ALBANY, NEW YORK

May 1, 1995

3:04 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: Senate will come to order. Ask the members to find their places, staff to find their places.

I ask everybody in the chamber to please rise with me and say the Pledge of Allegiance.

(Whereupon, the Senate and those present joined in the Pledge of Allegiance to the Flag.)

We are very pleased to have with us the Rabbi Shmuel M. Butman of the Lubavitch Youth Organization in Brooklyn, New York, to deliver the invocation.

Rabbi Butman.

RABBI SHMUEL M. BUTMAN: Senator Marchi. Ladies and gentlemen. Let us pray.

Dear God, by divine providence this prayer is being said on the day of the final recitation of the Kaddish prayer for the revered leader, Rabbi Menachem M. Schneerson, the Lubavitcher Rebbe, whose 93rd anniversary we celebrated just three weeks ago on the eleventh

day of Nissan, and you have passed a resolution in honor of the Rebbe's 93rd birthday.

The Rebbe often told us that this is the last generation of the Arab exile which will soon become the first generation of redemption, the Messianic era, foretold by the prophets, "Nation shall not lift up sword against nation," and when universal peace and justice will prevail. This grand vision is reflected in Psalm 94, which it is customary to read daily starting from the 93rd birthday.

After calling for God to reveal himself as judge of the world and bring a end to the situation when the wicked, quote, "kill widows and strangers and murder orphans," as we unfortunately witnessed in the tragedy in Oklahoma, the psalmist describes how God will bring tranquility and justice to the world and consolation to the righteous.

By divine providence the members of this legislative body, the New York State Senate, have been elected by the people of the State of New York to prepare this great state

for the Messianic area. As custodians of law, of honesty, decency and morality, the Senators gathered here are privileged to enact laws that create a more honest, decent, law-abiding society, preventing chaos from prevailing.

And let me share with you for just a brief moment a few words of Talmudic wisdom. The Talmud says, "Pray for the welfare of the government; for were it not for the fear of the government, people will swallow each other alive." You are the government of the great State of New York.

Furthermore, the State of New York is a key state in the United States of America, presently the world's only super power, looked up by all other nations as a symbol of success and prosperity; therefore, it is in a position to beneficially influence all other nations to uphold the exalted standards of justice and freedom upon which this great nation was founded and to which we remain eternally committed.

It follows that this State of New

York plays a key role in bringing the awareness of these high standards to the entire world, which is reflected again by divine providence in the location of the United Nations headquarters in this great State of New York.

It has become customary for me to take this opportunity to place a dollar bill engraved with the words "In God we trust" into this charity box. A charity box reminds us that our obligations are not only towards our friends and neighbors that live around us, but our obligation is indeed to all people throughout the world.

Help us, dear God, to bring to all citizens of the State of New York and the United States and the entire world this vital message of practicing charity and how it prepares the world for a brighter future which will reach its fullest potential in the Messianic era soon to be upon us.

May the members of the great Senate of the State of New York be worthy of the great privilege that you, dear God, have

bestowed upon them and may they be successful in creating a just and peaceful society that serves as a model to the entire world, preparing the way for the universal justice and peace of the Messianic era, and may each of these legislators who serve the public of this state have much success, both in their public lives and together with their families in their private lives.

To quote from the text of our Sabbath prayer, "May God reward those who sincerely serve the needs of the public, removing from them all sickness and sending them blessings and success in all their endeavors."

And I know, ladies and gentlemen, that we're all worried about the budget, and I know that in honor of the Rebbe you will pass the budget immediately, successfully.

Thank you very, very much.

ACTING PRESIDENT KUHL: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, April 30. The Senate met pursuant to adjournment. Senator Farley in the chair upon

designation of the Temporary President. The Journal of Saturday, April 29, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President. There will be an immediate meeting of the Finance Committee in Room 332, and that immediately followed by a meeting of the Rules Committee.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Senate Finance Committee in the Majority Conference

Room, Room 332. That's to be followed immediately by a Rules Committee meeting.

Senator Bruno.

SENATOR BRUNO: Senator Present, I believe, is looking for recognition from the chair.

ACTING PRESIDENT KUHL: The chair recognizes Senator Present.

SENATOR PRESENT: Mr. President. On behalf of Senator Trunzo, I wish to call up his bill, Print 3661, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar Number 359, by Senator Trunzo, Senate Print 3661, an act to amend the Civil Service Law, in relation to conforming to the terminology and procedures with the existing practice for obtaining a guide dog.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President.

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

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator Present.

SENATOR PRESENT: I now offer the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Present.

SENATOR PRESENT: Mr. President. I wish to call up on behalf of Senator DiCarlo, his bill, Print 1984, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar Number 317, by Senator DiCarlo, Senate Print 1984, an

act to amend the Executive Law, in relation to qualifications of employment.

ACTING PRESIDENT KUHL: Senator Present.

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

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator Present.

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

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Chair recognizes Senator Tully.

SENATOR TULLY: Yes, Mr. President. On behalf of Senator Skelos, on page 26, I offer the following amendments to Calendar

Number 260, Senate Print Number 2337, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL:

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

Senator Tully.

SENATOR TULLY: Mr. President. On behalf of Senator Cook, on page 34, I offer the following amendments to Calendar Number 431, Senate Print Number 565, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL:

Amendments to Calendar Number 431 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Tully.

SENATOR TULLY: Mr. President. On behalf of Senator Velella, on page 35, I offer the following amendments to Calendar Number 439, Senate Print Number 3453, and ask that said bill retain its place on the Third

Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 439 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Larkin.

SENATOR LARKIN: Mr. President. I'd like to remove a sponsor star from Calendar Number 198, Senate Bill 2655A.

ACTING PRESIDENT KUHL: Sponsor star is removed from Calendar Number 198.

Senator Wright.

SENATOR WRIGHT: Mr. President. On behalf of Senator Stafford, please place a sponsor star on Calendar Number 491.

ACTING PRESIDENT KUHL: Calendar Number 491 is starred at the request of the sponsor.

Senator Wright.

SENATOR WRIGHT: Mr. President. On behalf of Senator Skelos, please place a sponsor star on Calendars Number 564 and 588.

ACTING PRESIDENT KUHL: Sponsor

stars placed on Calendar Number 564 and -

SENATOR WRIGHT: 588.

ACTING PRESIDENT KUHL: 588.

SENATOR WRIGHT: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President. I believe there is a resolution at the desk by Senator Marchi. I would ask that it be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT KUHL: Secretary will read the privileged resolution by Senator Marchi in its entirety.

THE SECRETARY: By Senator Marchi, Legislative Resolution, commemorating the celebration of the anniversary of the 93rd birthday of the revered Lubavitcher Rebbe, Rabbi Menachem M. Schneerson.

Whereas, World Jewry is now celebrating the anniversary of the 93rd birthday of the revered leader Rabbi Menachem M.

Schneerson, the Lubavitcher Rebbe; and

Whereas, the Lubavitcher Rebbe, over his 44 years of dedicated leadership, established over 1500 Lubavitch Centers, helping people of all walks of life throughout the world, from Australia to Africa, from Holland to Argentina, from Moscow to Jerusalem; and

Whereas, Rabbi Schneerson's educational activities throughout the globe enriched and strengthened the religious, educational, cultural, moral and ethical fibers of all citizens of the world; and

Whereas, the Rebbe proclaimed that the time of redemption has arrived and Moshiach is on his way; and

Whereas, the Lubavitcher Rebbe called upon all citizens of the world to prepare for the great redemption with a personal commitment to increase in charity and good deeds; now, therefore, be it.

Resolved, that this Legislative Body proclaim the period from April 11, 1995, corresponding to the 11th of Nissan, 5755, the

Rebbe's 92nd birthday to July 12, 1995, corresponding to the 14th day of Tammuz, as "New York State 93 Days of Education", as a special tribute to the Lubavitcher Rebbe, Rabbi Menachem M. Schneerson, Shlita; and be it further

Resolved, that a copy of this resolution, suitably engrossed, be transmitted to the Lubavitch movement, together with sincere best wishes for success in all their endeavors.

ACTING PRESIDENT KUHL: Chair recognizes Senator Marchi on the resolution.

SENATOR MARCHI: Mr. President. To reexamine my own personal genesis with the Rebbe and with Rabbi Butman and so many members of the congregation, I go back a period of perhaps 25 years ago when I had the privilege of a one-on-one dialogue with him, and Rabbi Butman assures me that perhaps it was one of the longest periods that anyone ever enjoyed in colloquy with a man of his stature and his spiritual grandeur; and it was, indeed, an exciting experience because he represented and he represents by all those who can identify with

the feelings that have been expressed in the resolution the enormous -- the enormous significance it has to mankind in terms of the dignity of each and every individual.

The vast majority of mankind at that time was pursuing animism, worshipping rock, stones, the sun or the earth or whatever, but we did not have a beginning of civilization until the appreciation and the commitment was made to the spiritual autonomy of the individual. We were emancipated as men and women. We were emancipated as members of that great society, creatures of God, by virtue of the spiritual significance, communicating from the individual, a cosmos, with the singularity that is not communicable except by desire and by prayer, a thinking that changed the face of the planet; and this call here speaks of and urges the great redemptive effect that is implicit in the message that is shared with us.

The Rebbe was a great student of Maimonides, who again reexpressed the Aristotelian underpinnings and philosophy and

kept it intact and gave it its greatest voice, its greatest significance. A native of Cordoba, he was a precursor to those who are in the scholastic tradition in the Christian religions of Thomas Aquinas scholasticism, a rich -- a rich cultural and spiritual resource. Mortimer Adler, who was the editor of the last Britannica, was a scholastic, as was Robert Hutchings; and so much of our feeling in the religions that are assembled here and represented in various manifestations, Rabbi Schneerson gave it force and effect, 1500 schools throughout the world carrying that message of redemptive effort.

A man of sophistication, just in talking with him and communicating with him, you saw that you immediately felt the presence of someone who has a greatness about him, a greatness that came from God, and he shared it so well with myself or countless people throughout the world who were affected by his message.

So we are pleased. It's an

annual exercise, Rabbi Butman, but we are honored every time you come here. I wish our mechanics and our logistics, notwithstanding budgets and other factors of life, this is important. This is what is really important in life. Why are we here? What is our purpose in life? When we have solved that, everything else seems to recede into it's proper perspective because that is what counts. That is what is meaningful.

And your presence, sir, and the presence of your colleagues does us honor, and your call and your exhortation for this Senate and this body -- and you have had that experience with the Assembly -- has to help us all, and we are grateful and we thank you.

I ask for the passage of this resolution.

ACTING PRESIDENT KUHL: The question is on the resolution all those in favor signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is unanimously adopted.

Senator Bruno.

SENATOR BRUNO: Can we open up the resolution, add anyone in the chamber, and I would think that would be unanimous, that would like to be added to that resolution.

ACTING PRESIDENT KUHL: Senator Bruno, if it is to be handled as we have handled matters like this in the past, we will put everybody on the resolution at your request except for those people who do not want to be on the resolution. If they would signify it to the desk that they don't want to be on the resolution before we conclude this session, we'll handle it that way.

Thank you, Senator Bruno.

Senator Sears.

Chair recognizes Senator Sears.

SENATOR SEARS: Mr. President. I wish to call up Calendar Number 499, Assembly Print Number 2471A.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar 499, by Member of the Assembly Lafayette, Assembly Print 2741A, an act to amend the Personal Property Law, in relation to a buyer's right to cancel a telephone sale.

ACTING PRESIDENT KUHL: Senator Sears.

SENATOR SEARS: I now move to reconsider the vote by which this Assembly bill was the substituted for my bill, Senate Print Number 1663A, on April the 26th, 1995.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator Sears.

SENATOR SEARS: I now move that Assembly Bill Number 2471A be recommitted to the

Committee on Consumers Protection and my Senate bill be restored to the order of Second Report Calendar.

ACTING PRESIDENT KUHL: The Assembly bill is recommitted; Senate bill is substituted on Second Calendar.

Senator Bruno, we have two substitutions at the desk if you'd like to deal with those at the present time.

SENATOR BRUNO: Please make the substitutions.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: On page number 4, Senator Maltese moves to discharge, from the Committee on Elections, Assembly Bill Number 4959 and substitute it for the identical bill, Calendar 602.

On page 20, Senator Volker moves to discharge, from the Committee on Higher Education, Assembly Bill Number 2444 and substitute it for the identical Third Reading Calendar 103.

ACTING PRESIDENT KUHL: Without objection, substitutions are ordered.

Senator Bruno, that brings us to the calendar.

SENATOR BRUNO: And now, Mr. President, can we take up the noncontroversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the noncontroversial calendar.

THE SECRETARY: On page 19, Calendar Number 65, by Senator Kuhl, Senate Print 1475, an act to amend the Agriculture and Markets Law and the Vehicle and Traffic Law, in relation to exempting farm vehicles.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 120, by Senator Levy, Senate Print 334A, an act to amend the Public Authorities Law, in relation to the recommendations made by the Metropolitan Transportation Authority Inspector General.

ACTING PRESIDENT KUHL: Secretary

will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 156.

SENATOR LEVY: Lay it aside at the request of the Comptroller for the day.

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

THE SECRETARY: Calendar Number 199, by Senator DeFrancisco, Senate Print 1969, an act to amend the Family Court Act, in relation to notice provided to noncustodial parent.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 202, by Senator Saland, Senate Print 2117, an act to amend the Family Court Act, in relation to procedures for the temporary removal of a child with consent.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

203, by Member of the Assembly Sanders, Assembly Print 3749, an act to amend the Social Services Law, in relation to persons required to report cases of suspected child abuse or maltreatment.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 244, by Senator Rath, Senate Print 1102A, an act authorizing the Education Department to apportion certain transportation aid to the Amherst Central School District.

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

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 336, by Senator Kuhl, Senate Print 3668, an act to amend the Agriculture and Markets Law, in relation to improving the agricultural districts program.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 356, by Senator Trunzo, Senate Print 3628, an act to amend the Education Law, in relation to a tax deferred annuity program under the board of education retirement system.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the

bill aside.

THE SECRETARY: Calendar Number 357, by Senator Trunzo, Senate Print 3653, an act to amend the Retirement and Social Security Law, in relation to permitting pensioners who enter into a marriage following retirement.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 377, by Senator Levy, Senate Print 3941A, an act to amend the Education Law, in relation to directing the Commissioner of Education to include rules concerning the maximum speeds of school vehicles.

ACTING PRESIDENT KUHL: Secretary

will read the last section.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside at the request of Senator Dollinger.

THE SECRETARY: Calendar 389, by Senator Volker, Senate Print 3179, an act to amend the Penal Law, in relation to offenses regarding unauthorized recordings.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 9. 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 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 393, by Senator Farley, Senate Print 2729, an act to amend the Civil Service Law and other laws, relating to service in the Merchant

Marine.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 397, by Senator Lack, Senate Print 3632, an act to amend the Public Authorities Law, in relation to authorizing the Dormitory Authority to construct and finance all necessary and related facilities for the Rosalind and Joseph Gurwin Jewish Geriatric Center.

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 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 413, by Senator Levy, Senate Print 4048, an act to amend the Vehicle and Traffic Law and Chapter 713 of the Laws of 1988, amending the Vehicle and Traffic Law, relating to the ignition inter lock device program.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, that completes the noncontroversial calendar.

SENATOR BRUNO: Mr. President. Can we now take up the controversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 65, by Senator Kuhl, Senate Print 1475, an act to amend the Agricultural and Markets Law and the Vehicle and Traffic Law, in relation to exempting farm vehicles from motor vehicle financial security.

ACTING PRESIDENT DeFRANCISCO: Senator Kuhl, there's been a request for an explanation of Senate Bill 3668 -- excuse me. I'm sorry, Calendar 65.

SENATOR KUHL: Thank you, Mr. President. This bill is really very simple in the proposal. The State of New York several years ago adopted what's commonly referred to as "farm plate registration legislation." This particular section of the law that's been in existence, as I said, for several years allows for those vehicles which are used by our farmers on a very limited basis throughout different

parts of the year, generally during the initial planting and then during the harvesting process, over a span of about three or four or five months of the year within certain limited kind of circumstances.

What we did last year was we attempted to bring them into certain kinds of regulations that the federal government was suggesting for safety purposes, and one of the portions of the bill that we adopted last year was specifically to require them to provide liability insurance on those vehicles which had never been required before. What this bill does is attempt to correct that imposition of a mandate on those people out there who are really not causing any particular difficulty and were, for the most part, insured under general liability policies to be able to go back to that particular position that they found themselves in prior to January of this year when the bill that we had passed last year took effect.

What we have found is that, in many cases, the insurance that is being

required, the premium, is actually more than what the vehicle is actually worth, and we're also finding that there is a very difficult time for many farmers to find the availability of this insurance, so it puts our farmers in a position where they're asked to violate the law if they are going to continue to provide a service and an occupation to this state.

ACTING PRESIDENT DeFRANCISCO: Senator Paterson.

SENATOR PATERSON: Mr. President. Would Senator Kuhl yield for a question?

ACTING PRESIDENT DeFRANCISCO: Will you yield, Senator Kuhl?

SENATOR KUHL: I would be happy to, Mr. President.

SENATOR PATERSON: Thank you, Senator Kuhl. The New York State Trial Lawyers Association has a memorandum in opposition, and it is their position and their memorandum that the passing of the 1994 legislation to which you just referred had the explicit understanding

that there would be a mandatory -- minimum liability insurance would be quid pro quo. Is that your understanding?

SENATOR KUHL: I'm not the beneficiary of that memorandum, so I don't know what they specifically said. But it was not my recollection that they were involved in negotiations of the bill last year, Senator, so I don't know that that was one of the premises under which the bill was passed.

SENATOR PATERSON: Thank you, Senator.

Mr. President, if Senator Kuhl would continue to yield.

ACTING PRESIDENT DeFRANCISCO: Senator Kuhl, will you continue to yield?

SENATOR KUHL: I would be happy to, Mr. President.

SENATOR PATERSON: Senator Kuhl, in your remarks just then -- and I may have missed this, so I am really just asking for a clarification -- you said that we are making some corrections in this legislation to comply

with the federal standards. The federal standards, though, don't apply to removing the minimum liability insurance, do they?

SENATOR KUHL: They do not. They do not. The standards, Senator, for the benefit of your information -- as I understand it, the standards that were set out, primarily, were not aimed at the farm vehicle exemption.

As a matter of fact, there is a provision in the statute, as I understand it, that would allow this state to totally exempt farm-plated registered vehicles. That was not the decision of this state to do that under the former administration. So the only availability to try to lessen the burden of the implementation of those requirements was by legislative activity which took two years for us to bring about and that occurred last year.

One of the instances which we prior thought would not cause a problem to our farming community was the requirement for this financial security through insurance provisions. We are now finding out that that

was not true, that that is causing tremendous financial hardship to many of our farmers, and there really is no basis by which we're finding that there is the need for that.

When you look at the accident rates -- and that's the reason for the federal legislation was to try to cut down and make the travel on our highways safer -- you find that the farming community is far less susceptible to having accidents, particularly as they relate to the farm-plated registrations. I think the average rate is something like -- of the registered motor vehicle operators in this state, roughly 5 percent of them on an annual basis have an accident. What we found statistically was something like .15 percent of the farm-plated vehicles had accidents of one nature or another, and most of them were less than severe.

So that the coverage that was previously provided by the general liability policies that most farmers had we're finding was more than sufficient and there wasn't the real

need for a specific requirement for each one of these farm-plated registered vehicles to have its own separate insurance policy.

ACTING PRESIDENT DeFRANCISCO: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If Senator Kuhl will continue to yield.

ACTING PRESIDENT DeFRANCISCO: Senator Kuhl, will you continue to yield?

SENATOR KUHL: I would be happy to.

ACTING PRESIDENT DeFRANCISCO: Senator Paterson.

SENATOR PATERSON: Well, Senator, I can understand why you wrote this legislation. If by my quick calculations an accident from a farm-plated vehicle being the source occurs 1/34th the time that a regular registered vehicle does, then I can see why you would want to make the change.

But just so that we have an understanding here, one of the comments that you

made previously was that the -- often, the insurance costs more than the vehicle itself; and I just wanted to suggest, and see what you thought about this, that there are plenty of vehicles around the state in which the insurance probably costs more than the vehicle, but I don't think that the cost of the vehicle necessarily relates to the insurance.

ACTING PRESIDENT DeFRANCISCO: Is there a question, Senator Paterson?

SENATOR PATERSON: I wanted to know if that was not the case.

ACTING PRESIDENT DeFRANCISCO: Senator Kuhl.

SENATOR KUHL: I really haven't looked at the other areas of the state and the actual value of vehicles and the cost of the premiums as it relates to a comparison with the farm-plated vehicles. I simply brought that up because I thought that Senator Paterson has been more than kind to us in the past to give us what I would call very significant pieces of information relative to history of the state and

things of that nature, so I wanted him to be fully informed with the factual information behind this, and I thought that would be a nice piece of information that he would like to know.

ACTING PRESIDENT DeFRANCISCO: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. I am enlightened, and if Senator Kuhl would continue to yield.

ACTING PRESIDENT DeFRANCISCO: Senator Kuhl?

SENATOR KUHL: Yes, I continue to yield.

SENATOR PATERSON: Senator, I think you perhaps addressed most of this issue by arguing the frequency of accidents, and so I can understand that -- I guess these vehicles don't travel on the regular roadways that much, and they occupy most of their time, actually, on farmland. But there is a little bit of a concern because, when they are on the regular roads, they observe the regular speed limit and the fact that since they travel at a slow speed

from time to time that can actually be somewhat of a hazard to other motorists.

From what you are saying, that has not resulted in very many accidents if it's .15 percent of the total number of farm-plated vehicles that actually exist.

What I think I'm really a little bit afraid of is not, perhaps, the ambit and scope of the legislation that you've issued in this particular case but where it might actually wind up. In other words, that any kind of vehicular owner that can document some way that they are not as hazardous or they are not operating a vehicle that's as hazardous as others can now carve out in our state Insurance Law somewhat of a niche, so to speak, so that they can reduce their minimum insurance coverage.

I guess all this has to end in a question somewhere, Senator Kuhl; and as I continue to think of one, I just wanted to ask you whether you think that this is the limit of the legislation, or do you think this opens the

door for, perhaps, passage of legislation that would actually impede those who become victims of accidents from receiving insurance coverage?

SENATOR KUHL: Senator Paterson, I would not be nervous about the setting of precedent and then opening the door to other groups coming in and asking to be relieved of the financial security commitment; and I say that because that has been the law in the State of New York that farm-plated vehicles have not had to have specific liability coverage for them until we passed a bill that became effective in January, just three months ago, of this year.

What I would say to you, just statistically, Senator Paterson -- this would be according to my statistics that we had for the last year where all the data has been accumulated -- there were something like -- just slightly less than 26,000 registered farm-plated vehicles. Now, these are vehicles like a big old dump truck that's going to carry watermelons from the field back to the farm so that they then can be moved to a big 18-wheeler transport

commercial operator that's going to take these to market whether it's in New York City or Chicago or Florida, wherever it happens to be. There is a specific limit that these vehicles have to plot out. They have to file a statement as to where they travel. They are limited as to the mileage from the base farm where they can go.

And what we're looking at is a way of trying to, as we have with regard to the compliance -- with some of the equipment compliance rules that we have -- we have vehicles that, for instance, drive down into a field. They get involved in the mud and in getting out of the mud, all of a sudden a brake light or something like that is broken away, or a bumper or something like that. Well, the minute they come back on the road, they're in violation. But there's no way for them to get back to where it's to be repaired without being in violation, so the farm plate registration was put into place so that there would be minor kinds of variances from, say, the requirements

that would allow them to operate, operate efficiently without causing them great impediment.

That's what this is all about. As I say, I'm not worried about this bringing about an onslaught of trying to vary the actual financial insurance regulatory controls. See, what you have to think about is from the other side.

I know the trial lawyers would like to say -- well, they'd like to have this big pot of money out there that they can sue, so that when they sue and they get their one-third contingency fee that they know they're going to get money from an insurance company. Okay.

Keep this thought in mind. If, in fact, that insurance policy is not in place, who ends up bearing the financial responsibility? The farmer himself. He will, if they don't carry the insurance policy -- and most of them do in some general liability form. If they don't have that, then what do they put up for the offering if they are negligent to the

point that they're going to have a recovery or a judgment granted against them? They put up the farm. Most of these people are not willing to lose their farm over something like this. So they will either provide the coverage or, in fact, they will provide the farm as an alternative.

Now, most of these people don't go out to violate the law; and, as I said, out of those 26,000 registered, there were 39 accidents in 1991. So it's a relatively small piece of what we're dealing with here.

And what we're trying to do is take this back to the way it was four months ago and allow it to operate.

ACTING PRESIDENT DeFRANCISCO: Senator Paterson.

SENATOR PATERSON: Thank you very much, Mr. President. I believe that Senator Leichter would like to be recognized.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Leichter.

SENATOR LEICHTER: If Senator Kuhl would yield, please.

ACTING PRESIDENT DeFRANCISCO: Senator Kuhl, do you yield?

SENATOR KUHL: I will be happy to yield to Senator Leichter.

SENATOR LEICHTER: I have been listening very carefully to your very articulate answers to the questions that Senator Paterson asked, and some of the things you said just piqued my interest on this bill.

If I understand what you're saying is that many of the farmers that own these farm vehicles presently carry comprehensive liability insurance. Is that correct?

SENATOR KUHL: That's my understanding, Senator.

SENATOR LEICHTER: Now, if they carry that insurance, doesn't that meet the requirement of this law -

SENATOR KUHL: No.

SENATOR LEICHTER: -- that they

be insured?

SENATOR KUHL: No. Because it says each specific farm-plated registered vehicle has to have an insurance policy on it not a general comprehensive. That's the mistake we made, Senator.

SENATOR LEICHTER: Okay.

SENATOR KUHL: That's the mistake we made that we're trying to correct through this legislation.

SENATOR LEICHTER: Senator, if I carry comprehensive insurance and now the law requires that that is not sufficient but that I've got to cover each of my vehicles, the additional cost must be minimal because the essential nature of the coverage really doesn't change. If you carry comprehensive insurance, you are engaged in an accident, I assume the insurance is written in such a way that it would cover that accident.

But now we say each vehicle has to have its own insurance policy. But I would assume the limits -- in fact, it's clear,

because the limits are very minimal, as you know, that the limits are certainly less than what the general coverage is. All you've got to do is specify each vehicle. That, to my mind, can not conceivably increase the premium by very much, if at all.

SENATOR KUHL: I'm not so sure that your assumption is correct, Senator.

The information that I have been given is that when you start to go away from the general liability policy and you have a law, which we adopted in this house last year, and provide specifically that each farm-plated registered vehicle will have its own policy, now you start to deal with issues like, "Who drives these vehicles?" Okay.

We have -- we have -- and the farming community had a great deal of difficulty getting help. It's been a major issue, and you have, Senator, supported in the budgets that we have passed programs that essentially have allowed for training programs to bring new labor to the farming community.

What I'm saying to you is that if, in fact, an 18-year-old, 19-year-old, somebody under the age of 25, is now going to be responsible for driving this tractor with a wagon behind it with watermelons on it to the farm from the field, all of a sudden you start to get into a different kind of a classification, and the experience is showing us -- and, in fact, sometimes insurance is not available; that's number 2, but number 1 -- that the cost of providing individual insurance for each one of these vehicles that's only used on a limited basis is very expensive, and it's a new kind of cost, a mandate -- a mandate, if you will, coming from this chamber upon a lot of individuals out there that is extremely costly.

What we're trying to do is just to take us back to where we were three months ago, remove this impediment to the continuation of agricultural industry in this state and make it as it was.

We have no -- we have no reason, Senator, and that's what I'm saying here. This

is why I presented the bill. This is not a safety issue. That's not why it was brought up. It's not a question of not having the resources if there is an accident. It's a question of simply imposing a mandate that has no basis factually for initialing.

Because, again, as I reiterated to Senator Paterson, if you look at the comparative accident rates, this grouping of registered motor vehicles compared to the average motorist in this state, you will find that they are I think he said 1/34th. I don't know whether his math is correct or not. I assume it is. I have never known him to distort anything at all, and I have no reason to challenge that, but it is significantly less.

SENATOR LEICHTER: Mr. President. If Senator Kuhl will continue to yield.

ACTING PRESIDENT DeFRANCISCO: Senator yield? Senator Cook, do you yield?

SENATOR KUHL: (There was no response.)

ACTING PRESIDENT DeFRANCISCO: He will yield.

SENATOR KUHL: I will be happy to.

SENATOR LEICHTER: I'm not an expert on insurance, and I see that Senator Velella isn't here but Senator Solomon is, and maybe they can help me.

But I have a lot of difficulty understanding the arguments that you are making. If, in fact -- and I believe that to be the case -- farm vehicles are involved in relatively few accidents -- and the reason for that is because it's rare that they are on the road. They are usually on the fields. So the extent of the possible liability is rather small. That certainly must be taken into account by the people who rate what the premium is going to be.

When you and I buy insurance, we're asked questions: "How do you use your car? Where do you drive it?" and so on. If you show that you rarely drive your car, your

insurance is going to be somewhat less. Somebody like you who drives it here every week, I assume that you come under a qualification - or classification that imposes rather high premiums on you.

But all of that, Senator, is also taken into account when you write the general liability insurance, the fact that the vehicle may be driven by a 17-year-old or an 18-year-old is something that is considered when they rate the general liability.

My point is that I just can't see that this particular bill imposes a much greater premium on those farmers who have the general liability. The concern really is that some farmers do not have general liability coverage; and now, under your bill, they will not have any coverage whatsoever.

So I guess my question is, and maybe -- I don't know whether Senator Solomon will yield and whether my understanding or my guessing I should say of insurance is correct, but -

SENATOR SOLOMON: Yes.

SENATOR LEICHTER: But wouldn't -- Senator Solomon, if you would yield maybe to the lucidation of both Senator Kuhl and myself. But wouldn't, as a practical matter, that if you have general liability insurance and now along comes the state Legislature and says you got to get specific insurance covering every farm vehicle that you use, that the increase such as it would be is mainly related to administrative costs of the insurance company and that, therefore, there should not be a great increase in the premium?

ACTING PRESIDENT DeFRANCISCO: Senator Solomon, would you have yield to that question?

SENATOR SOLOMON: Yes, Mr. President.

Senator Leichter, the answer is, I think, a little more complex. I believe that in most cases general liability insurance will not cover motor vehicles. So the question is whether or not the vehicles are even covered.

You have to take a look at the policies, and I don't know what policies are purchased and what the riders are in the individual cases.

The other part of your question is, based on experience, your rates will be relatively low, based on the amount of time driven, et cetera, but you have to look at the general liability policy.

ACTING PRESIDENT DeFRANCISCO: Senator Leichter.

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

I think Senator Solomon -- and I'm grateful to him for explaining it -- points out something that is even more serious than the point that I was trying to make which dealt just with the economics. He points out that general liability may conceivably not cover these farm vehicles which is maybe one of the reasons that we passed last year's bill.

So that when Senator Kuhl says, "Well, you really don't need the coverage for the individual farm vehicles because most

farmers are covered by general liability insurance," if Senator Solomon is correct, then that general liability insurance would not cover these farm vehicles.

Now, Senator, the fact that these vehicles are driven really very rarely and infrequently on public highways or certainly for very short distances would mean really that the amount of premium would be relatively low. Because, certainly, the insurance company takes a look at what the usage of the vehicle is.

My concern and the reason I oppose this bill is that we also have to provide some coverage, some protection for the people who are on the road; and while my experience has been -- and as you know is I have a place in the farm country -- that people who drive these farm vehicles are very careful. They're extremely courteous. They try to pull over so that they don't impede traffic and so on.

But every once in awhile accidents do occur, and we have to be concerned about the people that are involved in those

accidents or injured as a consequence of these accidents through no fault of their own who are probably farmers also or who are people related to farmers, and we need to be concerned about their protection, too.

So I think we were right when we passed that bill last year. I think we ought to require that farm vehicles be insured for the protection of the overall public, and I think if you look at it the cost just cannot be that great. I don't think it is; and as Senator Paterson pointed out, many people in this state pay an insurance that is greater than the book value of their car. My car has reached just about that point. I hope on that occasion you will put in a bill that will provide some relief.

In all seriousness, I think we need to look at the broader public, and the public deserves the protection that the present law gives.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

Oh, excuse me. Senator Dollinger.

SENATOR DOLLINGER: Mr. President. Would Senator Kuhl yield to just one question on this to make -- make sure I understand it?

ACTING PRESIDENT DeFRANCISCO: Senator Kuhl, will you yield?

SENATOR KUHL: Absolutely.

SENATOR DOLLINGER: So I understand this bill, through you, Mr. President.

This requires that before the license of a farm vehicle be issued we now require that they have vehicle coverage in order to get the license plate? Is that what is currently required by law in this state?

SENATOR KUHL: Procedurally, Senator Dollinger, I don't know that I can answer that. All I can tell you is the law requires now that a farm-plated vehicle that's registered that it have a specific insurance policy that names that vehicle. Now, as to

whether or not you can get a license before and you have to show proof of insurance, I can't tell you what the procedural aspects of that is.

SENATOR DOLLINGER: The reason why I asked -- on the bill, Mr. President -- the actual text of the bill makes reference to the fact that they are registered pursuant to Section 13 -- Subdivision 13 of Section 401 of the Vehicle and Traffic Law, and I assume the reason why this problem came up was because they were looking for renewal of licenses, and the state has denied them the renewal of those licenses until they present, like every other motor vehicle would in this state, evidence of insurance coverage for the vehicle.

Through you, Mr. President. That wasn't really posed as a question; but if Senator Kuhl has information on that, I'd appreciate it.

SENATOR KUHL: If I may respond to that statement.

ACTING PRESIDENT DeFRANCISCO: Senator Kuhl.

SENATOR KUHL: I don't believe that that's necessarily true, Senator Dollinger. We have -- as I mentioned, in 1991, there were roughly 26,000 registered farm vehicles. What we have done, because this law now has taken in effect in January -- I'm sure that there were other registered vehicles whose registration was already in effect, and now what we're doing is saying to these people who have registered vehicles who have not had to have specific insurance policies naming those vehicles that, in fact, they have to have this insurance.

These people -- I know some of them have gone out to the insurance marketplace, have sought out insurance and have had great, great difficulty in finding a company that would write the policy. Now, in one aspect we have put one segment of this society in a position that they, in fact, have gone out to get insurance; they can't get it; so now what do you do? Do you continue utilizing that farm vehicle when you know it's registered properly and has

been except that you haven't provided the insurance? Or do you take it off the road because you can't get insurance -- "road" so to speak, from the farm field to the farm -- and not use it so that it sits there as an item, an asset, which has no value?

That's one aspect. Certainly, there are others, and also those people who have newly acquired farm vehicles who are looking to go out and comply to this. But I can't speak to whether or not these people have been denied a registration because they haven't provided the actual little insurance rider that says, "I have insurance".

SENATOR DOLLINGER: Mr. President, on the bill. I'm going to vote against this bill. I favor the concept of expanding liability coverage for vehicles that are out on the road. I think the one danger, and Senator Kuhl, I think, hit it right on the head -- I mean the dilemma is, if you don't have coverage, you put your own personal assets at risk if there is an accident, and one of the

things we have done in this state through mandatory insurance laws is that we don't put a plaintiff, an injured party, in the position of having to take your farm as a way to settle his or her claim. There is liability insurance available from which there is a pot of money that will allow the plaintiff to be compensated without putting them in a position of having to take over a dairy farm or a truck farm in order to recover a proper return.

So I generally favor the expansion of mandatory motor vehicle indemnification, and I also favor that with respect to other operations, including dram shops, so -

I think this is a step backward, and I am going to be voting in the negative.

ACTING PRESIDENT DeFRANCISCO: Senator Johnson.

SENATOR JOHNSON: Mr. President. I have been listening to this debate. I felt I could contribute to it, but I didn't really want to intervene, but I think it's pretty obvious

that we need somebody who knows a little more about the procedures, both with insurance and farm operations, than has been evidenced here by the debate so far.

I have operated a farm. I worked on farms. I have run an insurance agency and have some knowledge of the situation which we're addressing here.

Farm comprehensive liability coverage not only -- it covers all the farm operations and all the equipment of the farm, obviously. We see farmers going down the road, towing a plow, towing a cultivator, towing some sort of a harvesting machine. We know that they have trucks which are part of the operation. They go out in the field with a truck, load it up, bring it back to the farm. They may have several locations on the same road.

Now, all their equipment is covered. Whether they're plowing or planting or cultivating or harvesting, or whatever they're towing down the road from one point to the other, is covered under comprehensive general

farm liability, as you can well imagine, because these farmers are not total fools. They have assets worth $100,000 up to a million dollars, their total operation. They are not going to put that at risk by not having any protection.

The difference is -- and, yes, you can take a farm truck. You could go in and you can say it's a farm truck and you just hand it, give him a dollar, and they'll give you the plate. They don't ask about insurance, because they know it's generally covered under the liability policy.

In fact, the farmers are very concerned about protecting themselves, and the only people who didn't know whether or not there was insurance, perhaps, would be the trial lawyers, and I see they're taking quite an interest in this bill. I think it's a very inappropriate interest. We shouldn't be concerned about other interests who want to feed off people, but we should be concerned about the farm operation, and I say that if they're smart enough to operate a farm they are probably smart

enough to look out for their own interest without somebody in this chamber saying you got to buy liability insurance.

If you're going to require that on the farm truck, why not on the tractor? Why not on the seeder? Why not on your cow that wanders in the road or your horse and somebody runs into it and sues you because you have an animal running loose in the street? I'm just saying all those things are already covered. Most people look out for that.

The bill last year was inappropriate. I didn't take any particular interest in it because -- I have a personal interest. I didn't vote against it. I just let it go. If that was what the sponsor thought, and the Farm Bureau and other people felt it was appropriate, I didn't speak on it.

I think I have to speak now because we're just reverting back to the situation where it was before, where there was no problem. So we have created a problem. Let's solve the problem and support this bill.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Leichter.

SENATOR LEICHTER: Mr. President, would Senator Johnson yield?

ACTING PRESIDENT DeFRANCISCO: Senator Johnson, will you yield?

SENATOR LEICHTER: Senator, thank you for the explanation. You certainly clarified one point, and you obviously disagree with what Senator Solomon says; and I accept what you say, that if a farmer now has general liability coverage it will include all of the farm vehicles, including those vehicles that we are talking about. Did I understand you correctly?

SENATOR JOHNSON: That's correct.

SENATOR LEICHTER: Will you answer the question that I raised with Senator Kuhl; and that is, if you have that general liability insurance and now the Legislature requires that you separately insure each of your vehicles and you go to your insurance company

and say, "Hey, guys, you've already insured me but now you have to specify that all three of these trucks that go in the fields and pick up watermelon have coverage," why would that increase the total amount other than the administrative expenses involved for the insurance company in writing maybe three policies or putting riders onto the general coverage that you have, the general liability coverage, to indicate that each of these vehicles is covered?

SENATOR KUHL: Probably because it creates an underwriting problem. Because, right now, a farm is based on the size of the farm and its operation and that premium covers everything. They don't ask who's driving the tractor, who's planting the seeds, who's driving the hay wagon back to the farm. There's no information on individual drivers or operators.

Then, you would have to get all that information. You don't even know who you are going to have because they're seasonal help involved in these things. There's equipment

maybe you might borrow from a neighboring farmer that's not registered. You can't -- when your wagon breaks down or your tractor breaks down, have you got to call your insurance company or somebody and tell them, "I'm going to change a wagon on my policy or change a tractor on my policy"?

It's very cumbersome and involved and it costs money to have people shuffle all these papers, and the result wouldn't be any different, except that you couldn't get your crop in while the rain was coming down because your equipment broke and you couldn't use someone else's, perhaps.

So I'm just saying there's a lot of complications involved in underwriting which are not present when you underwrite a policy now, which you shouldn't introduce into the equation.

SENATOR LEICHTER: Mr. President. If Senator Johnson will yield to at least one more question.

Senator, right now, when you get

that general liability coverage and, as you say, you have to indicate the size of the farm, it would seem to me you would also have to indicate the number of farm vehicles that you have. Isn't that the case?

SENATOR JOHNSON: No, it's not the case. But if it were the case, it could be done; but I'm saying -- you would have to indicate then you get new vehicles, you take old ones off. You know how farmers do. A salesman gets ahold of him, "Your tractor's getting kind of old, John. You need a new one. Yeah, I'll give you 3,000 on this one and it's 300 a month." And he'll say, "Okay. Drop it off." And they'll tow your other one away, and there you go.

So I mean it's a lot simpler operation now under the insurance than it would be if you have to name the equipment and the drivers and everything else. That's what I'm saying, Senator. Maybe they would tell you, "We don't want any 17-year-olds driving." Well, the 17-year-olds are doing all the work on the farms

in the summer. Then they wouldn't be able to do that, for example, and don't quote me on the age. It could be 18, but I'm saying you don't have a steady crew all year long because you plant in the spring, you harvest in the fall, and the rest of the time you push the snow around in your yard.

ACTING PRESIDENT DeFRANCISCO: Senator Leichter.

SENATOR LEICHTER: Thank you, Senator Johnson. I just want to point out again, if I understood what Senator Johnson said and boiling it down to its essential, it does become a matter solely of administration and maybe some additional work for the farmers for those -- and that's probably 90 percent -- who have general liability coverage, so they are really not bothered by this bill except they maybe have to do some additional work.

But the problem that we tried to address last year and the hole that you are going to create if you pass this bill is that those farmers who don't have the general

liability coverage then will be totally uninsured, and that leaves the public at risk, and that, I think, is the problem that I see with this bill.

Additionally, as Senator Dollinger points out, you know, to say to people, "Well, they've always got the family farm; you can go and try to execute your judgment against them on the family farm," I don't think that's an answer. I think the public needs protection.

SENATOR JOHNSON: Senator, you may not recall, it was not too many years ago when there was no liability insurance required for automobiles, and people bought coverage, most responsible people -- who had something at risk, that's true. Other people will have to pursue the common law remedy that they've always had of going to court and suing the responsible person.

ACTING PRESIDENT DeFRANCISCO: Senator Leichter.

SENATOR LEICHTER: Senator

Johnson, just -- since I take it sort of that was a question to me. You're right. We had no liability insurance, and there were people who suffered terrible injuries and damage and economic loss, and they were unable to recover. There were responsible people like you, Senator Johnson, that always carried insurance and so on; but you and I know that a certain percentage of the population did not; and the same thing, I'm sure, must be true about farm vehicles, and I think we have an obligation to protect the public; and when the costs, as I think I established through my questions to you and to Senator Kuhl, are relatively minor, it seems to me that the balance really falls in favor of protecting the public.

ACTING PRESIDENT DeFRANCISCO: Senator Johnson?

(There was no response.)

Okay. Read the last section.

Excuse me. Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President. I have listened with great interest,

and there is one larger philosophical issue I would ask some of my colleagues to consider before casting a vote on this bill. We are addressing the number 1 industry in New York State, agriculture, as we take a look at this bill; and regardless of the impact on individual farmers, we have a responsibility in this house and in the other house of the Legislature to do what we can to ease some of the regulatory burdens and to ease some of the financial burdens on the industry of agricultural just as we try to ease the burden on other industries in New York State.

I think it's been well-documented and there is great sympathy in this chamber for the plight of farmers. But let's not make light of that plight in this debate. Even minor inconveniences can cost farmers an inordinate amount of money. Even minor inconveniences can slow down their ability to attend to their crops, to tend to their stock, and to get on with the business of farming; and I would remind everyone in this chamber that we already face a

tremendous burden by Workers' Compensation premiums affecting agriculture to the extent that many farmers now say they are unable to pay hired help the way they have in the past. They are not able to keep them on as permanent employees. The hired help has to either work under the table in a few cases or they are working as contract labor and are relatively unemployed.

So while we have to look at the larger issue of what we're doing for this industry in the state, I would ask each of you to consider yourself in the same situation if you were a farmer and realize that any minor inconvenience, any expense, that can be lifted off the shoulders of farmers is in the best interest not only of those farmers but of the entire state; and I would urge all of my colleagues to give this bill an opportunity and to please send a message that we do support agriculture in the New York State Senate by voting yes.

ACTING PRESIDENT DeFRANCISCO:

Senator Waldon.

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

To explain my vote.

Traditionally, since arriving in Albany, both in the Assembly and in the Senate, I have strongly supported agriculture and agricultural measures for a lot of reasons:

One, I just think we must be supportive of the "bread basket" of the state and perhaps the nation. Two, I learned that there are many constituents in the districts that I have represented who are dramatically impacted by this industry, and I'm not just talking about the normal food stuff, but we have coach laws, we have school children, so I try to be aware of and supportive of whenever possible.

However, the greater question here is what happens to someone if they are injured by one of these vehicles which may stray off onto a public thoroughfare or somehow the operator is negligent; and it seems to me that

it would be better to protect the person injured and to not allow the owner, farmer, business person to escape liability or at least to escape the proper and appropriate liability by not having minimal threshold level coverage on each of the vehicles operating in this agricultural industry.

And, therefore, for those reasons, I must vote no.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT DeFRANCISCO: Results.

THE SECRETARY: Those recorded in the negative on Calendar Number 65, Senators Abate, Dollinger, Jones, Kruger, Leichter, Levy, Smith, Solomon, Waldon.

ACTING PRESIDENT DeFRANCISCO:

The bill is passed.

THE SECRETARY: Also, Senator Montgomery. Ayes 47, nays 10.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 336, by Senator Kuhl, Senate Print 3668, an act to amend the Agriculture and Markets Law, in relation to improving the Agriculturals District Program.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT DeFRANCISCO: Explanation, Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Would Senator Paterson like the short explanation or the long explanation?

ACTING PRESIDENT DeFRANCISCO: Senator Paterson?

SENATOR PATERSON: Well, I'm always so enlightened when Senator Kuhl comes down from ascension and is here with us on the floor with the rest of us that I'd like to hear the long explanation. I know it's not popular

here, but I'm interested.

SENATOR KUHL: Senator Paterson, this is a bill that essentially is a technical corrections bill of a bill that we passed in this house that eventually became law which was called the Agricultural Farm Land Protection Bill. It was adopted in 1992, with the addition that there's the incorporation into this bill - and I should mention, by the way, that this is a departmental bill that has come from the Department of Agriculture and Markets -- with the addition that, included in this bill, is a provision of another bill that we passed a couple of months ago in this house that would provide that an individual farmer in this case who -- under the Ag Farm Land Protection Act of 1992, who is conducting the practice of farming in one particular aspect, and where there has been a question as to whether or not that was an agriculturally sound practice, and the determin ation has been made by the Commissioner of the Department of Agriculture and Markets that, in fact, it is an agriculturally sound practice,

and where that individually farmer -- individual farmer who is carrying on that agriculturally accepted farm practice is challenged in the court and is successful in defending that challenge to what is, again, determined to be an agriculturally accepted practice, that that individual would be entire -- entitled to the recovery of attorneys' fees that he incurred or she incurred in defending that lawsuit.

Now, other than that substantial change in the law, the rest of the provisions, for the most part, are correcnical -- or I should say technical corrections.

That was the short explanation.

ACTING PRESIDENT DeFRANCISCO: Senator Paterson.

SENATOR PATERSON: Well, I'm sure that will suffice, Mr. President, if Senator Kuhl would yield for a couple of short questions.

ACTING PRESIDENT DeFRANCISCO: Senator Kuhl, will you yield?

SENATOR KUHL: I'd be happy to.

SENATOR PATERSON: Senator Kuhl, my concern with this bill -- and I think that Senator Hoffmann was very eloquent and so were you earlier in talking about the plight of farmers and the value of the industry and how we should not in any way mock it or cajole it in our debate here, and I was persuaded actually to vote for Calendar 65, but this bill, Calendar 336, in my opinion, sets up a standard that is unfair on its face.

While the unsuccessful plaintiff is liable for the fees accrued to the defendant, you don't have in your bill an unsuccessful defendant having to pay the legal fees of the plaintiff.

ACTING PRESIDENT DeFRANCISCO: Is there a question, Senator Paterson?

SENATOR PATERSON: Is that fair?

ACTING PRESIDENT DeFRANCISCO: Senator Kuhl.

SENATOR KUHL: Well, it's obvious, Senator, that I proposed the bill in its current form so I would have to think that

it was fair, but I do think it's fair because what you have here is two prior determinations as to what is generally acceptable as to the accepted farming practice.

You have what's out there being done, and you have a challenge to the -- I should say a question being made of the Commissioner. The Commissioner has the result -- the opportunity at his -- under the former law, to ask of the opinions of several advisory groups which one of them would be the College of Ag and Life Sciences at Cornell which is a land grant, I'm sure, institution subsidized by the state of New York, and then he makes the determination as to -- or she makes the determination as to whether or not that's generally acceptable. So what you have is you have a determination that's made, and then what you have is a challenge in face of that determination as to what is acceptable.

Now, what we're saying here is you have a general practice being carried out by the farming community, a challenge made to that,

a determination by a commissioner as to whether that's right or wrong, and then what you have is the potential misuse certainly of the court system by somebody who wants to pounce upon, if you will, an independent farmer who doesn't have unlimited resources like some of these groups that challenge the farming community, and what we're simply doing is imposing a frivolous lawsuit, if you will, concept here saying that, "Look, if you're going to challenge this decision which has been made based upon sound recommendations, then you have to know if you don't succeed in the courtroom, that you're going to be liable for the costs that were incurred by the person defending the suit."

This is not a novel concept, and I think that this concept is already written into some portions of our laws dealing with frivolous lawsuits. I think there's -- in the medical liability malpractice provisions and concepts that we've adopted here, there is a provision dealing with that.

So what we're doing is not

establishing a new precedent, certainly. What we're doing is trying to embark upon a process that will allow our farmers, individually and independently, to be able to continue their occupation without the threat of multiple lawsuits and certainly the cost of defending them.

What we have seen, Senator, and what we are seeing now in the course of carrying on the occupation of agriculture in this state is, we are seeing mounting challenges. This was one of the reasons that we passed the law in 1992, and this was to define a line as to what was acceptable and what wasn't and to define criteria as to what was acceptable and what wasn't, to essentially establish essentially a pattern by which people can pattern their behavior and their occupation. So what we're saying now is "Okay. Once that's established and it's determined and now you want to challenge that determination then, in fact, if you're wrong, you ought to bear the cost of that" because on the outset, it doesn't appear

from the requirements that lead to that decision that it would be a wrongful decision.

Now, certainly if somebody raises a question and says, "Now, this is not a generally accepted farming practice is the terminology" and the Commissioner says, "You're absolutely right, it is not", then that practice will stop certainly, and the farmer will be liable for any of his actions at that point. That's a liability on one side.

But on the other side, if, in fact, you carry it to the next step and you take it to a court and you fail, then that's the same thing tantamount to bringing a frivolous lawsuit which currently this state of New York says that you will bear the expense of that. Now, we don't use that terminology in this proposal, but the concept is the same.

ACTING PRESIDENT DeFRANCISCO: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

If Senator Kuhl will continue to

yield, then I can master the negotiation of the interrogatory sentence.

ACTING PRESIDENT DeFRANCISCO: Senator Kuhl.

SENATOR KUHL: I'd be happy to yield.

SENATOR PATERSON: Senator Kuhl, I want to discuss the actions of the Commissioner with you in a moment, but just to get back to the question that I just asked you, many of the plaintiffs in these cases, if I'm not correct, are actually some of the same farmers or some of the same rural residents as the individuals who could be the object of the lawsuit and so, what I'm saying is, don't you think there needs to be equal protection regardless of who's initiating the lawsuit?

ACTING PRESIDENT DeFRANCISCO: Senator Kuhl.

SENATOR KUHL: Well, I think there is, Senator Paterson, and we were very, very, very specific in the adoption of the law back in 1992 to lay out these protections. I

don't know whether you've had any real estate closings or not lately, but you remember that little statement that's required to be filed with the deed, and it talks about whether or not there are certain kinds of things that are associated with this particular type of property? Well, there's a requirement now that we inform people that this is an agricultural district that they're buying into. There's notice that's required to be given prior to the conclusion of any kind of a real estate purchase.

What we have attempted to do is to eliminate exactly what we have found is happening, and that is people who move into a rural area, all of a sudden they find out that they don't like the dust that's in the air. They don't like that smell that happens to be in the air when there's this fertilizing process going on which happens to be the spreading of manure on land that may be 150 yards away from them. They don't necessarily like the noise at 2:00 o'clock in the morning or 3:00 o'clock in

the morning because they moved next to a vineyard where there are grapes that are being harvested and there are birds that are swooping down on the grapes and eating the grapes, and so they use these shotguns to scare the birds away.

Well, I can guarantee you that when we dealt with this whole concept, we dealt with, okay, what is a generally accepted farming practice? Well, now, if you moved in next to me and I had a vineyard and I didn't like necessarily having you next to me, would it be generally accepted that I started to scare these birds away who don't fly after dark by shooting this shotgun process off at 2:00 and 3:00 and 4:00 in the morning? Well, no, that's not acceptable.

But my point to you is what we tried to do in this whole bill that we adopted, again back in 1992, was to build up a series of protections for the people that were moving into the communities so that they were well aware of what they were going to be faced with. So when you talk about rural residents being the ones

who are challenging, say, what is a generally accepted practice, by the time they get to that point where they're an owner, they know it's generally accepted and they have been forewarned as to what's generally accepted.

So these people that embark upon these lawsuits that we're finding, these are the new neighbors who are coming out of the metro politan areas who are looking for this pristine farmland, that beautiful red barn, those black and white cows on green grass with flowers across the roads, okay? Now, all of a sudden they find out that there's a particular odor that they don't agree with or there is this shaking of the land or these sounds that they don't understand or this dust in the air.

What we tried to do in the law was take that out. So we have given them notice, and what we're saying now is if you want to question that practice and you've gone and you've gotten your decision from the Commissioner of Agriculture, who says, No, this has been going on by years and, yes, it's

verified by the EPA and Ag and Markets. This is standard process. This is what has to happen. In fact, if you then decide that, No. That's not, and I'm going to put this guy out of business by taking him out to the court and then once if I lose there, I'm going to take him on to the Appellate Division and then on to the Court of Appeals and I'll take him to the Supreme Court, what we're saying is, Okay. You can do that, but if you lose and you try to bankrupt this farmer, you're going to pay the costs because you're going to provide the fees that he incurred in defending the suit if he is, in fact, or she is successful.

That's what this concept is all about.

ACTING PRESIDENT DeFRANCISCO: Senator Paterson.

SENATOR PATERSON: Mr. President, before continuing, I have to allow my colleagues to know that, not since Sir Walter Scott's Ivanhoe have I heard a more illustrative, descriptive, poignant display of the fantasy of

the urban dweller as to the nature of farming as I have just heard from Senator Kuhl. That was quite effective.

If he would continue to yield for a question -

ACTING PRESIDENT DeFRANCISCO: Senator Kuhl.

SENATOR KUHL: I'd be happy to.

SENATOR PATERSON: Senator Kuhl, I direct you to Section 308, Subsection 2, of the Agriculture Law which relates to what provides a nuisance and the health conditions that are created from a nuisance and ask you how the Commissioner of Agriculture, ruling on what is a sound farm practice, can have any idea of what could constitute a serious health hazard, which is part of the reason that some people sue others for providing a nuisance?

ACTING PRESIDENT DeFRANCISCO: Senator Kuhl.

SENATOR KUHL: That was -- excuse me, Senator Paterson. That was -- you're referring to Section 308?

SENATOR PATERSON: 308-2.

SENATOR KUHL: Subdivision 2.

SENATOR PATERSON: It mentions wrongful death, Senator.

SENATOR KUHL: What particular line, do you remember, Senator Paterson?

SENATOR PATERSON: It says basically that nothing should be construed to prohibit a party from recovering for wrongful death on -- on -- due to a farm -- due to a nuisance.

SENATOR KUHL: You know where in the proposed bill it is? I'm having a hard time finding it, Senator. That's the only problem.

SENATOR PATERSON: I'm sorry, Senator. This is in the Agriculture Law, and the reason I was citing it -- maybe I'll just explain it.

The reason I was citing it is - what I was saying is that the Commissioner - the question I'm asking you is, how can the Commissioner, who may be able to determine what is a sound farming practice -- I think there

have been a number of sound farming practices that we later, due to medical information and due to rulings from the state Department of Health, we found out that they were injurious to other parties.

So what I'm saying is how can we leave that under the jurisdiction of the Commissioner, or how does just knowing that something is a sound farming practice prohibit a party from recovering on a nuisance action?

SENATOR KUHL: I think the concept is -- and I'm -- I don't have the immediate recollection of all of what Section 308, Subdivision 2, in the Ag and Markets Law says, but the concept that we have dealt with in this whole proposal and adoption of the law that goes back to 1992, Senator, was that there were essentially migrations of urban populations that were moving to the rural area, and this urbani zation, if you will, of the rural area of this state was causing some difficulty between the neighbors who were the new neighbors, people who were purchasing land, and what we thought was

the best way to deal with this was to try to define a essentially set standard.

Now, the initial proposal that I had before not only this house but was initially proposed in the Assembly, was to define immediately what was a generally accepted farming practice; everything. If you were a chicken farmer, fine. If you were a grape grower, fine. If you were a dairy farmer, fine. If you grew cash crops, fine. This is what was generally accepted.

At that time, the Department told us -- told me, specifically, that that was such detail, and that was such an exhaustive project to do that, that they would prefer to move away from that definition because it varied in different parts of the state. There are all kinds of different areas geographically, and all of those took into consideration different generally accepted farming practices.

So what it eventually came down through -- down to, I should say, through negotiation was a determination yet to be

defined upon request, and what we did was we set up a -- some advisory groups, like the College of Agriculture and Life Science at Cornell who, as I said, was a land grant college that we support and which is one of the preeminent agricultural schools in this country, if not the world. We thought that, if anybody knew what was generally accepted and the modern technology, they certainly would, and that the Commissioner would be dependent upon them for their advisory opinion.

But the concept was, here is a current, in-place occupation that's being carried on, and so let's define what they're all about and if there is a challenge. The idea had nothing to do about anything else other than what was acceptable dealing with that occupation.

And so we have addressed solely that issue, what is acceptable from an environ mental standpoint, from a business standpoint, from all the kinds of basis of criteria upon which the Commissioner might use to define that

term, "generally accepted farming practice".

Now, that's the concept. I don't know as I can specifically answer your question as it relates to that provision of the law because I don't have that in front of me, number one, and I don't have that memorized.

ACTING PRESIDENT DeFRANCISCO: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

Again, through you, Mr. President, to Senator Kuhl. I think that the spirit of your legislation is quite acceptable. What you're trying to do is to really put a stop to spurious lawsuits and really claims that have no merit from individuals who would not understand that this is a standard farming practice. What I'm contending is that it's the method of the legislation that is most objectionable, and there are two real levels to that objection.

The first one would be that the Commissioner of Agriculture and Markets is able

to determine what is a sound farming practice, but that of and in itself does not let us know whether or not the claim that this practice is a nuisance is or is not viable. That's something that the court would actually decide; and I think Senator Kuhl and I would both agree that the court would actually decide the merit of the claim, but now we're talking about after the court action and we assume that the plaintiff is defeated. We're now saying that the ruling of the Commissioner would now entitle the defendant to receive court costs from the plaintiff; and what I'm saying, Senator Kuhl, is that there must be another way to accomplish the goal of - of stopping spurious lawsuits rather than to vest that in the Commissioner of Agriculture and Markets.

ACTING PRESIDENT DeFRANCISCO: Senator Kuhl.

SENATOR KUHL: I didn't hear the question, but let me just pose this to Senator Paterson, and I don't know if he intended to ask me a question, but you raise a point, I think,

about the -- splitting the actual challenge to this issue, and I might remind you, Senator Paterson, that certainly, if an individual decides that the Commissioner's judgment is not a sound one, that rather than take the individual farmer to court and challenge him with a nuisance lawsuit, certainly this individual has the rights under Article 78 of the Civil Practice Laws and Rules to challenge the Commissioner's decision as to being arbitrary and capricious.

That would not bring into play the defendant farmer. He would not have to be taken into court to challenge -- to be cited with a nuisance. So what I'm saying to you is, if you are saying there ought to be another way, certainly there is because the individual who is objecting to this generally accepted farming practice could say, Yeah. I think the Commissioner is wrong. I challenge this decision, take it into court and certainly that court could overrule it. If that were the case, and it very well could be, then certainly now we

have a decision that it's not a generally accepted farming practice and the individual farmer would have to comply with that decision.

But what we're saying is that it is unfair to bring the individual farmer in to challenge that decision, that there is another alternative, and an individual can take that course if they see fit.

I would just point that out as you say there must be another way, and I'm just giving it to you, there is another way for the individual to challenge that decision, so that it doesn't come down solely to the Commissioner to make that determination. It can be challenged through the court system, and you know the Civil Practice Law and Rules probably much better than I do, but that is a way that can be done without the added expense to this farmer to defend this decision that was made by the Commissioner of Agriculture and Markets.

ACTING PRESIDENT DeFRANCISCO: Senator Paterson.

SENATOR PATERSON: Mr. President,

I want to thank Senator Kuhl for his answers which were most forthright.

On the bill. I want to just compare this bill to the one that we previously passed and maybe the point that I'm trying to make will be a little clearer.

In the previous bill, we really are addressing the issue of farm-plated vehicles and insurance liability, and so if we wanted to do as Senator Hoffmann said and understand the nature of the industry and understand that sometimes even the slightest inconvenience to the farmer can create a tremendous hardship to the industry, I think if that's what we want to do, we can do it. Senator Kuhl's bill passed. I voted for it. There was some dissent and I think very merited dissent on that particular bill.

But this particular bill relates to something for which the value, I think, is a little higher than insurance liability. Here we are talking about our civil justice system. The reason that we set up our civil justice system,

which is one that's really carved out of the criminal justice system; in other words, there are implied attacks on society and that's why we have criminal justice and in civil justice, they are really the attacks on the individual.

We have encouraged people who feel that they are victimized in that way to bring their beef, so to speak, to court, to bring their arguments to an arbiter, and what we have in this situation is incurring a burden on the plaintiff that, if you don't win on the merits of your argument and the Commissioner of Agriculture and Markets says, "This is a sound farming practice", then you are going to have to pay the court costs, not only that you incurred, but also that the party you sued or the defendant incurred.

In my opinion, it is putting a tremendous hardship on a person that wants to initiate a court action, and it is discouraging individuals from bringing cases to court.

Now, I think in our opening prayer today, we got some very good advice by

Rabbi Buttman who gave us a little Talmudic law, and he said, "Please pray for government, because without government, people would eat each other alive", and I think that's why we have a court system because, when people feel they don't have any court of challenge, they start to take these disputes out personally. They don't feel that there's a remedy.

I think the value of that remedy is higher than that of disputes between farmers, even if it does appear to be a little unfair to the farmer that the actual nuisance may be a standard farming practice. I would rather that that issue be settled in court and I would rather that no one feel an encumbrance upon them limiting them from bringing the action to court.

That's why I can't support the bill, because I feel that the rendering of a decision by the Commissioner of Agricultre and Markets can only define the farming practice, but whether or not the farming practice is being handled correctly is something that evidence,

facts and a presiding judge or jury, I think, should decide.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

Oh, excuse me, Senator Dollinger.

SENATOR DOLLINGER: Mr. President, just briefly on the bill.

I am mindful both of Senator Hoffmann's comments about the importance of the farming industry, Senator Kuhl's comments about the significance of the farming industry in this state, Senator Johnson's comments about the farming industry in this state. It is clearly one that has an enormous effect on our economy.

However, while it deserves a very high place in our attempt to accommodate farm ers, it seems to me the one thing we shouldn't do is create a privileged place in our civil justice system for farmers, because what this will do is that this says that in a nuisance action brought against the farmer, which is the equivalent of a real estate-related product liability action brought against the farmer,

we're now going to create a rule that says if you bring such an action, and you lose, and even if it had some merit to it, but nonetheless, a court finds that the practice was a reasonable business practice or reasonable farming practice by a farmer, you now have to pay not only your own legal fees to have brought the action, but the legal fees of the defendant farmer. In essence, when the defendant wins, he wins everything. When the plaintiff wins, he gets the relief that he was entitled to.

So it seems to me while farming should get a high privilege or a high status in our economic system and in our civil justice system, we should not create a privilege for farmers that we deny to everyone else, and that is, when they win they get everything; when the plaintiff wins next door, he only gets what he or she is entitled to.

I think that kind of privilege in the system isn't necessary in this case. It raises issues about the fairness of the entire system. There's no suggestion here that other

product manufacturers would get the same treatment. There's no suggestion that other defendants would get the same treatment. It seems to me, while we should recognize the farmer's contribution, here we are creating a very, very highly privileged niche for farmers and one that, at least from my perspective, I think is unnecessary.

I will be voting no, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the 90th day.

ACTING PRESIDENT DeFRANCISCO: Please call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT DeFRANCISCO: Results.

THE SECRETARY: Those recorded in the negative on Calendar Number 336, Senator Abate, Connor, Gold, Gonzalez, Leichter, Montgomery, Onorato, Paterson, Stavisky and

Waldon. Ayes 49, nays 10.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

Senator Nanula.

SENATOR NANULA: Mr. President, I would like to request unanimous consent to be recorded in the negative on Calendar Number 65.

ACTING PRESIDENT DeFRANCISCO: Without objection.

SENATOR NANULA: Thank you.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Dollinger.

SENATOR DOLLINGER: Just a point of order, Mr. President. Was I recorded in the negative on the last bill? I had my hand up and I wanted to make sure I was.

ACTING PRESIDENT DeFRANCISCO: You were not, but you will be.

SENATOR DOLLINGER: Thank you, Mr. President, just to clarify.

Thank you.

ACTING PRESIDENT KUHL: The Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 356, by Senator Trunzo, Senate Print Number 3628, an act to amend the Education Law, in relation to the Tax Deferred Annuity Program under the Board of Education retirement system.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 377, by Senator Levy, Senate Print 3941-A, an act to amend the Education Law, in relation to directing the Commissioner of Education to include rules concerning the maximum speeds of

school vehicles.

SENATOR DOLLINGER: Explanation, Mr. President.

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

SENATOR LEVY: Yes. Senator Dollinger, when we last discussed 65 and, as we were debating the last bill, the agreed upon 65 bill was put on everybody's desk, and the Rules Committee is going to report that bill in just a few moments.

This bill is really a companion to, quote, "65". When we had our discussion - and when we get into 65, I will talk about some of the -- some of the things that we have done since that debate that relate to deterrence, that relate to enforcement, and that relate to saving lives once we go to 65 on 1135 miles of Thruway and other state and interstate highways in New York.

One of the things that we talked about was protecting children who are riding on

school buses. So after that debate, I met with the Commissioner of Education, and that discussion related to the Commissioner of Education mandating or requiring that no school bus travel on those 1135 miles in excess of 55 miles an hour.

Commissioner Sobol said that he was supportive and would, in fact, take that action and support this bill, but he said, given a court decision by the Court of Appeals five or six years ago that questioned his ability through rules and regulations without legisla tion to take an act like this, he asked Assemblyman Bragman and myself to mandate that he take the action that related to establishing the maximum speed limit for school buses at 55 miles an hour.

Now, I am told this bill has been introduced by Mike Bragman; it does not have a number yet over in the Assembly, but it has been introduced. The bill was drafted as a result of conversations between -- between Mike and myself and our staffs, and this bill has been reviewed

by the Commissioner, counsel to the department, and they are supportive of this piece of legis lation, and it does exactly what I said it did. It requires the Commissioner to set a maximum of 55 miles an hour for any school bus traveling with children on a bus.

It likewise preserves the powers of local school districts to be more restrictive than 55 if they make a determination for their school district that they don't want their buses traveling, not at 65, but they don't want them traveling at 55, and that's what this bill does.

As we get into the other debate, we'll talk about conversations -- conversations that I had with the Superintendent of the State Police and with the Commissioner of Motor Vehicles in regard to what they are going to do, not only with school buses, but what they're going to do as it relates to trucks that weigh more than 18,000 pounds and have cargos such as gasoline, propane, liquefied natural gas, explosives and radioactive materials, but we'll

save that discussion for when we get into 65 and we'll lay out exactly what the Superintendent is going to do, what the Commissioner of Motor Vehicles is going to do in regard to those areas, as well as you and I and everybody else operating a vehicle at 65 miles an hour on those roads.

SENATOR DOLLINGER: Mr. President, will Senator Levy yield to one question?

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

SENATOR LEVY: Sure.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Senator, I was one of those who actually came into the last debate about the 65 mile-an-hour speed limit and changed my mind because of your comments about the ancillary aspects of raising the speed limit, one of which was school buses. I thought your point was well taken, and I approached this ongoing debate about the Conference Committee

report in that same light to look at this.

My question is this: Was -- this statute makes reference to school vehicles. The same types of problems with large numbers of children on larger vehicles could be present, for example, buses for religious institutions, churches that bus students. For example, the Al Siegel Center which may have vans that have half a dozen handicapped children in them.

My question is was any consideration given to the same, I think, proper consideration about lowering the speed limit for vehicles carrying large numbers of children; was consideration given to making it based on the number of children in the vehicle rather than simply the designation of a school vehicle transporting pupils as the way the statute currently reads?

SENATOR LEVY: Senator, this bill deals only with the Commissioner of Education and directs the Commissioner to act as it re lates to school vehicles and pupils that are go ing to and from school or for other educational

purposes.

I think your point is well taken as it relates to taking a look at children being transported other than to and from school or for other educational purposes, and we'll take a look at that, and in indicating that we worked on this bill with Senator Bragman, we also worked on a bill with Senator Oppenheimer who is a sponsor of the bill.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I'm going to vote in favor of this bill. I would just urge the Transportation Committee of this house and the other house to look at that other issue of -- and I think of religious institutions and institutions that are transporting a large number of people may not be educational institutions not under the purview of Commissioner of Education, but who have the same risks that are created that this bill addresses with respect to school children.

I'm going to vote in favor of

this. It's the right thing to do. I think it should be expanded even further.

SENATOR LEVY: I can tell you, Senator Dollinger, that -- and I said we are going to hold this to 65, and I'm going to read into the record part of the letter from the Superintendent -- letters from the Commissioner of Motor Vehicles and the Superintendent of the State Police, but I can tell you that the Superintendent of State Police, on those 1135 miles, is going to target school buses transporting children. They are going to be targeted as it relates to enforcement. He has made that commitment, and we will make that part of the 65 record.

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

SENATOR DOLLINGER: Thank you.

THE SECRETARY: Section 2. 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.

Senator Marcellino, that concludes the controversial calendar. We have several housekeeping events at the desk, if you want to do that.

SENATOR MARCELLINO: Yes, Mr. President. Do the housekeeping first.

ACTING PRESIDENT KUHL: Substitution. The Secretary will read.

THE SECRETARY: Senator DeFrancisco moves to discharge from the Committee on Local Government, Assembly Bill Number 1983-B and substitute it for the identical Calendar Number 213.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Chair recognizes Senator Present.

SENATOR PRESENT: Mr. President, on behalf of Senator Seward, I wish to call up Calendar 498, Assembly Print 1540.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 498, by member of the Assembly Luster, Senate Bill Number 1540, an act to amend the General Business Law.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, I now move to reconsider the vote by which the the Assembly bill was substituted for Senator Seward's bill, Senate Print 1108, on April 26th.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, I now move that Assembly Bill Number 1540 be recommitted to the Committee on Consumer

Protection and that Senator Seward's Senate bill be restored to the order of Second Report.

ACTING PRESIDENT KUHL: The Assembly bill is recommitted. The Senate bill is restored to the Second calendar -- Second Reading Calendar.

The Chair recognizes Senator Marcellino.

SENATOR MARCELLINO: Mr. President, may we return to reports of standing committees? I believe there's a report up from the Rules Committee at the desk.

ACTING PRESIDENT KUHL: There is a report of the Rules Committee at the desk. We will return to reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, hands up the following bills directly for third reading: Senate Print 4475, Budget Bill, an act making an appropriation for the support of government.

Senate Print 4476, Budget Bill, an act making appropriation for the support of

government.

Senate Print 4477, Budget Bill, an act to provide for payments to municipalities and to providers of medical services.

Senate Print 4478, Budget Bill, an act to provide for payments to vendors under the Women, Infants and Children's Program.

Senate Print 4250, by Senator Johnson and others, an act to amend the Vehicle and Traffic Law, in relation to maximum speed limits and providing for the repeal of such provisions.

All bills directly for third reading.

ACTING PRESIDENT KUHL: All bills are ordered directly to third reading.

The Chair recognizes Senator Marcellino.

SENATOR MARCELLINO: Mr. President, I move we adopt the report of the Rules Committee.

ACTING PRESIDENT KUHL: The motion is to accept the report of the Rules

Committee. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The report is accepted.

Senator Marcellino.

SENATOR MARCELLINO: May we take up Calendar Number 612, Senate 4250?

ACTING PRESIDENT KUHL: Senator Marcellino, we have a substitution at the desk. Can we take that first?

SENATOR MARCELLINO: Yes, sir.

ACTING PRESIDENT KUHL: I'll ask the Secretary to read.

THE SECRETARY: Senator Johnson moves to discharge from the Committee on Rules Assembly Bill Number 7384 and substitute it for the identical bill, Calendar Number 612.

ACTING PRESIDENT KUHL: The substitution is ordered.

SENATOR MARCELLINO: May we now take up Calendar Number 612, Senate 4250.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 612.

THE SECRETARY: Calendar Number 612, by the Rules Committee, Assembly Bill Number 7384, an act to amend the Vehicle and Traffic Law, in relation to maximum speed limits and providing for the repeal of such provision.

Section 3. This act shall take effect on the 1st day -

SENATOR LEICHTER: Mr. President -- Mr. President.

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

SENATOR LEICHTER: I heard them call the last section. I was going to explain my vote.

ACTING PRESIDENT KUHL: No, you did not hear the last section read yet, Senator Leichter.

SENATOR LEICHTER: O.K., in that event -

ACTING PRESIDENT KUHL: But Calendar Number 612 is in front of the chamber.

The Secretary will now read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 1st day of August.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: The Chair recognizes Senator Leichter to explain his vote.

SENATOR LEICHTER: Thank you, Mr. President.

Mr. President, I'm delighted to see that this first product of the Conference Committee is before us, and I think it certainly speaks well to the new procedures that have been established by the Senate and the Assembly, and I hope that we will see many other instances where differences between the two houses are resolved in this fashion.

Having said this -- and I appre ciate the work that the members of the Confer ence Committee did -- my view has been that to increase the speed limit, I think, is going to

lead to more accidents, will lead to more deaths and injuries and, if we increase it to 65 miles, then people in this state are going to be driving 75 miles.

So let's -- as fine a product as this is in terms of the procedures of the Legislature, substantively I think it's flawed and I will vote against it.

ACTING PRESIDENT KUHL: Senator Leichter in the negative.

Senator Abate to explain her vote.

SENATOR ABATE: Yes. I, too, would like to compliment my colleagues.

Although I cannot support this bill, I certainly support the process, and the reason I cannot support the bill is for many of the issues that Senator Tully raised the last time.

The argument in favor of increasing the speed limit is, well, we're doing it anyway; people are already driving 65 miles an hour, and it's for the convenience of

motorists.

My problem is, what is in this current legislation that will prevent all of us to honor 65 miles an hour and not drive at 70, 75 and 80? And these highways were designed for speed limits not to exceed 70 miles an hour and because this legislation does not have increased law enforcement efforts, it does not have increased penalties, there's no provision for large capacity trucks in terms of limiting their speed travel, I believe, although there's an argument for convenience, the argument against it is much more powerful, and that's about saving lives and decreasing fatalities and without these additional law enforcement provisions, I cannot support this legislation.

ACTING PRESIDENT KUHL: Senator Abate in the negative.

The Chair recognizes Senator Levy to explain his vote.

SENATOR LEVY: Yes, Mr. President. Let me just make a -- very, very briefly make part of this record because we are

taking a very, very important step as it regards to the actions that are going to be taken by law enforcement and by the Commissioner of Motor Vehicles. I'm only going to -- I'm only going to read part of these communications.

A letter from the Superintendent of the State Police says:

"I concur that special enforce ment efforts would be appropriate with regard to commercial vehicles in excess of 18,000 pounds and which are engaged in the transport of flammable or combustible substances, explosives or radioactive materials. In addition, I believe buses engaged in the business of pupil transportation are worthy of special attention.

"I have been in the process of implementing enhanced enforcement efforts with regard to commercial vehicles in general. You can be assured that, upon implementation of a 65-mile speed limit, special attention will be directed towards enforcement of the new limit in reference to the particular vehicles described above." Signed by James W. McMahon,

Superintendent of New York State Police.

And on the question of trying to deter not only those vehicles, but you and I and everyone else who is going to travel those 1135 miles, the Commissioner of Motor Vehicles wrote on March 15th, "I share your concerns and will have this agency work with the Governor's Traf fic Safety Committee to review this important matter and report their recommendations for action to me." That is on the issue of points.

Let me say and just echo the comments that have been made here, an outstand ing job done by Senator Johnson, Senator Farley, Senator Kuhl, Senator Oppenheimer and the members of the Conference Committee. We've done the most that we can do. The future course of the impact of 65 on lives, injuries and acci dents is up to others, the Commissioner of Education, the Superintendent of State Police, and the Commissioner of Motor Vehicles, including the motor vehicle operators who are going to be driving on those 1135 miles of highway in this state where the speed limit is

65.

I vote aye.

ACTING PRESIDENT KUHL: Senator Levy in the affirmative.

Senator Farley to explain his vote.

SENATOR FARLEY: Thank you, Mr. President.

Having been a sponsor of the 65 mile-an-hour speed limit for a number of years and having worked with Senator Johnson on this, putting our bills together, working with the Assembly and with the Conference Committee, it was able to bring this to fruition, and with the Governor that supported it, our Majority Leader, it's an example of this Legislature doing what the people of the state of New York want.

There's overwhelming support for having a reasonable speed limit. Will people drive 80 miles an hour? I certainly hope not, and I think they will be arrested if they do. I think that this is a reasonable speed limit on rural interstates. The Conference Committee

worked well. We put together a piece of legis lation which is reasonable, which affects the parts of the state -- the upstate parts of the state where rural interstates, and so forth, exist and where people are not only now driving over 55 miles an hour, but they will be able to do it legally, and I think safely.

Again, there have been studies that show that where states have raised the speed limit on rural interstates, that the death rate has actually gone down. Why? Because they think that the people do not drive on the back roads and the roads that are more dangerous and then drive on the interstates which are safer at 65 than the back roads are at 55. I don't know the rationale, but the LAVE study has showed that.

I think this is something that the people of the state of New York has wanted. I commend Senator Johnson and my colleagues that served on the Conference Committee and have worked on this legislation for so long.

It's a bill that will be signed.

It will be the law of New York State, and I think it's been a long time in coming.

I vote aye.

ACTING PRESIDENT KUHL: Senator Farley in the affirmative.

The Chair recognizes Senator Mendez.

SENATOR MENDEZ: Mr. President, I also do want to congratulate the Conference Committee for an excellent job in reconciling the differences between the Senate and the Assembly bill.

I do know that states in the nation do have 65 miles per hour limits. Con cerning the number of fatalities, Mr. President, the fact remains that those -- there are two studies in that area, and one claims that deaths have been reduced and the other one concluded the opposite, in reviewing the data. So I really believe that, although most New Yorkers are traveling, at least in the Thruway, at 64.9 miles per hour, I really believe that in increasing the speed to 65 miles per hour could

end up in greater number of accidents and deaths.

Therefore, I'll be consistent once more and vote against this bill.

ACTING PRESIDENT KUHL: Senator Mendez in the negative.

The Chair recognizes Senator Gold.

SENATOR GOLD: Yeah, thank you.

As so many people have said, the Conference Committee did fine work, but you can only deal with what you have, and basically they reconciled differences but they didn't reconcile the issue.

Senator Farley, who I greatly respect, says you give the people what they want. I always thought that what the people wanted, Senator Farley, was for us to use our heads and think rationally about things and, well, Senator Levy says we pass the law and then it's it up to others. They go out and kill themselves, we didn't do anything wrong; we only raised the speed limit, and I just think this is

putting our heads in the sand. It really is.

People say, Well, I think this and I think that, but the bottom line is that before we passed the 55-mile-an-hour speed limit in New York State, 3100 people on the average were dying on our highways. Since we passed it, that has fallen in New York State down to 2300. That's a big number. That really is an awfully big number.

I'm also told that in the states that have increased the speed limit, Senator Farley, you are wrong, that in 1992, the death tolls in those states were 17 percent higher. Now, that's -- those are really just big numbers.

I remember, and I'm sure everybody here remembers here what happened on the roads before it went to 55. Nobody drove 65. When you were doing 65 and the guy passed you at 80, it didn't seem so much, and then some guy passed him at 90, and we had a disaster out there and it was a disaster out there for the police. You would not want to be the State

Trooper who has to bring somebody to the side of the road who's doing 90, 95 miles an hour, and I really do believe that, under the existing law where we have it at 55 and everybody knows but you're not allowed to say it out loud, that the cops don't stop if you you're doing under 63 or 64, well, then it's 63, 64, but at 65 it becomes 75 and 80, and that's exactly what happens, and I think that the experience that we've had has shown that we have actually been able to save lives, and I see no reason to go back on that.

I vote no.

ACTING PRESIDENT KUHL: Senator Gold in the negative.

The Chair recognizes Senator Stavisky to explain his vote.

SENATOR STAVISKY: Mr. President, we certainly should praise the participants in the conference effort, but that does not necessarily mean that we should agree with the final work product.

I think this is a better bill than it would have been without the conference,

but I believe that we still have some hard decisions to make.

There probably isn't anyone in this room who has not held a breath or said a prayer as a tandem trailer has passed at an excessive speed, with the hope that that tandem trailer will pass without swerving onto our lane. We have all seen the results and heard the results if we haven't witnessed them ourselves, of the carnage that has occurred when one of those tandem trailers has turned over, often because of excessive speed and the curvature of the road or the exhaustion that the driver experiences.

What about a trucker who has a schedule to make -- and that's not a mini-car; that's a tandem trailer -- that individual has a schedule to meet and is told, "You get that delivery to this destination by this time, and we don't want to hear anything else"?

What about those that will continue to drive past the time when they should pull over on the side of the road to rest? We

cannot have a piece of paper, no matter if it is signed by respected officials of state government, that guarantees us that that trucker will not continue to remain behind the wheel long after it is no longer safe.

We've seen the situation too many times, and when individuals who are constituents of ours or members of a family of constituents of ours or, God forbid, members of our own families who may be injured or worse because of the passage of this legislation, I do not think we would be proud of this moment.

The insurance companies are not anxious to shell out unnecessarily high settle ments. The Insurance Institute for Highway Safety is opposed to this legislation, and if the delivery has to occur at a slightly later hour, do not endanger our constituents. There are too many shipments of flammable materials. We can no longer be assured that toxic wastes will not be passing through the highways where this extra speed limit is permitted.

Under these circumstances, I

don't think we should pass this. I think we should have further restrictions on the types of vehicles that are permitted to travel at this speed and hope that the motorists are sensible enough even if the vehicle is not a large one, to pull over to the side of the road when there is the tendency to be over-fatigued.

Under these circumstances, I wish to be recorded in the negative.

ACTING PRESIDENT KUHL: Senator Stavisky in the negative.

Senator Solomon to explain his vote.

SENATOR SOLOMON: Thank you, Mr. President.

As I debated this bill earlier when it came up in the Senate before it went to Conference Committee, I believe we're taking a dangerous step, as a number of speakers before me in explaining their vote had stated.

We are taking a step where, in fact, increasing the speed limit has only evidenced one thing in other states where it's

been done before, an increase in the number of deaths on our highways, and I just question whether or not that it's worth it to allow people to arrive at a destination a few minutes early because that's all it translates into is a few minutes earlier, where we're going to have some people lose their lives.

I dare say you can see this, trucks on the Thruway that now generally many of them do over 70 miles an hour, they'll be doing 80 miles an hour, and I should remind you that most fatalities occur in accidents between trucks and passenger automobiles, and many of these roads that have been designated are heavily travelled roads by truck traffic.

So I'm going to vote against this bill because I don't believe it's worth it, worth that one life, that first life that's going to be lost because of an increase in the speed limit so that numerous other people can arrrive at a destination earlier.

Thank you.

ACTING PRESIDENT KUHL: Senator

Solomon in the negative.

Senator LaValle to explain his vote. Senator LaValle waives.

Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: I'll be voting affirmatively on this.

A couple of points I wanted to make. One is that -- one of the reasons we feel that the fatalities are down is not just that the speed limit has been down but that there have been many innovations made in the cars that we are driving. For instance, years ago, we did not have mandatory seat belts. We did not have air bags. We did not have anti-locking brakes. We feel these are contributing to a safer nation of motorists.

In looking at the roads that were subsequently added or detracted, depending - subtracted, depending on which bill you're looking at, there were many factors that went into the determination of these particular roads that are enumerated, and we looked closely at

the number of accidents, the number of accidents that had fatalities, the volume on each of these roads, the density of the population centers where these roads traveled by, and it was very carefully looked at, and these roads were not determined lightly and great discussions took place over certain roads that many people on the committee wanted but were felt not appropriate because of the stricter standards that we had put down.

The fact of the matter is that everybody is going these speeds now on these highways. I know if you try and sit at 55, you can't even stay in the slowest lane because people are not traveling at 55 and they're not traveling at 65; they're traveling even faster than that, and anticipating now that people would say -- motorists would say, "Well, at 65, of course, I can probably go nine miles over that speed limit before I'll get nailed." Well, we've taken that into account too, and what we're going to be doing is we're going to be having stricter enforcement of the law when this

turns to 65 so that we will see that those who are exceeding the limit will be caught and we're also going to increase the penalties, and so we feel this will be a deterrent to people who think, "Oh, now, that's an opportunity for me to go another ten miles faster or nine miles faster than the limit."

I think a lot of thought has gone into this and a lot of accommodation, and I feel it's realistic and hopefully we will see no increase. We are certainly going to monitor this. We will hopefully see no increase in the number of fatalities, but I can assure you, if we do see an increase, it will be caught quickly and it will be -- after all, none of our laws are written in stone.

So I feel this is a joint effort that has been successful after a good amount of give and take, and I'm pleased with the result.

I vote yes.

ACTING PRESIDENT KUHL: Senator Oppenheimer in the affirmative.

Senator Dollinger to explain his

vote.

SENATOR DOLLINGER: Mr. President, I extend my congratulations to members of the Conference Committee as well. I would only have one suggestion the next time a Conference Committee convenes. It seems, even at this stage, we're still debating about which one of the studies is accurate, whether the fatalities went up or they went down. My recommendation of those in the Conference Committee would be, get both of the people who conducted those studies in here; let's ask them questions and find out why those two studies could come to different conclusions so we can make an independent judgment as to which of those two studies is accurate and fair.

The other concerns I have, Senator Levy has taken care of one with the school bus initiative. I was also impressed during the last time this went around before we sent it off to Conference Committee about the importance of enforcement. Senator Levy, I think, said without contradiction that these

highways are built to accommodate 70 miles an hour and I, for one, do not want to see anybody zipping by ten miles faster than 65, because it was my understanding that we would say to those people who drive faster than 70, we would not only hit them with additional points, but we would look at the possibility of additional fines, and my hope is that we'll put one of those Pennsylvania signs on the other side of the border that says, "You come into New York State and exceed our 65 mile-an-hour speed limit by more than five miles, it will cost you $250". That may get the kind of results that we're after because I think, as everybody points out -- as everybody points out, if you go faster than 70 miles an hour on these highways, you're going at an unsafe speed, and my view is that we've got to make sure that nobody is cheating over the 65 mile-an-hour speed limit.

My other concern, even though I'm going to vote in favor of this bill, is what this will do to travel on other highways. My sense is that by raising the speed limit to 65,

we may find that on our rural highways, which are only built for 55, we may find everybody inching up to 65 because that's now the accepted norm on our divided highways and on our interstates.

Nonetheless, despite those concerns, I agree with Senator Oppenheimer. I don't believe the bill is written in stone. I think we ought to keep a very close eye on it. I know it has a sunset. I hope the Department of Transportation will do its own studies. There may be some risk in this. My sense is, and I agree with Senator Farley, I think everybody has been going 65 for years, but let's make sure they don't go any faster. Let's put the enforcement system in to restrict people from going even five miles faster than the 65 mile-an-hour speed limit.

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

ACTING PRESIDENT KUHL: Senator Dollinger in the affirmative.

Senator Johnson to explain his

vote.

SENATOR JOHNSON: Mr. President, I'd like to begin by congratulating all the members of the Conference Committee, my colleagues, yourself, Senator Kuhl, Senator Farley, Senator Oppenheimer and, of course, even the Assembly, Mr. Bragman, Gantt, Mr. Destito and Glick for sitting through three sessions and so -- working this bill over pretty well and coming to a consensus.

You know, I never -- I'm not really prepared to debate the bill again since we passed our first bill by 46 to 8 and in the Assembly by 120 to 22, so I'm really happy to know that the representatives in this state are expressing the will of the people who sent them here, and I think it's very appropriate.

Also, that historically accidents have gone down year by year, deaths per hundred million miles have gone down year by year. That's continued even in the states which have gone to the legal limit of 65. In fact, as we're talking here, the bill is before the

Governor in Maryland and Pennsylvania has passed it in one house; it will pass the other, so New York State will be joining the rest of the nation expressing the view of their people going back to the 65 mile-an-hour limit; and did you ever think about it, that if the Arabs didn't pull out the shortage figures and raise the price of fuel so much, we would have been traveling 65 all the while, nobody would have been concerned about it, and we wouldn't be here today; but we're here today. I'm glad you're all here.

Thank you very much for being here and for expressing your support for this measure.

ACTING PRESIDENT KUHL: Senator Johnson in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 612, Senators Abate, Cook, Gold, LaValle, Leichter, Mendez, Sears, Solomon, Stavisky and Volker.

Ayes 49, nays 10.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Solomon.

SENATOR SOLOMON: Yes, Mr. President. Can I have unanimous consent to be recorded in the negative on Calendar Number 336?

ACTING PRESIDENT KUHL: Without objection, Senator Solomon will be recorded in the negative on Calendar Number 336.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, may we now please take up Calendar Number 608, Senate 4475?

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 608.

THE SECRETARY: Calendar Number 608, Budget Bill, Senate Print 4475, an act making an appropriation for the support of government.

SENATOR CONNOR: Explanation.

ACTING PRESIDENT KUHL: Senator Stafford, an explanation has been asked for by

Senator Connor.

SENATOR STAFFORD: Mr. President, this is an emergency appropriation for the administrative payroll.

The bill appropriates 131.5 million to meet the May 3rd payroll for certain executive branch officers and employees. It does not include the Governor, Lieutenant Governor, state Comptroller, Attorney General and those employees of the Executive Chamber not subject to the Fair Labor Standards Act for whom notice has been provided to the Comptroller by the Secretary to the Governor.

It appropriates 30.5 million to meet the May 3rd payroll for all officers, employees of the judiciary. It also approp riates $40,000 -- and it gets hard to read from 40 billion to 40 million to 40,000, but it appropriates 40,000 to meet the May 3rd payroll for officers, employees of the Legislative Library, legislatve nurses and legislative messenger personnel and other legislative staff who are not included.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

Mr. President, it appears that once again the Governor has failed to submit to the Legislature provisions for paying the staff of the two houses of the Legislature.

Mr. President, we've said it before on this floor and I say it again, and I ask my colleagues in all sincerity on both sides of the aisle, why? Please tell me, someone, where is the logic in paying deputy budget directors, unit heads in the budget department who make over $100,000 a year, who presumably better have something to do with passing a budget in this state; where is the logic in paying them and not paying a $19,000-a-year secretary or receptionist in the Legislature?

Where, my colleagues, is the logic in paying over 90- and $100,000 to commissioners in the executive branch and not paying the Legislature's interns who make a

paltry sum in living expenses while they are up here on what is supposed to be an educational experience on a non-partisan basis? They are not players in the legislative process or the budget process. They're here to learn.

Indeed, I've had the experience of some wonderful interns over the years. Some times we chat after hours. It was explained to me they were conservative Republicans, and I was a very moderate Democrat myself (laughter) and we had a lot in common, but we weren't fellow partisans because that's not why they're here, and we all know that.

Many of you on the other side of the aisle have young people, student interns. They happen to be Democrats and Conservatives or whatever, and vice versa. They're not chosen on a partisan basis. It's not a partisan program. They're not here to make policy. They're here to learn about state government and what a sad lesson we teach these students when the state of New York, when the Legislature doesn't keep our commitment to pay their subsistence stipend so

they can pay their rent and put food on their table. Where is the logic in that?

You know, I was informed a few days ago that some legislative employees had filed suit in the Northern District of New York alleging -- and I believe they will be upheld ultimately -- that the withholding of their pay is unconstitutional, and I have to say this. I have had staff who work on both sides of this aisle and members on both sides of this aisle, the ones on this side of the aisle say openly, "I hope they win that lawsuit," and people on the other side of the aisle say, "I hope you win. I hope they win the lawsuit because it's not right."

Well, my colleagues, stop whispering and get up and say what's right or wrong. In the last 18 years that I've been here, we had Democratic governors until this year and, indeed, there were times when Governor Carey or Governor Cuomo made some proposal, sometimes to capture headlines or whatever - we're going to do this, we're not going to do

that, I propose that -- and I observed real leadership at work over those years on some of those occasions, and I observed the legislators doing their job as independent voices for what the Constitution tells us is our obligation, and I observed them on both sides of the aisle, but it wasn't surprising when Republicans in the Assembly and Republicans in the Senate and their leaders said, Oh, no, we don't agree with that. We're not going along with that. But I saw it from Democratic Speakers and I saw it from the Democratic Minority Leader in this Senate then, and I heard it from Democratic colleagues in this house and the other house.

Think back. Think back. There were times when Democrats in the Legislature said to those governors, No, with all due respect, you're a Democrat, we generally support you, but you're wrong on that one.

Where are the voices of independence and reason from the leadership in this house and the other house on the Republican side? Whispering. That's where they are, "Hope

we win the lawsuit." Well, stand up and be counted. This is wrong what we're doing. It is absolutely wrong. Every tradition, every major religious tradition from the Muslims, Judaism, Christianity, that has an ethical code, demands that workers be paid for their work.

You know, our employees aren't free not to come to work. The Taylor Law forbids them -- forbids them from collectively refusing to come to work. We have a law on the books that says you must come to work, and we're not paying them? We're not paying people who make $22,000 a year?

And all of those religious ethical codes say that is a grave moral injus tice, a grave moral injustice not to pay workers their wages. But we don't need that. Common sense tells us that. Our own sense of right and wrong tells us that, and you all know it's true, all of you.

Some of the people who brought lawsuits, incredible stories. In the Assembly, Suzanne Haley makes $10,000 to work full time

during the session, supports three minor children on that, but we're not going to pay her because George Pataki says she should get a budget passed?

Ruth Verbal works for the Senate Minority, earns $24,000 a year, primary wage earner in her household, has a child. I could go on, people, single parents with two and three children make 22-, 19-, $21,000 a year, and we're not going to pay them; and, you know, when they held a protest a week or two ago, some of the staff outside the mansion, the protest with Governor Pataki was doing in not submitting this emergency appropriation because the Governor must submit emergency appropriations as we all know, the Governor's reply was to the press, They should go persuade their legislators to pass a budget. They should go lean on their legislators to pass a budget.

My friends and colleagues, we have a Legislative Law that makes it a crime for them to do that. Do you know that? Section 66(a) of the Legislative Law, "Prohibited

Activity by Legislative Employees: No legislative employee shall, except within the scope of legislative employment, directly or indirectly promote or oppose the passage of bills or resolutions by either house," and that section makes it a misdemeanor, a crime.

Now, that doesn't mean staff who work for the Finance Committee can't advocate positions on the budget, because that's within the scope of their legislative duties; but I submit to you that it's not within the scope of the legislative duties of interns, reception ists secretaries in the correspondence division, people who work for other divisions, people - many of the people who work in your own offices. If dealing with the budget is not one of their duties, it is a crime for them to be urging you, Pass the budget, vote for this budget, don't vote for that budget. Yet the Governor says they should go -- they should go tell us pass the budget so they get paid for wages they earn.

I have a letter -- a copy of a

letter I was given today, to the Governor, that I would like to share with you.

"Dear Governor Pataki: I am writing to you as one of thousands of Senate and Assembly employees who are having their salaries withheld at your insistence until the state budget is adopted by the Legislature.

"Since you are the one who has decided that I should be penalized for the trouble you are having in negotiating a final spending plan, I thought you might be able to help me with a problem I am having that is directly associated with my lack of a paycheck. The problem is this:

"I live outside of Albany, in the city of Troy --" who's the Senator there, may I ask -- "and must take the bus back and forth every day to get to work, but without a paycheck I cannot now afford the $14 a week I must spend on bus fare. It is already a struggle for me as a single mother to provide support for my daughter and son, pay 550 a month in rent and meet other household expenses on a

$23,500 annual salary.

"As I can hope you can understand, my inability to afford public transportation back and forth to Albany is very worrisome to me. I need my job and do not want to fall behind in my work as a secretary in the Senate Democratic Leaders Correspondence Unit.

"Since I do not have any control over budget negotiations and cannot, therefore, do anything to make sure that my paychecks resume any time in the near future, I am respectfully requesting that you take some kind of action to help me get back and forth to my job and that you consider the following suggestions:

"First, I understand that you have a taxpayer-supported car and driver at your disposal. Since I am a taxpayer or was until you halted my salary, I thought you might want to send your chauffeur to take me to work every morning and home to my children every evening.

"As a second option, I understand that you are continuing to pay full

salaries to your highly paid state agency commissioners and most of the budget division employees. If any of these officials live near me, perhaps they can give me a ride.

"I anxiously await your reply to my request for this small bit of assistance. If you really believe that my presence at work as a legislative employee is key to getting a Senate budget in place, I cannot imagine why you would continue to make it unaffordable for me to come into the office and do my work. Even if you ultimately refuse to help me get to work, I hope my letter will at least assist you in understanding the terrible hardships your decision is posing for so many employees. Sincerely, Theresa Crisp."

Who's going to give this mother a ride to work when she doesn't get a paycheck? Do we really believe that a single mother of two, who makes twenty-three five, has savings to fall back on, has resources to fall back on, can just walk into a bank and sign her name and get a big bridge loan? Of course, she can't.

These are the people being hurt by this policy, and I ask all of my colleagues, stand up and be heard. Demand of the Governor, whether he's from your party or not, that he do the right thing and stop this mindful nonsense. It was a promise, a speech, a threat made in the State of the State address. It sounded wonderful. Even he realized you had to pay the legislative nurses. He didn't think about the interns. It was a promise made in haste.

Please, do as I saw leaders and members do for the last 18 years. Stand up and speak out to your own Governor, if you are a Republican, for what is right. Stop whisper ing. Of course, the staff should be paid. We all know that. Sometimes partisanship asks too much. To be silent in the face of such a moral injustice, I respectfully suggest, is asking too much, and I know -- let's put it another way.

If any member of this house thinks this is the right thing to do, stand up and say so now.

ACTING PRESIDENT KUHL: The Chair

recognizes Senator Waldon.

SENATOR WALDON: Mr. President, would the learned gentleman who is the chair of our Finance Committee yield to a question or two?

ACTING PRESIDENT KUHL: Senator Stafford, do you yield to Senator Waldon? The Senator yields.

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

Senator Stafford, I appreciate your indulgence. Are you familiar with the term "involuntary servitude"?

SENATOR STAFFORD: The answer is what you think it is.

SENATOR WALDON: Sir? I can't hear you, Senator. I'm sorry.

I didn't hear the Senator, Mr. President.

SENATOR STAFFORD: I said the answer is what you think it is. Yes.

SENATOR WALDON: Are you also - thank you very much, Senator.

Mr. President, if I may continue?

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

(There was no response.)

SENATOR WALDON: The Senator doesn't wish to yield?

SENATOR STAFFORD: I understood you were going to speak.

SENATOR WALDON: No, no, sir. If I may, Mr. President, just a couple more questions, and this is serious. This is not a frivolous activity. If the Senator would yield to another question?

SENATOR STAFFORD: Certainly.

ACTING PRESIDENT KUHL: The Senator yields, Senator Waldon.

SENATOR WALDON: Senator Stafford, are you aware of or familiar with the fact that in this nation, involuntary servitude was eliminated as a course of action many, many, many, many years ago?

SENATOR STAFFORD: I would point out that my colleague who is questioning me, and

who I respect a great deal and we've got along extremely well, I'm taking probably more seriously than you are what you're asking me. I don't know that the question really is pertinent, but out of my respect and caring for you, I will, of course, acknowledge that is the case.

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

Mr. President, if I may speak on the bill.

ACTING PRESIDENT KUHL: Senator Waldon, on the bill.

SENATOR WALDON: My colleagues, the point I was attempting to make and I think it's abundantly clear, is that the people who are not being paid have been put into the position of involuntary servitude, which is anathema to everything that this nation stands for at this time in 1995. It may have been acceptable for certain people in this country in 1860, but it is no longer acceptable for any people in 1995.

The tragedy is that this Governor's action has, in effect, put all people, be they black, white, Jew or gentile, who are in the position of not receiving their paychecks for work done, in the status of involuntary servitude.

Therefore, I would hope that someone would recognize the wrongness, the viciousness, the visceral action being done by the second floor and let us rid ourselves of this albatross. It is not fair. It is not fair as characterized by Senator Connor. It is not fair for the woman who works in my office as a receptionist. It is not fair that people who are in that position are now working Saturdays and Sundays just to get enough money to feed their children.

It is abhorrent to all that we stand for as a people, as a body, as a state and as a nation. To my understanding, this kind of action has never happened before in America, and it is time that it stopped.

Thank you very much, Mr.

President.

Thank you, Senator Stafford.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Marcellino.

SENATOR MARCELLINO: Mr. President, as one who has come to this house only recently and who has yet to receive a paycheck, some people in my district, including my wife, wonder why I'm here under those circumstances, and I remind them very simply that we're all in the same boat, because while it might not be fair that some people aren't getting paid right now, it is also not fair that the taxpayers of this state are saddled with a burden of a $5 billion deficit which has to be dealt with.

We wouldn't be debating here today if the Assembly had passed a budget in a timely fashion as was done in this house. There wouldn't be a problem, had the other chamber done their job in the light of day like we did ours and passed a budget in a timely fashion.

So, you know, I might agree about

some unfairness in the world, but I think it's unfair to the taxpayers of this state to keep this thing going on and on and on and on, and I suggest to my learned colleague, Mr. Connors, that he go back to the Assembly Speaker and say, Pass the rest of your budget bills, and we'll be finished and everybody will get paid.

Thank you.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Would Senator Marcellino yield to a question?

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

SENATOR MARCELLINO: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: Senator, do you think innocent people ought to be punished in order to influence those who are guilty?

SENATOR MARCELLINO: I don't think anybody is guilty or innocent. I think the taxpayers of this state deserve a fair

shake. They deserved a budget which was, by law, to be done by April 1st. It was not done. It was done in this chamber. It was not done in the other chamber.

Senator, I would suggest, if you want to lay guilt, go back to the other side of this building and say to your colleagues in the Majority, "Ladies and gentlemen, pass a budget, pass your Article 7 bills, pass your entire budget," and then everybody will get paid and the taxpayers of this state will be well served.

SENATOR DOLLINGER: Okay. So you're willing to punish the innocent people who have no influence on the budget process to somehow influence the judgment of those of us who are guilty, who are elected officials and, therefore, responsible, you're going to punish innocent people to somehow affect those who, quote, are "guilty", is that it?

SENATOR MARCELLINO: Senator, if you want to talk about punishment, I would suggest we go back to our districts and we discuss with our residents in our districts who

are being punished now in an over-taxed state which is over-spending and over-taxing for years. Twenty years it has been going on, sir. $5 billion worth of deficit has been run up.

We're trying to address that - excuse me. The Governor of this state is trying to address that. This house, I believe, has already addressed that. We've passed a budget that would spend less and tax less and cut a whole slew of problems. If we could get that action out of the other house, we would not be here engaging in this exercise.

SENATOR DOLLINGER: Mr. President, Senator Marcellino yield to just one final question?

ACTING PRESIDENT KUHL: Senator Marcellino, do you yield to just one final question?

SENATOR MARCELLINO: Sure.

SENATOR DOLLINGER: Is there any employee who works for this Legislature, any employee who has had anything to do with spending $5 billion in additional funds? Is

there any employee in this Legislature other than Steve Sloan, obviously -- my colleagues mentioned Steve Sloan. Is there anybody in this Legislature who is not an elected official that had anything to do with racking up those monies, spending more than we were taking in? Why should those innocent people who didn't have a thing to do with it, why should they work for a month and not get paid?

SENATOR MARCELLINO: Because those innocent individuals are also taxpayers and they are also going to suffer under the actions of or the inaction of the Assembly. If there was a budget, they would be paid, and this state would be better off for it, sir.

SENATOR DOLLINGER: I'd just like to point out to Senator Marcellino, they're no longer taxpayers. They haven't paid taxes in a month.

ACTING PRESIDENT KUHL: Senator Dollinger. Senator Dollinger, you're out of order.

The Chair recognizes Senator

Paterson is next on the list.

SENATOR PATERSON: Thank you, Mr. President.

I know that there is a court case that has been initiated and I'm standing here trying to think of what the counter-arguments could be to why people who work might not get paid. One that comes to mind would be that there would be some compelling state interest that would be served, that this would force to get a budget passed more quickly, to have staff members punished and not be paid. I suggest that argument would not work.

A second argument would be that there's no real irreparable harm to the employ ees, "irreparable" meaning basically permanent harm, because eventually they would get their money back. You might get kicked out of your apartment at that particular time, but I guess they feel eventually you can go find another apartment or something like that, and so the irreparable harm argument, in my opinion, would be met by this particular situation or the

irreparable harm argument really wouldn't apply.

The final counter-argument that I can think of is that we really, as the judiciary, do not want to meddle into the legislative branch, and although that might be the one argument that has some merit from my point of view, the fact is that that's the exact same argument that we have been using for the last month to try to stop the Governor from imposing his will on the legislators and the legislative staff and the interns, and that is that we don't want one segment of government imposing themselves on what is the purview and the duty of another segment, and so we don't want to have that constitutional test.

All of these counter-arguments, in my opinion, are really just in furtherance of the art of sophistry, when you want to do something and you just make up reasons for why you did it, and that's what I think is going on here, and that's what I think really brings this process down. You make bold statements and then you have to find some reason, be it logical or

illogical, to try to back them up.

If the budget had passed, then the staff would have been paid. Well, the Assembly has now passed their budget and is in the process -- that doesn't mean that the entire budget is going to be passed; it just means the Senate had an idea what their budget should be and they publicized it. Now the Assembly has an idea what their budget should be and they publicized it. That doesn't get the budget to pass. There has to be agreement. That has to be negotiation, and there has to be a final legislative process and a final bill that everyone can agree on, or a series of bills.

So that's not the reason, and sometimes I think these types of situations become deliberately euphemistic and complicated when the reality is very simple. It kind of reminds me of reading Crime and Punishment. You go through this long, long, long novel and you have Professor Rachmaninov chasing Raskalnikov for a crime they both knew he committed, and they go through all of this diatribe and

dialogue and, finally, at the very end, when Professor Rachmaninov says to him -- he says, "I can't prove that you did it but I know that you did it, so why don't you just give yourself up?" and he says, "I'm not going to," and he goes home and he talks to his significant other, and this woman that doesn't know anything about criminology, when he finally admits to her that he did it, she says to him, "It's wrong."

So you read that entire book, and Dostoevsky is really telling you that the answer was in the first line of the book, that an act that's wrong basically should be punished.

This is a wrong act, not paying the staff. This is a wrong act because we have a Federal Labor Standards Act and a New York State Finance Law, Article 14, Section - Article 14, Section 200, which mandates that the staff actually be paid, and we choose not to do it because this year, for some reason, since we didn't pass the budget on time, this is something that's popular, this is something that sounds tough and it sounds very strong but, in

fact, it is really a manifestation of the process that's made the budget process elongated in the first place; and it is when others do not have the power to fight back, you just take advantage of them.

Originally, we weren't going to pay any of the state workers, but we found - and I'm sure as the Governor can tell you, we found that their unions came to their defense and a number of people came to their defense, and even in the original discussions about not paying the staff, there were many who didn't think that this could be a public issue because the staff are considered to be quacks and political hacks and all kinds of individuals who don't merit to get paid just simply because they are legislative staff, and what we've really done in the end is make a mockery of the process.

But I think that the fact that the ruling in this case was put over gave us another opportunity because the judicial branch really doesn't want to interfere in the

legislative branch and would only do so at a time when it creates a real hardship for employees, which will occur on Wednesday, May 3rd, when, for the first time in this process, the staff members will not get any pay, and so I think that what we were being given was a third chance.

We missed the opportunity on April 5th. We missed an opportunity on April 19th. Here's an opportunity on May 3rd to rectify a situation that we created, to pay individuals for the work that they performed and for the salaries that they deserve, and I think, Mr. President, that would be the only right way to do this. It's really very simple. And there cannot be any excuses, and I understand maybe the political positions that some are in, and so the only disagreement I have with the Minority Leader would be maybe I really don't want to hear anybody get up and say that this is wrong if they can't say it, or what's worse is to get up and say that it's right when you know that it's wrong.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Stavisky.

SENATOR STAVISKY: Mr. President, would the Majority Leader yield for a question?

ACTING PRESIDENT KUHL: Senator Bruno, do you yield to Senator Stavisky?

SENATOR BRUNO: Yes, Mr. President.

SENATOR STAVISKY: Senator Bruno, we have had a long list of distinguished leaders of the state, Governor's office -- we'll leave out of the Assembly, not always popular in this chamber, and we've had distinguished leaders in this chamber.

In your recollection of state government, which I know is long, was there ever a situation where Nelson Rockefeller or Malcolm Wilson put a freeze on the salaries of legislative employees?

SENATOR BRUNO: Not to my recollection, Mr. President.

SENATOR STAVISKY: Thank you.

Again, would the Majority Leader

yield?

ACTING PRESIDENT KUHL: Senator Bruno, do you yield?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR STAVISKY: Was there ever an occasion when Earl Brydges or any of Earl Brydges' successors up until the present time - and you know the names, and I don't have to repeat them -- when any of the Majority leaders participated in an action where the legislative employees were not paid?

SENATOR BRUNO: Not to my recollection, Mr. President.

SENATOR STAVISKY: So Earl Brydges, Warren Anderson, Ralph Mar... Marone... Ralph Marino -

SENATOR BRUNO: Ralph Marino, right. How soon we forget, Mr. President.

SENATOR STAVISKY: How soon we forget.

-- Ralph Marino and others, never participated in an action of this sort?

Now, sir -

SENATOR BRUNO: Not to my recollection, Mr. President.

SENATOR STAVISKY: I ask you the following question, if you would continue to yield.

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR STAVISKY: We all recognize the value of the internship programs, both in the Senate and in the Assembly, and I think all of us have been the beneficiaries of that program. Can we have a commitment from you -- you, because obviously you can't speak for the Governor -- that when we notify the universities throughout the state of New York that their internship opportunities available to those students, and we commit ourselves that those opportunities will be available and they

commit themselves to helping us to secure interns, that never again will there be an interruption in the compensation paid to those interns that are recommended to us by the universities?

SENATOR BRUNO: Mr. President, I wish that I could foresee the future, but I don't have that capability, so that I would not like to speculate as to what future actions might be on my part because I wouldn't know what I was relating to in the future. Whatever the circumstances may be in the future, we'll have to address at that particular time.

SENATOR STAVISKY: Under those circumstances, if the Majority Leader will continue to yield -

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

SENATOR BRUNO: Yes.

SENATOR STAVISKY: Would you encourage the chairman of the Higher Education Committee to send out a letter to the universi tyies indicating that, when internships of any

kind are offered, that they make not necessarily guarantee that there will be prompt payment of the stipends that have been offered to these institutions and their students? In the interest of truth, would it not be a wise course of action for you to ask the chairman of the Higher Education Committee to send out such a letter to the universities now so that they will know beforehand what is the likely consequence of the service with this Legislature?

SENATOR BRUNO: Mr. President, I'm not sure I understand what the question is. Are you relating -- is the Senator relating to this year or some future year when we may be having the same situation occur?

SENATOR STAVISKY: Wouldn't it be truthful, based on the current situation, to assure the universities that they may be asked to provide students for internships, but we do not guarantee that those students, when they become interns or Senate assistants, will be paid promptly and properly? Would it not be a truthful explanation by the Legislature to warn

the universities not to send any students who might, in fact, need the money to be able to survive? Shouldn't we do that in the interest of truth in legislating?

SENATOR BRUNO: I think, Mr. President, that people that have responsibility would discharge that responsibility as they see fit, prudently, and make the judgments that they see fit at that appropriate time. I don't feel that any compulsion that I should be making recommendations or dictating anything other than that people do the best that they can with the jobs that they have.

And I might add, Mr. President, that I appreciate the concern that's being expressed by the good Senator and his col leagues. I share that concern as do colleagues on this side of the aisle and all of us in this chamber would just have hoped that this conversation and this discussion would be unnecessary, and that we would have had a budget in place by now. We passed our budget March 31st. We still don't have a budget passed in

the other house. I think that's unfortunate. We could have moved forward with conference committees. We could have done whatever was appropriate to help resolve this.

I had hoped two weeks ago that this conversation would be unnecessary, but we don't have a budget in place and I guess, Mr. President, I would just relate that I wonder if the good Senator had communicated his desires to get these people paid by getting a budget passed to the Speaker in the Assembly, a colleague of yours, what your wishes might be on behalf of the people that you're referring to, because we passed our bills in this house to get everybody paid. We passed a bill to pay everybody.

And this bill, Mr. President, on the floor, is a bill to allow 200,000-plus people to be paid. That's the purpose of the bill that's on the floor. It is not to deny anyone a paycheck. It's to allow over 200,000 people to be paid. Without this legislation, those 200,000 people will not be paid.

So I think that we ought to be

aware of what we're doing on the floor in this bill. We're trying to move legislation forward to pay the 200,000-plus people who are dependent on our action for their paychecks.

SENATOR STAVISKY: On the bill.

ACTING PRESIDENT KUHL: Senator Stavisky on the bill.

SENATOR STAVISKY: Senator Bruno, I wish that you had said that you would be willing to notify each of the universities and colleges in the state of New York that when they accept an invitation to participate in an internship program, that there is a distinct possibility, if there is a fiscal crisis and an impasse, that those legislative interns and Senate assistants will not be paid.

I think their services are invaluable. I think you will agree that they are invaluable, and I think that in the interests of seeing that there is no longer hostage-taking, that we at least notify the universities because these are not regular employees of the state Legislature; these are

temporary aides who are supposed to benefit from the educational experience, and this is a heck of an educational experience to give them. You're likely to turn them off on government service if this continues any longer, and I say that, under the circumstances, we would be well-advised, perhaps, as legislators interested in higher education, to notify the universities of the sham and the failure to pay these interns and Senate assistants.

Perhaps as ranking Minority member on the committee, I should send such a letter, and I have not done so, Senator Bruno, because I still have enough faith in the legislative process, including this house, to believe that by the next payroll we will not be holding any more hostages, and I ask you to consider very carefully that never in Ralph Marino's experience or any of his predecessors did we have any situation comparable to the one that is occurring here today.

Change New York called for a change, but it did not call for a system whereby

we did not compensate people for work that is done, where they were not responsible for our decisions -- we, as elected officials -- and we should not be passing along to employees who have none of the power to vote, any of the responsibility for the impasse that has occurred here.

I will seriously consider this, that if we are not going to have the payment to the employees by the next time there is a bill of this type needed, that I will contact every president of every university and every college in the state, asking them to be aware that there is a danger that their recommended students will not be paid, and I don't think that's the way to go.

I would like from you a commitment that this is the last time that the employees will be held hostage, and that you will communicate that to the one person in the state who has the ability to turn the faucet off and to turn it back on again, and I mean by that, the Governor of the state of New York.

I'm asking you as a friend, as a colleague, to make that effort, that innocent people are not held responsible for our failure to perform and the Governor's failure to perform, but we must not allow this to happen for any additional pay period. I'm not asking you to say yes or no. I'm asking you to do your best on that issue.

Thank you.

ACTING PRESIDENT KUHL: Senator Stavisky -- Senator Leichter, why do you rise?

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

SENATOR LEICHTER: I would like to have the floor.

ACTING PRESIDENT KUHL: Senator Leichter, we have a list. Senator Stavisky, this is a point of information from the Chair. This bill is put forth by Senator Stafford, and when the Chair recognizes a member, it is with respect to asking questions of the sponsor or debate on the bill, not for the purpose of that member selectively picking out any other member

for the purpose of entertaining that debate. Now, Senator Bruno has a propensity to want to be in the center of things, so certainly I'd allow him to do that on this occasion, but I would suggest that we as members recognize that that's the purpose of debates, to either speak on the bill or ask the sponsor of the bill to yield for questions.

So with that, Senator Dollinger, the floor is yours.

SENATOR DOLLINGER: Senator Stavisky has said several of the things I wanted to document. I'll just make three quick points. One is I don't understand and I guess my conversation with Senator Marcellino, and I apologize perhaps for the vehemence of my question, but I believe that you can not punish innocent people when you're trying to affect the conduct of the guilty people and that's what we're doing. We're punishing a group of people like one who works for me as an attorney. He makes a very good salary, has seven children, is carrying two houses, doesn't have a nickel to

his name. As my grandmother used to say, he doesn't have two nickels to rub together and he's bearing the cost because the Governor, the man who stays on the second floor, believes that if he doesn't get paid he's going to walk into my office and say, Rick, please vote for this budget and urge all of your colleagues to vote for a budget that takes money away from the poor, that changes the SUNY tuition system, that does all the things that this budget might do once we get to its final version. I don't understand why that innocent person is being asked to put pressure on me and on me alone.

Two, I guess I don't understand what the Senate's role in this process is. Isn't it very simple? I wonder, let's go back one year from today and suppose I got up on the floor and said, you know, the Governor on the second floor is beating up the New York State Senate. He's now cut a deal in which he's not going to pay a hundred of his employees and in exchange for that, he's not going to pay 3,000 of yours, and he's going to take the system of

checks and balances, and he's going to disrupt it completely, and he's going to punish the members of the New York State Senate and all of their employees. I dare say there are at least 35 people in this chamber would have jumped to their feet and would have said, We're not going to let that Governor treat us that way.

This house has to be respected. I was once lectured by Senator Marino about the respect for this house. We're not going to let the Governor on the second floor highjack the reputation of this house. I don't hear any of that talk except from the other 25 members that happen to sit on this side of the aisle.

What has changed in a year? Well, let's see, the Governor on the second floor is now Republican, and I gather that the Senate is no longer respecting its traditions, no longer protecting its traditions, no longer protecting its prerogatives and no longer protecting its employees. Instead, they've decided that they're going to jump in with the man who lives on the second floor and let their tradition of

the Senate go down the drain. I think that's greatly unfortunate.

I'll close with one other comment. Look at all the people who are paid. The Commissioner of Correctional Services, he gets $102,000; the Commissioner of Education will get $102,000; the Commissioner of Health gets $150,000. The Commissioner of Environ mental Conservation gets $95,000. Bob King, from Monroe County, the Director of Regulatory Affairs gets 104,000. The Commissioner of Economic Development, Mr. Gargano, has got lots of money, he continues to get his $90,000 a year. The Commissioner of Parks and Recreation, the millionaire Bernadette Castro, she continues to get $90,000 a year. The chairman of the Cable Commission, the very commission the Governor wants to abolish in this budget, continues to draw his pay at the rate of $82,000 a year.

The unit heads in the Division of Budget, all of whom have a big impact on this budget, continue to get paid more than $100,000

a year, and yet the woman who works part time in the session for me as a secretary who gets paid $7800, doesn't get paid. Doesn't get paid, for one month while she waits for the process to work.

I said it before, Mr. Chairman, I'll say it one more time. This is the equivalent of total political warfare. This is punishing the innocent to somehow affect the conduct of the guilty, of supposedly the guilty. It doesn't seem to make a whit's worth of sense to me.

Let's return some sense. Let's take those lessons that I was taught about the respect for this chamber and let's put it into place. Let's tell the Governor on the second floor that he can't run the legislative operation in this state. I think we're setting a very dangerous precedent. I hate to say it but the 36 people on the other side of the aisle, this will come back to haunt you some day.

ACTING PRESIDENT KUHL: The Chair

recognizes Senator Gold.

SENATOR GOLD: Thank you. Thank you.

Mr. President, a lot of -- we're silly to say this stuff every couple of weeks, and I think the political posturing is now out there and the Republicans have blamed the other house, and we've made our points, and I'd like to get to do something useful if it's possible and with that in mind, I would ask Senator Bruno to yield.

And let me remind you, Mr. President, that this is either a budget bill or a Rules bill, and there's nothing improper in asking any member ever to yield and -- but I think if Senator Bruno would do me the courtesy.

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Bruno, as a single member, Senator Bruno does yield, but your interpretation of the rules of this house are, in fact, incorrect as it relates to other members, but Senator Bruno yields.

SENATOR GOLD: Well -

SENATOR BRUNO: Yes.

ACTING PRESIDENT KUHL: Senator Bruno yields.

SENATOR GOLD: Yes. Senator Bruno, I want to get something useful if we can out of this, and I know you for a lot of years and you were a staff member and you know what that feeling is but, as you stand here today, Senator, you're more than a staff member. You're someone who, over the years, deserves to be admired as a very successful businessman and when you became the leader of this house, you made it a point to tell everybody that you thought this place would do better running to some extent as a business. We start on time, which is a miracle, and it's your miracle.

We've heard the back and forth positioning. You've heard the comments of Senator Connor, which I thought were very well taken, in terms of the fact that these people must work. They don't come to work for their personalities. So what I'm getting at, and the

question I want to ask you is really a simple one: It's a simple one. What arrangements have been made -- we're now talking to the thousands of employees who work for the Senate, who are listening to you and who respect you -- have there been arrangements made for these people to go to banks in the area who understand the Legislature? Are there any financial institutions in the area who know the way the Legislature works? Have you told any of these people, for example the lady who wrote a letter from your district, what banks they might go to to get some kind of a bridge loan? Have you made any arrangements for them within your own conference?

People are listening. Just the average guy, not me and not the people in this room, why don't you now, while we go over the microphones, tell the average guy that works for the Senate how he or she gets along in these next few days and what you anticipate not only as a caring human being but as a businessman who understands what it is to be a staff member, to

be an employee and to have to pay the mortgage and the rent and the food and the bus fare. Just tell them because it would be good for them, not politics, but good for them. What should all of these residents of Troy and Albany and the ones throughout the state do in the next few weeks and please don't insult all of us by saying, Call the Speaker and get him to do a budget. Forget that nonsense.

You talk to the Speaker. He's a bigger "shoot"; you're a big shot, you know. You guys talk on your level. Just tell the average guy how they can get the money to pay these bills in the next few weeks.

SENATOR BRUNO: Thank you, Senator Gold.

We have put out some information that relates to conversations with some of the local banks, and the local banks have made themselves available to loan money to people that would qualify. One I know, I don't want to mention the banks, but a number of the banks in the Capital District, and if you need the names

of banks, we'd be happy to supply them, but I believe that the staff people have received memos indicating that they could apply for credit and that their applications would be handled expeditiously given the circumstances, and we have tried to lend support to that through our office.

Also, Mr. President, employees have access to the credit unions that make loans and then will take the repayment out of the paychecks when they start to flow, so there are ways that people who have needs can meet those needs, and it is unfortunate, Mr. President, that we again have to talk about ways that people can pay their bills, and I am very sympathetic to that, and it concerns me a great deal, and we have discussed that. We have done our best to move the process forward. We want to see the people get paid.

People are working seven days a week, some of these people, 14, 16, 18 hours a day. I thought that you'd be interested in this, Senator Gold.

SENATOR GOLD: Oh, I am.

SENATOR BRUNO: Yes. And they have been working diligently. Yesterday, Sunday, I had conversations throughout the day with staff people that were here. Saturday all day, for that matter, talked with staff people that were here, so I am well aware of how diligent these people are, trying to move the process forward and trying to be helpful to us and I am very sympathetic and I feel very, very badly that we, again, are facing a situation that's creating so much hardship for people.

So yes, we have tried to be supportive in making credit available through the normal institutions that are there to help people who need money short term or long term.

SENATOR GOLD: Thank you. Will the Senator yield to one more question?

ACTING PRESIDENT KUHL: Senator Bruno, do you yield?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator

yields.

SENATOR GOLD: Senator, I heard what you said, and I'd like to encourage you to take it another step further. You say you don't want to mention the institutions. We've spoken. I would suggest, and I want to ask you this as a question. Would you be willing, if not on the floor, to at least have some of your senior staff talk to some of the local banks because, when you say people who are qualified, I'm not worried about people who are qualified. There are people who, in a banking sense, may not be qualified but who every day come to work, get a paycheck. They don't have credit cards, they don't have other loans because maybe they're not qualified, and they're in worse conditions, Senator Bruno, than people who have good credit, and when you say go to a credit union and whatever, that's easy to say.

I don't know whether or not you are envisioning, Senator, that we will pay the interest to these people for the money that we are withholding, earned money, because the

people have to come to work. I don't know whether you're envisioning us doing that.

The other thing which is disturbing, I mean there was a memo put out on March 30th, by Steve Sloan, and there were questions and answers in here, and he says things like, What about my mortgage or lease payments, car loans, et cetera, becoming due? And his answer was, such obligations are private matters between you and those parties. However, you should advise them that there's a problem.

Senator, you know, I -- I'm talking to you, and if you don't want to answer me on the record, but you do something about it, I'll love you and respect you anyway but, Senator, there are people who are not going to be taken care of by the political bickering between my side of the aisle, your side of the aisle, this house and the other house, and I would say, Senator Bruno, that now, the third time around is the time for compassion and that your office, since you're not going to do anything today, I mean let's not kid ourselves.

This bill is going to pass and all of this talk back and forth will be nothing, and we'll do the same thing in two more weeks.

But, Senator, I urge you, because you are a decent human being whose political philosophies I can't buy, but a decent human being, Senator. In all seriousness, talk to some of the local institutions. Maybe one of the banks, and I'm not going to press you on it by naming them on the floor, the local ones. There's a bank that's on the Concourse, maybe they would, as a good faith matter, as an introduction to new clients, would just from being here and understanding, if Joe Bruno called them, would put together a program so that these people could assign their paychecks or do something that at least they, on a day-to-day level, would have some intelligent situation.

SENATOR BRUNO: Mr. President, I believe Albany Savings Bank has a program in place and they will relate to people who go in, and I am fairly certain that they will be

responsive and people can borrow with an institution by pledging their paycheck and get their paycheck in advance so there are mechanics that have been discussed and put in place.

I would hope that most people, if they're listening or have received some memos to that effect, would be aware of that and avail themselves of that if they find themselves in that need. But Albany Savings is one of the banks that comes to mind that had extended themselves in a particular way. There were others that I -- I don't recall, but I remember Albany Savings because it's within walking distance of here.

SENATOR GOLD: Well, Senator, if I may, that's the kind of information which I think we owe it to our staffs to get around. I think a memo from you would be helpful, and there are people that may not have heard that today because once the bickering is over today, the same people who had a financial problem last week and the week before are going to have it tomorrow and the day after.

SENATOR BRUNO: Well, also in finishing my answer, Mr. President, I would suggest that individual legislators with their staff can help direct them to proper institutions. We have indicated that to people that we have talked to that we should be helpful in getting them to the right places because you're right, some of them aren't aware of the mechanics of how to handle this, and it's somewhat intimidating, but I think that if we here in the house are helpful to them, I think that would be a real service that we would be providing.

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

SENATOR PATERSON: Mr. President, Senator Gold had the floor?

ACTING PRESIDENT KUHL: Senator Gold had the floor. Senator Leichter is next on the list.

SENATOR PATERSON: Would Senator Gold yield to a question?

ACTING PRESIDENT KUHL: Senator

Gold, do you yield?

SENATOR GOLD: Yes, sir.

SENATOR PATERSON: Senator Gold, as noble as it is to recommend the lending institutions, the lending institutions, it would seem to me this would be the best time of the year for them, not just being helpful. They charge interest on these loans, don't they?

SENATOR GOLD: I think so.

SENATOR PATERSON: One final question, if Senator Gold would yield.

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

SENATOR GOLD: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: Senator, the reason that I didn't ask anyone any questions on this particular issue is that I knew that individuals like Senator Bruno were interested and were doing something. But do you find it disturbing that we now have very high officials in the state spending large and long periods of

time trying to figure out what -- how to facilitate loans to individuals when, if we had just included everyone in this bill that was sitting here, we could spend all that time trying to negotiate a budget?

SENATOR GOLD: Mr. President, Senator Paterson apparently understands the point that I was trying to make which I think went over some other people's head.

The answer is that you are exactly right, Senator Paterson. The point is that once we get rid of all of these wonderful principles that we talk about, we ought to be looking to see where those principles lead us. It is not enough to tell people that my principles lead me to a path and wherever that path goeth, I goeth. If you know a path is leading into a direction which is dangerous or unjust, you shouldn't get on that path.

Now, Senator Bruno, I respect the fact that you have a right to different conclusions than I do, and I know you've always been respectful of my right also but, Senator,

we are going through machinations to get local institutions to take care of people who are faced with a hardship that we created.

Senator, we are creating the hardship, and it's not Silver and it's not the Assembly and it's not the budget process. That's all junk. That's stuff on a level that these people never got into, never bargained for. They are working people. I remember, Senator Bruno, when you and I were staff people in the Assembly in the early 1900s, I think, and Senator, in those days, you know, people would say to you, if you worked for the Legislature, they would say to you, "Who's your Rabbi?" I know somebody by the name of John Calandra, may he rest in peace, who I loved -- loved. Johnny said to me one day, "Hey, kid," he said, "who's your Rabbi?" I said, "Saul Teplis at the Queens Village Jewish Center." He says, "I don't care where you go to church. I mean who's your Rabbi that helped you get your job." You had to have a Rabbi to get you in the Legislature.

Today I like to think that many

of you operate the way I do and many of you who are in the area and are talented and come from proper recommendations get jobs, and they may not be registered in one party or the other, but these are decent people who come to work for the Legislature and the jobs are simple jobs, every day business jobs. They're the business people that Senator Bruno respects so much. They're not political hacks; they're not politicians. They're simple business people. Two people have houses next to each other out in Troy, Senator Bruno. They drive their cars. One's a secretary for a local law firm; one works for the Legislature. One's a secretary perhaps for a local brokerage company; the other one works for the Legislature, but they're simple business people, and to work out a system whereby we get on a road, we get on a path that we somehow make religious that puts those people into a situation where we now have to solve a problem for them as if we never caused it and we were no part of it is just a silly situation to put ourselves in.

It's a situation that Joe Bruno in the privacy of his own mind doesn't like, I know that, but then the answer is we don't do it. That's all. We don't do it, and we don't worry about embarrassing this one or that one. We just do it as right.

Senator Bruno, I'm glad you said what you said today because, in all fairness, I think there should be a memo. I don't know how many people knew about Albany Savings. I don't know what the Key Bank is doing. I don't know how we explain to these people that you can work and lose ten percent interest over a period of time because now you got to pay for your paycheck to be gotten because you pledged it. I don't know what sense that makes, but at least if something's being done, Senator Bruno, so let's take that out of politics and you have my congratulations. But let's not congratulate ourselves too much because, as the deputy leader on this side pointed out, we are breaking our arm patting ourselves on the back by trying to find a solution to a problem that we caused.

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

SENATOR WALDON: I would like to know if the good Senator from Queens County, Senator Gold, would yield to a question.

ACTING PRESIDENT KUHL: Senator Gold, do you yield to Senator Waldon.

SENATOR GOLD: Yes, sir.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR WALDON: Senator, I'm not sure that I heard you correctly but I thought that I heard you say some -- let me rephrase that. Are you familiar in the real estate law with the phrase "constructive eviction"?

SENATOR GOLD: Yes, sir.

SENATOR WALDON: Are you -- if I may continue, Mr. President. May I continue?

ACTING PRESIDENT KUHL: Senator Waldon, pardon an interruption for just a minute but Senator Stafford, as I understand -- excuse me. Go ahead. Senator Gold, do you continue to yield?

SENATOR GOLD: Yes.

SENATOR WALDON: Are you also familiar, Senator Gold, with the phrase, and I may not be accurate because I've never practiced labor law, "constructive firing"?

SENATOR GOLD: Yes. I've heard about these phrases, by the way, at my offices at Herzfeld & Rubin, at 40 Wall Street, New York, New York, (212) 344-5500.

VOICE: $300 an hour.

SENATOR GOLD: Don't lower my rates, I'll take care of it.

SENATOR WALDON: Under the penumbral zone of constructive firing, could you characterize what's happening to certain employees of the Senate now who are, in fact, working, as our good Senator and leader, Senator Bruno said, some seven days a week, some 14, 16, 18 hours a day, might that be characterized as constructive firing?

SENATOR GOLD: Senator, before I answer that, why don't you give me your analysis of it, because you will phrase it better than

I. I'm interested in hearing your view on that subject.

SENATOR WALDON: Thank you very much, if I may continue, very much.

ACTING PRESIDENT KUHL: Senator Gold, you continue to yield?

SENATOR GOLD: Oh, yes, yes.

SENATOR WALDON: Senator Gold, I believe that, when people come to work and work diligently, honestly, deliver all of the services demanded upon them and from them by their superior, supervisor and the institution that they work for and they are denied pay, they have, in effect, been constructively fired.

I also believe in this instance that those who are constructively fired being that this baby, the constructive firing, is the issue of the legislative process through the executive branch, that they have a right for redress from the state, not from Albany Savings Bank, not from Key savings bank, not from Joe, the shylock around the corner, and therefore, they should in my opinion be allowed to go to

the unemployment agency and file and, in fact, I would like to lay out on the air that, if each of us were to create a fiction for our employees and fire them, then one week from today they could qualify or thereabouts, qualify for unemployment, they could receive as a benefit one week later one half of their weekly wages up to $300 a week. They wouldn't have to worry about paying interest; they wouldn't have to worry about filling out paperwork for a loan. It would be the concern of the state to ensure that they had enough money to exist at least for 26 weeks until this process is over, and I hope that within 26 weeks that we will be able to have a budget.

Now, if one of my employees were to come to me after I make the statement on this floor and say, "Senator Waldon, I heard what you said. Are you a man of your word?" I would have to bite the bullet. I'm not saying that, as an institution, is what we should do, but I'm suggesting that that is a course of action that we might assume.

In any event, circumstances see it as constructive firing, what's happening. I also see if as involuntary servitude. I would hope, as you have said, as the good Senator Paterson has said, as I believe in the hearts of people like the great Senator from Staten Island, John Marchi, our good Senator from Rensselaer, our leader, Senator Bruno, Senator Volker, all the guys who are and ladies who I believe in their heart recognize that this is wrong, this is visceral, that this is vicious, it is abusive, and it is an abuse of power and authority, that they would agree that we have constructively fired our employees. They have a right to unemployment, and maybe we ought to facilitate that process.

I thank you for yielding, Senator Gold. I appreciate your indulgence and, Mr. President, I certainly appreciate your indulgence. Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Leichter.

SENATOR LEICHTER: Mr. President,

if Senator Marcellino would be good enough to yield, and I appreciate he was out getting some much needed rest and recreation. I said - asked him to come back in because I wanted to ask him a question. He's had to listen to a lot of other debate since then and thank you, Senator, for your patience.

ACTING PRESIDENT KUHL: Senator Leichter, the Chair would remind you, as I have earlier members, that the proponent of this bill is Senator Stafford. It has traditionally not been the experience nor the practice in this house for a person when they're recognized on the floor to pick out selectively or non selectively members on the other side of the aisle to answer questions. So while I do not want to deny Mr. -- Senator Marcellino from responding, acknowledging an inquisition from you, I would just point out to you that it is totally out of the practice of this house.

SENATOR LEICHTER: Senator, I just -- I'm sorry, Mr. President.

ACTING PRESIDENT KUHL: Excuse

me, Senator Leichter.

SENATOR LEICHTER: Sure.

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

SENATOR PATERSON: Mr. President, if Senator Leichter would suffer an interruption for a second? We've been on this point for a couple of occasions today, and I just want to get this cleared up.

Out of practice and out of order. This may not be the way we've usually done it but, you know, we come here on time now. We have Senator Bruno in charge. We're doing much better than we used to be, and what I'm saying is that, and in all seriousness, I don't understand that we can not ask another member who has some opinion on the subject that we're talking about to yield for a question.

I don't see anything in the Senate rules -- I've been looking at them since you raised this a little earlier -- that actually prohibits that.

ACTING PRESIDENT KUHL: Well, the

position -- I should say the Chair is not in a position and has not ruled on this, Senator Paterson. It just has been the practice of this house, and the Chair has been reminded of that on a number of occasions that this is out of the ordinary.

Now, there are several instances just for instance, there are several instances, Senator, that Senator Marcellino could rise and ask Senator Kruger to yield. Well, Senator Kruger doesn't happen to be in the chamber at this moment. Now, that has not been the practice of members of this house to try to embarrass other members, and that is part of the position of this particular Chair is to make sure that members are acting accordingly, and I think responsibly and certainly politely and graciously, so while I raise the point of this and just try to bring it to your attention, I am not precluding Senator Marcellino -- that's his option as to whether or not he wishes to yield to a question or not, so I'll ask him at this point, Senator Marcellino, do you yield to

Senator Leichter?

SENATOR MARCELLINO: I yield.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LEICHTER: Thank you. Mr. President, just as a preface, let me say I've been in this house many years, even longer than you have, and I believe that we've had this practice where somebody may wish to ask a question of a member who has stood up and made a statement on the floor or asked somebody who, in fact, is responding to a question asked by another member.

So, Senator, it -- it may well be that -- I know you worked hard earlier passing two very significant bills and that your views may be affected by the work that you did earlier today, but I submit to you that you're -- you're wrong. In any event, I thank Senator Marcellino for yielding and the reason I asked him to yield is because I was out of the floor temporarily. I came back in; there was a heated debate be tween him and Senator Dollinger and there were

comments made that, frankly, perplexed me and that I wanted to get some clarification on.

Both Senator Marcellino and Senator Dollinger were talking about guilty people, and I wanted to know in this Capitol, are there people that are guilty, Senator?

SENATOR MARCELLINO: With all due respect, Senator, it was not I who used the term "guilty people," and I never take personally anything that is brought, and if someone argues with fervor their point of view, I do not take it personally nor did I take Senator Dollinger's fervent belief in his point of view personally. I don't think he was directing it at me in a personal way.

I do believe that everyone in this -- everyone should be paid, I would agree with that. I mean we all would agree with that, and I think it would be the desire of every Senator in this chamber to do that. Unfortun ately we're not in a position to do that, and I would suggest again that the reason for that is that we don't have a budget and we don't have a

budget from the other chamber and, if we had a budget from the other chamber, we wouldn't be engaged in this exercise for the last couple of hours which, frankly, in my opinion has been a waste of time. We could be doing far more productive things such as passing a budget and we're not. We're debating for what purpose, I don't know, but we're debating.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: If Senator Marcellino will yield.

ACTING PRESIDENT KUHL: Senator Marcellino, do you now continue to yield to another question from Senator Leichter?

SENATOR MARCELLINO: Sure I do.

SENATOR LEICHTER: Senator, thank you.

I think you're beginning to put this in a better perspective for me, in a better position, and as to whether there are guilty people here or not, and I think you're right it

was Senator Dollinger who was using that phrase. But is it your -- is it your position that it's the obligation of the Assembly to pass the Senate version of the budget and that unless that be done, that nobody in this Capitol, referring now to legislative employees and the corporal guard in the executive chamber should be paid?

SENATOR MARCELLINO: Senator, I believe the process is that both houses could pass -- if they passed the same budget that would be ideal, but if they passed their version budgets, Senator Bruno has said and we're ready to go with conference committees and make it work, we could put together our differences as we did in the 65-mile-an-hour bill. Both houses came together, conferenced, a bill was put together that was agreed upon in conference and passed by this chamber.

We could do the same thing with budget bills. They don't have to agree with everything we do. You do not have to agree with everything I believe in and vice versa

obviously. If the Assembly would put something on the table then we could get together and put our differences together and come to something positive, and then my hard working staff that is probably listening to this comment right now as well as all of your hard working staffs could be paid as well as us, which would make my wife very happy.

SENATOR LEICHTER: Senator Marcellino, again through the Chair.

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

SENATOR MARCELLINO: Yes, I yield; yes, I will.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: Is it your position that if the Assembly passed a budget, and they have passed budgets bills, they may take the position that the Senate hasn't passed a comprehensive budget, but I assume that the Senate has -- let's assume that the Assembly has

or if the Assembly passes a budget, and I know they've passed budget bills, at that point, even though there are differences, under your view, should everybody be entitled to be paid?

SENATOR MARCELLINO: Once there is a budget passed by the state and by this - by both chambers and signed off by the Governor, then we have a budget and it's my understanding right now that the Assembly has not passed a comprehensive budget, not passed complete bills, so we really can't negotiate anything, can we, because you can't negotiate a part which could be bigger than the whole.

So I think we have a problem and it can be resolved best if we could just get a complete budget from the other chamber and put our conference committees to work and then everybody could get satisfaction.

SENATOR LEICHTER: Senator Marcellino, if you continue to yield.

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

SENATOR MARCELLINO: I will

continued to yield as long as the Senator has questions.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR LEICHTER: Senator Marcellino, I'm having trouble with your answers.

SENATOR MARCELLINO: I'm having trouble with your questions, sir.

SENATOR LEICHTER: I understand you are, and I can understand why. But, Senator, if the Assembly passes a budgets, comprehensive budget -- this is hypothetical - and the Senators pass a comprehensive budget - again this is also hypothetical -- the two budgets do not conform, there are disagreements between them and then they go into negotiation through conference committees, are they entitled to be paid at that point; or is it your view that the people only are entitled to be paid when there is a budget that's signed by the Governor?

SENATOR MARCELLINO: Senator,

I'll say it again, we would do a disservice to every member of the tax-paying public, and that includes our employees, if we did not pass a proper legal budget. I think we would have better served everyone in this state had such a budget been passed by April 1st. Then we would not be here. There would be no exercise that we're going through. We would not be hearing the same question asked six different times in hopes that we would get the same non-answer, you're not going to get.

I do believe that everyone should be paid when we have a budget passed, signed in legal law, lawful budget, which requires an agreement of both houses, signed by the Governor.

SENATOR LEICHTER: And not -

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

SENATOR LEICHTER: Yes.

ACTING PRESIDENT KUHL: Senator Marcellino, you continue to yield?

SENATOR MARCELLINO: I continue to yield.

SENATOR LEICHTER: And, Senator, until such a budget is passed, people are not entitled to be paid?

SENATOR MARCELLINO: Senator, that's a determination that the Governor has made, and we are here trying to get a budget passed.

SENATOR LEICHTER: Well -

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

SENATOR LEICHTER: Yes.

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

SENATOR LEICHTER: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: Senator, there is a bill on the floor. You and I, as cogs in this whole operation, are required to vote on it. The Governor has the power of signing or

vetoing, so it isn't just a matter of the Governor is to decide. You and I have to decide, and my question to you is, based on what you've said, that when a budget is signed, people are entitled to be paid, the other side of the coin, if that's your view, that until that budget is passed, people are not entitled to be paid.

Now, that's what I'm trying to get you to clarify for me.

SENATOR MARCELLINO: Senator, I think I've answered that question -- it's the same question -- on numerous occasions. I think the court -- the stenographer could read it back, but I think I've given you an answer to that question, I truly do.

SENATOR LEICHTER: And the answer is that they're not entitled to be paid; is that your answer?

SENATOR MARCELLINO: No, my answer is what I have stated at least five times already.

SENATOR LEICHTER: O.K. I thank my good friend for his, I won't say clarifica

tion, but for the way he dealt with the -- with the matter. Just very briefly, Mr. President, because I addressed myself on this before.

I have trouble when people talk about guilty and not guilty, and I appreciate and understand the point that Senator Dollinger who used the term "guilty" was trying to make. He was trying to say that certainly the responsibility that there is not a budget does not lie with staff people. In fact, I think all of us will recognize, and will have to admit the staff people work extremely hard on both sides of the aisle and on both ends of the Capitol. They're working harder even than the legislators. I think the legislators are working hard.

My point is, and which has troubled me throughout the idea that legislators who are here who are working, because they disagree among themselves or they disagree with the Governor, that they're not entitled to be paid. Now, of course, it makes if even worse to say that those people who don't vote on the

budget, that is the staff who we acknowledge are working very hard, are not entitled to be paid, entitled to be paid because you don't agree with the Governor, or you people aren't entitled - "you" being the Senate Majority -- aren't entitled to be paid because you don't agree with the Assembly Majority or the Assembly Majority isn't entitled to be paid because they don't agree with you.

What sort of a concept are we putting into our democratic system? It's appalling. It's shameful, and it becomes really particularly disturbing and distressing when secretaries, staff members, particularly those who are not paid very much and who are really dependent on this paycheck to meet the basic human needs of putting bread on the table, keeping shelter, are not being paid.

It's just not the way to proceed. It's just wrong. I understand this is the position of the Governor. I think he's pandering. He's showboating. We've established that he got that bad idea from the previous

Governor who, at least as I pointed out, was smart enough actually never to implement it, but it's -- it's the sort of cheapening of democracy, of the simple solutions that may sell well with the public initially, like term limits, don't pay legislators unless they come up with a budget.

I'm sure, if I went to your district, Senator, and there's some aspects of this budget that I'm sure your constituents don't like, maybe the fact that there's going to be a higher tuition at SUNY and what? Are we going to base whether you get paid or not or whether anybody else gets paid on whether those people are satisfied with that particular provision?

Doesn't make sense. It's -- we shouldn't be doing this because we're hurting the -- the most important thing we have. More important than a budget, is a Constitution which is a governmental process which is a democratic system, and never before in any state that I know of and certainly not nationally has the

compensation of legislators and their staff ever been based on whether they perform in a way that the Governor likes. That's terrible.

Just -- just look at the propo sition for a moment, so, Senator Marcellino, and I understand you're not the one who used that, what I find offensive term of "guilty". No guilty people here. There's a basic disagree ment, some very deep philosophical disagreement that people are entitled to work out without being told, Unless you work it out right now and do it the way that I want, you're not going to get paid, and I'm not going to pay your staff.

Not the way to do it.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Abate.

SENATOR ABATE: I was not going to speak, but I was thinking today about the result of this decision, and rightfully so. We've spent the last four weeks talking about the devastating impact this decision will have on our staffs, hard working staffs that have little to do with when the budget gets passed,

what's going to be in the budget or really any of the details surrounding that budget, and I think all of us agree if we put the rhetoric aside, the politics aside, that these innocent hard working staff should be paid and we should go about the business of ensuring a budget is resolved.

But there's another issue that's very important here that I think we're all miss ing, is the long-term impact of this decision and how this decision will irreparably harm the institution called the state Legislature because I know I, for one, will have to hire staff in the near future. I have staff that will be leaving me that will only make short-term commitments, and I have to now be in the business in this spring to ask people, the best and the brightest people, to interview and want to work for the Legislature.

What am I going to say to the best and the brightest? How am I going to attracted these individuals to come to work with the Legislature when they know that we're not a

Legislature of our word, when we can't say to them, If you work an honest day, you'll get paid for that honest day of work? How are we going to get these individuals around the state, the people who graduate from our universities, who are good, to say, Well, come on, you want to be public servants, you want to be altruistic, it's O.K., work for the Legislature.

I can not now, given this recent history, say to these individuals, Don't worry about it, next year this happens you'll get paid. I can't say that. If we pass this budget language, again saying that this will be a recurring incident that these hard working staffs may not get paid not only next week but maybe not next year, how are we going to hire these exceptional individuals?

I think we're arrogant if we think we can exist with mediocre staff. We are as good as our staff and, if we cannot hire the best and the brightest, we're not just hurting the individuals today we can't pay, we're hurting the institution, this great institution

called the state Senate.

Let's reflect. We will pay the price in the long run if we don't reverse this decision.

Thank you.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President, can we now call up Calendar Number 609.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 609.

THE SECRETARY: Calendar Number

609, Budget Bill, Senate Print 4476, an act making appropriation for the support of government.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. 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: Senator Bruno.

SENATOR BRUNO: Mr. President, can we now call up Calendar Number 610.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 610.

THE SECRETARY: Calendar Number 610, Budget Bill, Senate Print 4477, an act to provide for payments to municipalities and providers of medical services.

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: Senator Bruno.

SENATOR BRUNO: Mr. President, can we now take up Calendar Number 611.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 611.

THE SECRETARY: Calendar Number 611, Budget Bill, Senate Print 4478, an act to provide for payments to vendors under the Women, Infants and Children's program.

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.

Chair recognizes Senator Bruno.

SENATOR BRUNO: Could you recognize Senator Stafford, please.

SENATOR STAFFORD: Thank you. Thank you, Senator Bruno.

Mr. President, I would announce that the Finance Committee meeting scheduled for tomorrow at 11:00 will now be called from the floor to take place in Room 332.

ACTING PRESIDENT KUHL: Senate Finance Committee scheduled for tomorrow morning at 11:00 o'clock will be called off the floor tomorrow.

Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President, are there any housekeeping items at the desk that should be handled at this time?

ACTING PRESIDENT KUHL: There's

no housekeeping at the desk, Senator Bruno.

SENATOR BRUNO: That being the case, Mr. President, there being no further business to come before the Senate, I move that we stand adjourned until tomorrow, May 2nd, at 11:00 a.m.

ACTING PRESIDENT KUHL: Without objection, Senate stands adjourned until tomorrow, May 2nd, at 11:00 a.m.

(Whereupon, at 7:00 p.m., the Senate adjourned.)