

So I think it's unfortunate that

we didn't put the right thing first which was to use every means we could to get at this woman during pregnancy.

I hope that you're -- you're right when you say it will come back and we'll put these two pieces together, because to me what we're voting on today, and I admit it's no reason to vote against it, but what we're voting on is the end of the line, and we miss all the steps up to there. So I'm hoping -- I will support the bill, but I certainly hope that Senator Tully's approach will be incorporated in this, and this will be the end of the line for those women who, for whatever reason, aren't willing to take what we're offering in counseling, treatment prior to the pregnancy, and the child will in the end get whaatever help it may need.

ACTING PRESIDENT KUHL: Senator Jones in the affirmative.

Senator Dollinger to explain his vote.

SENATOR DOLLINGER: Mr.

President, I think this is the most difficult issue I've been called to vote on in my three years in this chamber.

Let me start by saying Senator Velella and I have sparred a number of times on this floor about all kinds of things, but I want to commend him for his closing argument.

I think the bottom line, unfortunately, comes down to something very simple and may be it ties in with what Senator Tully said as well, in his well chosen remarks. How do we save babies? That's what we want to do. How do we save 'em? And the problem is, at least as I see it, the science of this is that if you test after birth and the test is positive, you can't save the baby. You can't. If the baby develops HIV, unfortunately, in our current world of science, the baby is going to die.

There are all kinds of things we could do for that child, we should do for that child, and I agree with Senator Velella, we're not -- this bill doesn't involve the treatment

of that child. Please let's get the appropriate treatment, the best life sustaining treatment that we can to that child.

But the inescapable fact is, if you want to save lives, the mother should take AZT during her pregnancy and the way to best accomplish that is to require that she undergo mandatory counseling. I agree with Senator Velella, I agree with Senator Abate and others, some women are going to fall through the cracks.

That is a tragedy, and I hope that, when this bill comes back as I know Senator Velella, as I've heard him say it and as I've heard Senator Tully say it, that there will be a focus to try our darnedest to get them into test as quickly as we can. I see that as your intent, Senator Velella, and Assemblywoman Mayersohn, but under the current way the bill is focused, it's all focused after the fact and we've got to push that focus before the fact, and I look forward to voting on a bill and hope working it out with the Health Committee or with

anyone who will invite me to participate to make that as much counseling, as much focus as we can when we can save the baby, when we can take AZT during pregnancy and advise the woman the minute the child is born, don't breast feed the baby. Then we're in a position where we can actually save lives.

Mr. President, as I said, this is the most difficult vote I've taken. I sometimes sit here and wonder what is the right thing to do. Some little thing inside me says that the balance is ever so slight.

ACTING PRESIDENT KUHL: How do you vote, Senator Dollinger?

SENATOR DOLLINGER: The right thing to do is to vote in the negative.

ACTING PRESIDENT KUHL: Senator Dollinger in the negative.

Senator Paterson to explain his vote.

SENATOR PATERSON: Mr. President, I think the jury has spoken; the advocates have spoken, and I think I did accept the decision,

and we'll go forward and try to concentrate on the real menace which is the virus which it says 16 years ago we never even heard of this, and now it's the leading killer of a number of different age groups.

I just wanted to throw in the record that I have in my hand Section 13.5 of the AACPR guidelines for the treatment of HIV. This is the management overview. There are two sections that apply to children. One involves counting the CD4 cells, and the other involves a CT scan and continued monitoring every three months.

There is nothing in here that suggests that there be any treatment with antibiotics to prevent Pneumocystis CP pneumonia as Senator Velella suggests. Antibiotics are very dangerous for people to be taken when you don't know whether or not they're sick, and I would suggest, based on past experience now that we are going to have this bill which may become law, that we not treat anyone who we do not know is infected.

ACTING PRESIDENT KUHL: Senator Paterson in the negative.

Senator Saland to explain his vote.

SENATOR SALAND: Thank you, Mr. President.

We're not engaging here in an intellectual or existential exercise. This is very real life, and the lives at risk have no say in the matter. The lives at risk are infants. The lives at risk did not ask to come into this world, with the potential for an absolutely God-awful affliction.

We have a duty. That duty is to try in some fashion to avoid benignly neglecting and compounding their situation. Senator Velella has provided us with a vehicle. He has provided us with what I think is the right vehicle. He has provided us with the means by which we can say that this exercise, this blind testing taken no further, is almost tantamount to saying that the mother of a child is engaged in Russian roulette, Russian roulette to the

extent that there are a number of infants who can be spared becoming AIDS-infected if, in fact, their risk is reduced by their not breast feeding, some of whom, who are in fact HIV positive and subsequently demonstrate the presence of AIDS, can be, through proper treatment, able to sustain a normal life according to the CDC, can live for as many as ten years sustained during the course of that normal life by medical assistance, and who's to say that in that intervening period we do not have the ability through the very same sources, through the very same inventors referred to, of the magnitude referred to by Senator Paterson, to, in fact, come up with some type of a cure.

Why do we want to condemn the infant to a life that will either be compounded by the worst kind of deprivation or, in fact, shortened by something akin to a death sentence?

ACTING PRESIDENT KUHL: How do you vote, Senator Saland?

SENATOR SALAND: I vote in the affirmative.

ACTING PRESIDENT KUHL: Senator Saland in the affirmative.

Senator Marcellino to explain his vote.

SENATOR MARCELLINO: This bill gives us the ability to provide some light on a very difficult issue. What I'm hearing is akin to the old joke about the old man who marries the young woman. If she dies, she dies.

The opponents of this legislation are saying by wishful thinking we're going to hope that women will take part in voluntary testing and voluntary counseling and that, by merely telling them that you may, possibly, could, maybe because you might get something if you did the wrong thing, we hope they're going to do the right thing and if they don't, we're O.K., because, after all, we gave them the opportunity and they simply didn't do anything.

In the meantime, they could go on, engage in unsafe sex and spread this disease all over the place and we're doing nothing about it because somebody says it's not a good idea or

it might be dangerous.

I suggest that Senator Velella and Assemblyman Mayersohn's bill is the way to go, and I hope in the future we can take my learned colleague, Mike Tully's, legislation and incorporate it and make one really good positive bill on this situation.

I vote aye.

ACTING PRESIDENT KUHL: Senator Marcellino in the affirmative. Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 184 are Senators Abate, Connor, Leichter, Markowitz, Montgomery, Oppenheimer, Paterson, Santiago. Ayes 49, nays 9.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there is a report of -- if we can return to reports of standing committees and I believe there is a report from the Rules Committee.

ACTING PRESIDENT KUHL: There is a report of the Rules Committee at the desk. We will return to reports of standing committees, ask the Secretary to read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, offers up the following bills directly for third reading:

Senate Bill 3781, by Senator Marchi and DiCarlo, an act to incorporate the city of Staten Island, to enact a charter for the city of Staten Island, to provide a period of transition prior to the establishment of the city of Staten Island.

Also Print Number 4,000, by the Committee on Rules, an act to amend the Private Housing Finance Law, in relation to the state's involvement in the national Affordable Housing Act Program.

Both bills directly for third reading.

SENATOR SKELOS: Move we adopt the report.

ACTING PRESIDENT KUHL: Motion is

to accept the report. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The report is adopted.

Senator Skelos.

SENATOR SKELOS: Yes. May we please take up Calendar Number 362, S. 4,000.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 362.

THE SECRETARY: Calendar Number 362, by the Committee on Rules, Senate Print Number 4,000, an act to amend the Private Housing Finance Law, in relation to the state's involvement in the national Affordable Housing Act Program.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, is there a message of necessity and appropria tion at the desk?

ACTING PRESIDENT KUHL: Senator

Skelos, there is a message of appropriation and necessity.

SENATOR SKELOS: Move we accept.

ACTING PRESIDENT KUHL: Motion is to accept the messages. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

SENATOR SKELOS: Mr. President, could we read the last section and call the roll for the purposes of Senator Gold voting.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Gold, how do you vote?

SENATOR GOLD: Negative.

ACTING PRESIDENT KUHL: Senator Gold in the negative. The roll call is withdrawn. The bill is before the house for debate.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Stafford, an explanation has been asked for by, I believe, Senator Leichter.

SENATOR STAFFORD: Mr. President, if I was to make a simple explanation here, which I'm sure is what everyone wants, this bill includes the Article 7 bills which, in effect, implement the budget.

Now, I could go from subject to subject, but I know everyone has -- has the outline. By no means am I making light of the importance of this legislation, but I think probably it would serve our purpose best and we would get most -- get the most out of it, and we would have a more constructive discussion if we asked for anyone to talk to specific points and we have experts that will be more than happy to share their knowledge with us.

I think Senator Montgomery had a question.

SENATOR MONTGOMERY: I had an answer to my question.

SENATOR STAFFORD: Thank you.

SENATOR LEICHTER: Let me just, if I may then, just very briefly, on the bill.

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: I gather that what the Majority has done is put everything, including the kitchen sink into this one bill, what was originally about 20 or 30 Chapter 7 bills -- 59. And while, as I understand it from my colleagues on this side of the aisle, certainly some of these we would support, having it as an omnibus bill makes it difficult for us to support the bill.

So I believe at least some of us are going to vote in the negative. While there are specific provisions in here that we would support, probably not the best way to approach it, but I also am told this is a one-house bill,

and will probably be revisited in maybe a more manageable form at some future time.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR STAFFORD: I might just point out in just a second that this is about 60 of the 93 bills that were sent up, and I would point out that through the years that you and I have been here, this isn't the first year that these have been put together. So go ahead.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, just briefly, in this bill it appears upon information and belief that there is no Keno in this bill, which is $115 million of the projected amount of money that we would have to spend. In addition, the $110 million revenue from the pension grab, the raid on the pension system, isn't in here.

There's no explanation of a school aid formula in this particular bill, and there's no real award of the SUNY and CUNY

tuition in this particular legislation.

This bill came out today. We, the Minority, haven't had a chance to conference it. We really haven't had a chance to fully examine it. It's the conglomeration of 59 Article 7 bills, so it's very difficult, and I recommend a no vote. It is during the day, but it is kind of a voting in the dark sort of process, and all of these issues will have to be agreed upon later between the Governor and the Senate who agree on this, but also with the Assembly, with the Speaker, and including those issues that really are not agreed upon even in this bill because the bill doesn't reveal them.

Thank you.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR PATERSON: Slow roll call, Mr. President.

SENATOR STAFFORD: I would point out -

ACTING PRESIDENT KUHL: Senator Stafford.

SENATOR STAFFORD: Before we get to the roll call, Mr. President, I would point out that there are a number of issues that still have to be settled. We mentioned Quick Draw. There's a difference of opinion. That will be discussed.

I would point out that I remember being here at a time when -- Mr. President, I know I'm boring, but if we could have just a speck of order.

ACTING PRESIDENT KUHL: You raise a very good point, Senator Stafford. Senator Stafford has the floor. I ask the members and the staff to please take their seats and please listen to the debate.

SENATOR STAFFORD: I would just point out that, in the past, it has not been - it has not been or it has been the practice often to pass various bills and then there would be additional bills, and I'm sure there still will be additional.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll. Go ahead; call the role.

Slow roll call requested. Call the roll slowly.

THE SECRETARY: Senator Abate.

(There was no response.)

Senator Babbush.

(There was no response.)

Senator Bruno.

(Affirmative indication.)

THE SECRETARY: Aye.

Senator Connor.

SENATOR CONNOR: No.

THE SECRETARY: Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Aye.

THE SECRETARY: Senator DiCarlo.

SENATOR DiCARLO: Aye.

THE SECRETARY: Senator

Dollinger.

SENATOR DOLLINGER: Mr. President, to explain my vote.

ACTING PRESIDENT KUHL: Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: And I'll be very brief, Mr. President.

The last time I was asked to vote on one of these big huge budgets, lo and behold, it had all kinds of things tucked in it, all kinds of language, and I had the experience of being accused on television of being voting in favor of rapists, all kinds of nefarious things I didn't know anything about, because it was tucked into this budget.

So what I'd like to do is just exempt a couple things that I would favor: The provision that deals with the testing of convicted rapists, oh, I don't have a problem with that; some of the criminal justice things that are also included in this with respect to work release. I'm not against those things either.

I'm against this overall bill because about 550 pages adopt the budget that we passed that I voted against. So I hope I'm not stepping in a favorite and familiar trap of my colleagues on the other side of the aisle in their television ads, but let it be known that there are parts of this bill that I favor and parts that I'm opposed to.

Overall I'm going to vote no.

ACTING PRESIDENT KUHL: Senator Dollinger in the negative. Secretary continue to call the roll.

THE SECRETARY: Senator Espada.

SENATOR ESPADA: No.

THE SECRETARY: Senator Farley.

(There was no response.)

Senator Galiber excused.

Senator Gold voting in the negative earlier today.

Senator Gonzalez.

SENATOR GONZALEZ: No.

THE SECRETARY: Senator Goodman excused.

Senator Hannon.

(There was no response.)

Senator Hoblock.

SENATOR HOBLOCK: Yes.

THE SECRETARY: Senator Hoffmann excused.

Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Jones.

SENATOR JONES: Explain my vote.

ACTING PRESIDENT KUHL: Senator Jones to explain her vote.

SENATOR JONES: I'm making the supposition, since the budget wasn't real, that this document that goes with it also must not be, but I will have to echo what my colleague on the other side of the aisle certainly doesn't mean it if it says here on page 187 or something that I haven't read yet, that you or that I do believe in letting rapists go free or any such thing, I'm not in favor of that.

So when it's real, I'll think about voting for it.

ACTING PRESIDENT KUHL: Senator Jones in the negative.

THE SECRETARY: Senator Kruger.

SENATOR KRUGER: No.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Aye.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Aye.

THE SECRETARY: Senator Leichter.

SENATOR LEICHTER: No.

THE SECRETARY: Senator Levy.

SENATOR LEVY: Aye.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Aye.

THE SECRETARY: Senator Maltese.
SENATOR MALTESE: Aye.
THE SECRETARY: Senator Marcellino.
SENATOR MARCELLINO: Yes.
THE SECRETARY: Senator Marchi.
SENATOR MARCHI: Aye.
THE SECRETARY: Senator Markowitz.
SENATOR MARKOWITZ: No.
THE SECRETARY: Senator Maziarz.
SENATOR MAZIARZ: Yes.
THE SECRETARY: Senator Mendez.
SENATOR MENDEZ: No.
THE SECRETARY: Senator Montgomery.
SENATOR MONTGOMERY: No.
THE SECRETARY: Senator Nanula.
SENATOR NANULA: No.
THE SECRETARY: Senator Nozzolio.
(There was no response.)
Senator Onorato.

SENATOR ONORATO: No.
THE SECRETARY: Senator Oppenheimer.
SENATOR OPPENHEIMER: No.
THE SECRETARY: Senator Padavan.
SENATOR PADAVAN: Yes.
THE SECRETARY: Senator Paterson.
SENATOR PATERSON: No.
THE SECRETARY: Senator Present.
SENATOR PRESENT: Aye.
THE SECRETARY: Senator Rath.
SENATOR RATH: Aye.
THE SECRETARY: Senator Saland.
SENATOR SALAND: Aye.
THE SECRETARY: Senator Santiago.
(There was no response.)
Senator Sears. 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: Mr. President, to explain my vote.

ACTING PRESIDENT KUHL: Senator Solomon, to explain his vote.

SENATOR SOLOMON: We've been in this chamber for a long time today and really instead of debating this bill, I'd just like to highlight a couple of points about why I'm going to vote against it.

Among other reasons, it takes $220 million away from the Mass Transit Operating Funds which the MTA was planning to use in 1996-97. The net result will be a fare increase for the MTA region, in addition to the New York City subway and bus fares. In addition there is no TAP schedule that that tells us what will happen with the money for TAP.

And what additionally concerns me is what again is going to happen to those people

in New York City, the home health care recipients, regarding a schedule that has been implemented in this piece of legislation which, in fact, is very unfair, where the average number of hours received by those recipients is 154 hours a month. This is basically going to tell the localities, Well, we're not going to pay you for that 40 percent of that 154 hours. We are, in fact, going to cut it down so you'll get a certain percentage up to 80 and then you'll get a reduced percentage up to 120 hours and then after the 120 hours those last 30 hours nothing.

As I said, this is a bill that's probably going to result in a fair increase in New York City and down the line and it's inherently an unfair piece of legislation. That's why I'm going to vote no.

ACTING PRESIDENT KUHL: Senator Solomon in the negative. Secretary will continue to call the roll.

THE SECRETARY: Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: No.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: No.

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

(There was no response.)

Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT KUHL: Secretary will call the absentees.

THE SECRETARY: Senator Abate.
SENATOR ABATE: No.
THE SECRETARY: Senator Babbush.
(There was no response.)
Senator Farley.
SENATOR FARLEY: Aye.
THE SECRETARY: Senator Hannon.
SENATOR HANNON: Mr. President.
ACTING PRESIDENT KUHL: Senator Hannon to explain his vote.
SENATOR HANNON: Yes, Mr. President.
There has been a considerable amount of work, time, effort and that by members of the Senate collectively and the Majority to take what was a dramatic and drastic and far too draconian proposals that have come up from the second floor in terms of the budget with regard to the Medicaid cuts and certainly there will be people in every part of the state who said, I wish this would happen or that had happened to make things better.
But we have tried throughout all

parts of the health care system to alleviate what would have been much more dramatic pain, nursing homes, hospitals, home health care and we have provided a restoration, long-term care program, the nursing home without walls.

We have restored many items that people had thought ought to be restored and we have recast the personal care provisions so that all of the localities not only in cutting down the unnecessarily costly hours but keeping those savings if they achieve certain goals.

Along with that, we have provided some incentive, a long overdue enactment which we're seeking of provision of funding long-term care. We do that by virtue of a tax deduction. We also provide stability to hold in place the entire health care system by extending the NYPHRM system for another year.

There are significant changes we have made to the Article 7 bill that we received and we would hope that we would receive -- we would receive everybody's approval of this.

Thank you. I vote yes.

ACTING PRESIDENT KUHL: Senator Hannon in the affirmative. Secretary will continue to call the absentees.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Santiago.

(There was no response.)

Senator Waldon.

(There was no response.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 35, nays 21.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, is there any housekeeping?

ACTING PRESIDENT KUHL: We do have some housekeeping.

Senator LaValle.

SENATOR LAVALLE: Mr. President, on page 26, I offer the following amendments to Calendar Number 347 -- 341, Senate Print Number 3569, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 341 are received and accepted. Bill will retain its place on the Third Reading Calendar.

Senator Bruno.

SENATOR BRUNO: Mr. President, I'd like to announce a Republican Conference at 10:00 a.m. tomorrow, Wednesday morning, in Room 332, and Mr. President, there being no further business to come before the Senate, I move we stand adjourned until tomorrow, Wednesday, at 11:00 a.m.

ACTING PRESIDENT KUHL: There will be a Republican Majority Conference in the Majority Conference Room, Wednesday at 10:00 a.m. sharp.

Without objection, the Senate stands adjourned until tomorrow, Wednesday, at

11:00 a.m.

(Whereupon, at 7:05 p.m., the Senate adjourned.)