ALBANY, NEW YORK

May 22, 1995

3:07 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 seats.

Ask everybody in the chamber to rise and join with me in the Pledge of Allegiance to the Flag.

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

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

(Whereupon, there was a moment of silence.)

Reading of the Journal.

THE SECRETARY: In Senate, Sunday, May 21st. The Senate met pursuant to adjournment, Senator Hoblock in the Chair upon designation of the Temporary President. The Journal of Saturday, May 20th, 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.

The Chair recognizes Senator Farley.

SENATOR FARLEY: I have one long motion, Mr. President. These are amendments offered to the following Third Reading Calendar bills:

For Senator Cook, page 4, Calendar 90, Senate Print 290B.

Senator Trunzo, page 11, Calendar 359, Senate Print 3661A.

Senator Farley, page 12, Calendar 374, Senate Print 3058.

Senator Velella, page 15, Calendar 440, Senate Print 3614.

Senator Rath, page 28, Calendar 710, Senate Print 3904.

Senator Marchi, page 31, 744, Senate Print 3842.

Senator Kuhl, page 31, 745, Senate Print 3909.

Senator Cook, page 35, Calendar 792, Senate Print 4172.

Senator Sears, page 35, Calendar 796, Senate Print 2125.

For Senator Rath, page 37, Calendar 812, Senate Print 1101.

Senator Holland, page 46, Calendar 889, Senate Print 2124.

For Senator Saland, on page 55, Calendar print 952, Senate Print 3953.

For Senator Kuhl, page 57, Calendar 972, Senate Print 3932.

And for Senator Saland, on page 68, Calendar 958, Senate Print 4987.

Mr. President, I move that these bills be amended and that they retain their places on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to those calendar numbers that you set forth, Senator Farley, are received and adopted. The bills will retain their place on the Third Reading Calendar.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President, on behalf of Senator Holland, please place a sponsor's star on Calendar Numbers 727, 975.

On behalf of Senator Seward, please place a sponsor's star on Calendar 579.

On behalf of Senator Libous, please place a sponsor's star on Calendar 939.

And on my behalf, please remove the sponsor's star from Senate 3362 and place a sponsor's star on Senate 4358.

Thank you.

ACTING PRESIDENT KUHL: Those calendar numbers are starred at the request of the sponsor, and the star removed at the request of Senator DiCarlo.

Senator Marcellino.

SENATOR MARCELLINO: Mr.

President, I'd like to place a sponsor's star on Calendar Number 957, my bill, Senate 4951, ask that it retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Calendar Number 957 will be starred at the request of the sponsor.

Senator Saland.

SENATOR SALAND: Mr. President, I would request that you remove the star, sponsor's star, on Calendar 607, Senate 3918, and Calendar 955, Senate 4219.

ACTING PRESIDENT KUHL: Sponsor's stars are removed on Calendar Number 607 and 955.

Senator Skelos, we have a substitution at the desk if you would like to take that up now.

SENATOR SKELOS: Please make the substitution.

ACTING PRESIDENT KUHL: Secretary will read it.

THE SECRETARY: On page 17,

Senator Sears moves to discharge from the Committee on Rules Assembly Bill Number 2471B and substitute it for the identical Calendar Number 499.

ACTING PRESIDENT KUHL: Substitution is ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President. On behalf of Senator Stafford, there will be an immediate meeting of the Finance Committee in Room 332 of the Capitol.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Senate Finance Committee in the Majority Conference Room, Room 332. Immediate meeting of the Finance Committee.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: I believe there is a resolution at the desk by Senator Holland. May we please have it read in its entirety and adopted, and then I believe Senator Holland

would like to comment on the resolution.

ACTING PRESIDENT KUHL: There is a privileged resolution on behalf of Senator Holland at the desk.

The Secretary will read it in its entirety.

THE SECRETARY: By Senator Holland, Legislative Resolution memorializing Governor George E. Pataki to proclaim May 22 through 26, 1995, as Bone Marrow Donor Awareness Week in New York State.

Whereas, this Legislative Body is justly proud to memorialize Governor George E. Pataki to proclaim May 22 through 26, 1995, as Bone Marrow Donor Awareness Week; and

Whereas, bone marrow transplants now give people dying of blood-related diseases such as leukemia and aplastic anemia a chance to be cured if a donor can be found whose bone marrow matches their own; and

Whereas, an individual has only a 30 percent chance of finding a donor among his or her own family members; once family members

have been tested and a match is not found, an individual is faced with only about 1 in 20,000 unrelated people who will match closely enough to allow the opportunity for a bone marrow donation;

Although the national donor registry was begun in 1987 to assist finding suitable donors from a pool of typed, readily available volunteers, it is estimated that at least one million potential donors worldwide must be listed on the registry if the majority of 9,000 afflicted individuals presently waiting for matches in the United States are to be saved; many people in the United States have died because their desperate searches have not produced a matching donor in time;

It is vital, therefore, that every effort be made to assure that the donor pool is as large and diverse as possible;

Marrow transplants require matching tissue types which are characterized by complex genetic traits often unique to a particular race; and, currently, 92 percent of

the volunteer donors are Caucasian; it is of critical importance that African-Americans, Hispanics, Asians, and Native Americans who are presently underrepresented on the registry become volunteers so that the same hope can be offered to all Americans in need; and

Whereas, in memory of the late Eugene Levy, it is the intent of this Legislative Body to designate May 22 through 26, 1995, as Bone Marrow Donor Awareness Week in New York State, recognizing and honoring all of those who have selflessly donated marrow or have been tested as a potential donor and to enhance public awareness of the desperate need for bone marrow donors, particularly minority donors;

During Bone Marrow Donor Awareness Week, the Bone Marrow Resource Foundation will distribute educational material and conduct a donor drive to test individuals as potential donors in the Concourse; donors will be registered with the National Donor Marrow Program through a local donor center at the American Red Cross in Albany; and

Whereas, funds to test individuals as potential donors during Bone Marrow Donor Awareness Week are raised through a legislative bowl-a-thon held May 16, 1995, and an individual tested and added to the registry as a result of funds raised through the legislative bowl-a-thon has actually been matched with a patient in need and donated their marrow to save a life; everyone has the ability to give the gift of life by donating bone marrow to someone who faces imminent death from a blood-related disease; and

Whereas, through its commitment to the preservation and enhancement of human life Bone Marrow Donor Awareness Week so clearly advances that spirit of unified purpose and shared concern which is the unalterable manifestation of our American experience; now, therefore, be it

Resolved, that this Legislative Body pause in its deliberations to memorialize Governor George E. Pataki to proclaim May 22 through 26, 1995, as Bone Marrow Donor Awareness

Week in New York State; and be it further

Resolved, that copies of this resolution, suitably engrossed, be transmitted to the Bone Marrow Resource Foundation, the National Marrow Donor Program, and the New York State American Red Cross of Albany in recognition of their efforts in educating the public and assisting those in need of a bone marrow donation.

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

SENATOR HOLLAND: Mr. President, as the resolution says, this was originally an idea of former Senator Gene Levy. We picked it up after the Senator died; and because of everybody in this chamber and the other chamber and lobbyists in this capital, in the last four years we have raised over $55,000 to type people for bone marrow transplant. In fact, as the resolution further says, we have already saved one life.

Besides the $55,000 that we have raised, we have typed over 1,000 people, and we

have been in the hallways of this Capitol every year; and when that wasn't good enough, we went out to the departments and typed people in the departments.

I want to say one or twice during these few words that they will be typing blood types today in the basement of the LOB from 11:00 to 5:30 today and tomorrow. If you would like to have your blood typed and possibly save a life in the future, we really would appreciate your going down there and doing that.

Now, as far as the bowl-a-thon goes, that is an absolutely great time. Everybody has a good time, and we raised about $17,000 this year. I might say that Senators DeFrancisco, Maltese, Maziarz, Rath, Skelos, Spano and even Commissioner Daly came into the bowl-a-thon. We had a great time. There were two 279 games; and I have to say this, Senator Skelos has a 224 game. He required that I say that. That was a great, great game by Senator Skelos.

Just thanks to everybody,

lobbyists, bowlers, donators, legislators. You have saved one life. You will save many more. It's today and tomorrow from 11:00 o'clock until 5:00 to have your blood typed.

Thank you very much.

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

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President, may we please take up the noncontroversial reading of the Calendar.

ACTING PRESIDENT KUHL: Secretary will read the noncontroversial calendar.

THE SECRETARY: On page 13, Calendar 415, by Senator Levy, Senate Print 4051A, an act to amend the Vehicle and Traffic Law, in relation to speeding violations committed within a work area.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 442, by Senator Velella, Senate Print 3777A, an act to amend the Insurance Law, in relation to the period of duration of certain licenses issued by the Superintendent of Insurance.

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

SENATOR DOLLINGER: Just a point of order, Mr. President. What happened to 374?

ACTING PRESIDENT KUHL: That was amended by Senator Farley, I believe, earlier today, so it's not live.

Secretary will continue to call

the noncontroversial calendar.

Read the last section.

THE SECRETARY: Section 7. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 473, by Senator Maziarz, Senate Print 3341A, an act to amend the Education Law, in relation to courses of instruction in patriotism and citizenship.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 475, by Senator Cook, Senate Print 4140A, an act to amend the Education Law, in relation to establishing a suspension period for students determined to have brought a weapon to school.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 495, by Senator Cook, Senate Print 3156A, an act to amend the General City Law, the Town Law, and the Village Law, in relation to the recording of subdivision plats.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first day of July.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 496, by Senator Cook, Senate Print 3157A, an act to amend the General City Law, the Town Law, the Village Law and the General Municipal Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 12. This act shall take effect July 1.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 497, by Senator Cook, Senate Print 3223A, an act to amend the General City Law, the Town Law, and the Village Law, in relation to subdivision plat review.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 19. This act shall take effect on the 120th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 499, substituted earlier today, by Member of the Assembly Lafayette, Assembly Print 2471B, an act to amend the Personal Property Law, in relation to buyer's right to cancel a telephone sale.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 501, by Senator Farley, Senate Print 2674, an act to amend the Personal Property Law and the General Business Law, in relation to the taking of a purchase money security interest.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the

bill aside.

THE SECRETARY: Calendar Number 508, by Senator Hoblock, Senate Print 2731B, an act to amend the Education Law, in relation to electioneering within the polling place.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 575, by Senator Levy, Senate Print 979, an act to amend the Vehicle and Traffic Law and the General Business Law, in relation to bicycle helmets.

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 -

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 47, nays 1. Senator Farley recorded in the negative.

ACTING PRESIDENT KUHL: Bill is passed.

THE SECRETARY: Calendar Number 582, by Senator Levy, Senate Print 3996, an act to amend the Vehicle and Traffic Law, in relation to the transportation of persons in wheelchairs.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 586, by Senator Levy, Senate Print 4197, an act to amend the Vehicle and Traffic Law, in relation to the proper use of certain wheelchair securement devices.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 647, by Senator Seward, Senate Print 4046A, an act to amend the Public Service Law and the General Business Law, in relation to the protection of underground facilities.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 651, by Senator Johnson, Senate Print 2185, an act to amend the State Finance Law, in relation to allocations from the State Police Motor Vehicle Enforcement Account.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar number 656, by Senator Levy, Senate Print 2884, an act to amend the Executive Law and the Estates, Powers and Trusts Law, in relation to exempting Parent-Teacher Associations from registration and reporting.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 664, by Senator Rath, Senate Print 4312, an act to legalize, ratify, and confirm the acts and proceedings of the board of education of the Oakfield-Alabama Central School District.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 677, by Senator LaValle, Senate Print 1994, an act to amend the Education Law, in relation to enacting the Higher Education Community Service Act.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 686, by Senator Farley, Senate Print 2846, an act to amend the Retirement and Social Security Law, in relation to credit for certain members employed by educational institutions.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 687, by Senator Trunzo, Senate Print 3027, an act to amend the Retirement and Social Security Law, in relation to optional retirement for detective investigators in the office of the

district attorney.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 691, by Senator Marchi, Senate Print 3749A, an act to amend the Public Authorities Law and the Administrative Code of the City of New York, in relation to the retirement rights of officers and employees of the New York City Municipal Water Finance Authority.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 698, by Senator Marchi, Senate Print 4431, an act to amend the Public Authorities Law, in relation to the general powers of the New York State Environmental Facilities Corporation.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 707, by Senator Saland, Senate Print 2916, an act to amend the State Administrative Procedure

Act, in relation to including the Workers' Compensation Board under the scope of the act's provisions.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar number 722, by Senator Saland, Senate Print 2039, an act to amend the Public Health Law and the Executive Law, in relation to court authorization for human immunodeficiency virus related testing of certain sex offenders.

SENATOR SMITH: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 757, by Senator Sears, Senate Print 3791, an act to amend the General Business Law, in relation to going out of business sales.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 759, by Senator Sears, Senate Print 5057A, an act to amend the General Business Law, in relation to licenses of persons engaged in the practice of nail specialty, natural hair styling, aesthetics, or cosmetology.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 760, by Senator Marchi, Senate Print 742, an act to amend the Real Property Law, in relation to modifying the real estate continuing education requirement.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 762, by Member of the Assembly Eve, Assembly Print 2660A, an act to amend the Judiciary Law, in relation to the appeals and disclosure procedures for the bar examination.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. 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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 769, by Senator DiCarlo, Senate Print 3962, an act to amend the Real Property Law, in relation to occupation of premises for unlawful purposes.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 776, by Senator Lack, Senate Print 4788, an act to amend the Estates, Powers, and Trusts Law, in relation to the exercise of powers of appointment in further trust.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 779, by Senator Lack, Senate Print 4853, an act to amend the Surrogate's Court Procedure Act, in relation to service of process.

ACTING PRESIDENT KUHL: Senator Maziarz.

SENATOR MAZIARZ: Mr. President. On behalf of Senator Lack, could we lay that bill aside for the day, please.

ACTING PRESIDENT KUHL: Lay the bill aside for the day at the request of the sponsor. That was Calendar Number 779.

Secretary will continue to call the noncontroversial calendar.

THE SECRETARY: Calendar number 787, by the Senate Committee on Rules, Senate Print 3553, an act in relation to permitting the establishment of the town of Champlain Sewer Benefit Area Number 1 and legalizing, validating, ratifying and confirming certain

proceedings.

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

Secretary will read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR JOHNSON: Mr. President.

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

SENATOR JOHNSON: Mr. President, did 677 pass?

ACTING PRESIDENT KUHL: Senator Johnson, Calendar Number 677 did pass.

SENATOR JOHNSON: Mr. President, I would like unanimous consent to be recorded in the negative on that bill.

ACTING PRESIDENT KUHL: Without objection. Hearing no objection, Senator Johnson recorded in the negative on Calendar Number 677.

Secretary will continue to call the noncontroversial calendar.

THE SECRETARY: Calendar Number 811, by Senator Tully, Senate Print 184, an act to amend the Penal Law, in relation to menacing in the first degree.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. 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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 813, by Senator Sears, Senate Print 1189, an act

to amend the Penal Law, in relation to including the use of a firearm in the commission of a Class A felony.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. 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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 814, by Senator Goodman, Senate Print 1618A, an act to amend the Penal Law, in relation to consecutive terms of imprisonment under certain circumstances.

SENATOR MONTGOMERY: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 816, by Senator Kuhl, Senate Print 3234.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar number 819, by Senator Volker, Senate Print 3773, an act to amend the Criminal Procedure Law, in relation to submission of written materials to the jury during deliberation.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect in 90 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 820, by Senator Volker, Senate Print 3804, an act to amend the Civil Practice Law and Rules,

in relation to the issuance of a subpoena.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 821, by Senator Volker, Senate Print 3822, an act to amend the Criminal Procedure Law, in relation to fingerprinting persons arrested for aggravated unlicensed operation of a motor vehicle.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 823, by Senator Volker, Senate Print 3979, an act to amend the Penal Law, in relation to the sale of a firearm by an unauthorized person.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. 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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 824, by Senator Padavan, Senate Print 4068, an act to amend the Penal Law, in relation to

including police officers in the violent felony offense of aggravated assault.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. 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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 826, by Senator Volker, Senate Print 4297, an act to amend the Civil Rights Law, in relation to access to personal files of parole officers and warrant officers.

SENATOR SMITH: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 829, by Senator Marcellino, Senate Print 4425,

an act to amend the Penal Law, in relation to criminally negligent homicide.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 839, by Senator Lack, Senate Print 2826A.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 840, by Senator Levy, Senate Print 348, an act directing the Commissioner of Transportation to develop test pilot programs on certain school bus safety devices.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect April 1.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 840 are Senators Cook, Farley, Present, Sears, Seward and Stafford. Ayes 43, nays 6.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 881, by Senator Padavan, Senate Print 2793, an act to amend the State Finance Law, in relation to contracts for architectural and engineering services.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 60th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR SEWARD: Mr. President.

ACTING PRESIDENT KUHL: Senator Seward.

SENATOR SEWARD: Yes, I would ask unanimous consent to be recorded in the negative on Calendar Number 575 which passed earlier today.

ACTING PRESIDENT KUHL: Without objection. Hearing no objection, Senator Seward will be recorded in the negative on Calendar Number 575.

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Mr. President, I would like unanimous consent to be recorded in the negative on Calendar Number 824.

ACTING PRESIDENT KUHL: Without objection. Hearing no objection, Senator Montgomery will be recorded in the negative on Calendar Number 824.

Chair recognizes Senator Maziarz.

SENATOR MAZIARZ: Yes, Mr. President, may we please return to reports of standing committees. I believe there is a report from the Finance Committee at the desk.

ACTING PRESIDENT KUHL: Senator Maziarz, you are absolutely correct. We will return to reports of standing committees. I will ask the Secretary to read the report of the Finance Committee.

THE SECRETARY: Senator Stafford from the Committee on Finance reports the following bills:

Senate Print 5189, Budget Bill, an act to provide for payments to licensed day care centers and family day care homes under the child and adult care food program and making an appropriation therefor.

Senate Print 5190, Budget Bill, an act making an appropriation for the support of government.

Senate 5191, Budget Bill, an act making an appropriation for the support of government.

Senate 5193, Budget Bill, an act to provide for payments to pharmacies under the elderly pharmaceutical insurance coverage program and making an appropriation therefor.

Senate Print 5193, Budget Bill, an act to provide for payments to vendors under the marketing and advertising program and making an appropriation therefor.

Senate Print 5194, Budget Bill, an act to provide for payments to municipalities and to providers of medical services under the medical assistance program.

All bills ordered directly to third reading.

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

Senator Maziarz, that completes the noncontroversial calendar and the report of the Finance Committee. What's your pleasure?

SENATOR MAZIARZ: Mr. President, may we please take up the reading of the controversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar.

THE SECRETARY: On page 16, Calendar 473, by Senator Maziarz, Senate Print 3341A, an act to amend the Education Law, in relation to courses of instruction in patriotism and citizenship.

SENATOR DOLLINGER: Explanation, Mr. President.

ACTING PRESIDENT KUHL: Senator Maziarz, an explanation of Calendar Number 473 has been asked for by Senator Dollinger.

SENATOR MAZIARZ: Yes, Mr. President. This bill would require the Board of Regents to promulgate rules to allow school boards and administrators to read or post excerpts of primary source historical documents

in public school buildings, classrooms or at school events. Such rules would provide that there would be no content-based censorship of American history or heritage with reference to these documents. In other words, there would be no editing of the contents to modify the document's intent or meaning.

SENATOR DOLLINGER: Would Senator Maziarz yield to a question?

ACTING PRESIDENT KUHL: Senator Maziarz, do you yield to a question from Senator Dollinger?

SENATOR MAZIARZ: Certainly, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields, Senator Dollinger.

SENATOR DOLLINGER: Senator, I voted for this bill in the past, and I guess question my own vote sometimes, because this bill looks like a patriotic solution desperately searching for a problem.

Could you tell me what specific problem this bill was designed to remedy, if

any?

SENATOR MAZIARZ: First of all, let me say, Senator, I'm glad you voted for this bill in the past.

What this bill would do is, we're all painfully aware, Senator, today, and being a former history teacher myself, I know that there are revisionist historians out there who are at tempting to interpret the writings of the great Americans who wrote the Declaration of Independ ence, the Constitution of the United States, the Constitution of the State of New York; and what this bill would do would encourage, not require but encourage school boards and school teachers to post these documents in the public schools as they were written so as not to deface or question the intent that the authors of these great documents intended and to let the students decide for themselves what the author intended.

I will give you one example, Senator. We've seen cause today to have the reference of God deleted from the Pledge of Allegiance to the flag. That's just one

example, Senator.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Again, through you, Mr. President.

ACTING PRESIDENT KUHL: Do you continue to yield, Senator Maziarz?

SENATOR MAZIARZ: Yes, I do.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR DOLLINGER: Do you have any specific instances where there has been censorship exercised in our public schools about these founding father documents, as you refer to them? Do you have any personal experience with censorship where someone censored the documents?

SENATOR MAZIARZ: No, I do not, Senator.

SENATOR DOLLINGER: On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I voted for this bill in the past. I don't want to be against patriotism. I don't want to be against the founding fathers and their documents. I don't want to see anybody censor those docu ments. I guess I'm not afraid of revisionism since it seems to be going on all the time. People are going back and looking at documents that were written in the past, constantly reinterpreting them. I guess we're -- I believe both as a lawyer and as an elected official that you're bound by the wording of the original documents. Nothing wrong with going back and figuring out what those documents mean, reinterpreting them.

I still think this is a bill -- I said it when Senator Daly was here so I'm applying the same rationale as I applied to him and that is, this is a wonderful patriotic solution looking for a problem that I'm not sure exists. If it does exist, this bill will solve it. I'm just not sure that it does.

I will vote in favor of it, Mr.

President, as I have in the past, but I still think we're looking for the problem that this bill solves.

ACTING PRESIDENT KUHL: Chair recognizes Senator Waldon.

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

Will the learned gentleman, Senator Maziarz, yield to a question?

ACTING PRESIDENT KUHL: Senator Maziarz, do you yield to a question from Senator Waldon?

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR WALDON: Thank you very much. Senator Maziarz, in your representation of Niagara, Orleans, and Monroe County, do you have occasion to visit the schools in your respective counties?

SENATOR MAZIARZ: Yes, I have, Senator.

SENATOR WALDON: Have you visited the grade schools and high schools recently?

SENATOR MAZIARZ: Yes, I have, Senator.

SENATOR WALDON: Have you had occasion -- if I may continue, Mr. President?

ACTING PRESIDENT KUHL: Senator continues to yield, Senator Waldon.

SENATOR WALDON: Thank you, sir.

Have you had occasion to visit the classrooms in those schools?

SENATOR MAZIARZ: I spoke before a seventh grade class just last Thursday, Senator.

SENATOR WALDON: In any of your visits to the schools, have any of the teachers or guidance counselors or principals or assistant principals indicated to you that there has been a radical change in the approach to teaching in those schools in terms of basic history courses, basic civics courses? Have they told you that they no longer refer to the Constitution of the United States, the

Declaration of Independence, the Bill of Rights, or the Constitution of the State of New York?

SENATOR MAZIARZ: No, they have not, Senator.

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

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

SENATOR MAZIARZ: Yes, I do.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR WALDON: I appreciate your indulgence, Senator Maziarz, I really do.

In your capacity as a Senator and in your previous life before joining us in this place that's sometimes described as a gluttony for punishment, have you had occasion to visit the colleges of the State of New York?

SENATOR MAZIARZ: Yes, I have, Senator.

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

ACTING PRESIDENT KUHL: Senator

Maziarz, do you yield to another question from Senator Waldon?

SENATOR MAZIARZ: Yes, I do.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR WALDON: In your visits to colleges which prepare people to teach in the state of New York, have you ever had occasion to discuss the curriculum or curricula of those various institutions?

SENATOR MAZIARZ: Yes, I have, Senator.

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

SENATOR MAZIARZ: Yes, I do.

ACTING PRESIDENT KUHL: Senator continues to yield.

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

In that regard, Senator, have you ever found in your trips, visits, conversations, dialogue, an occasion where someone told you that there has been a change in the preparation

of our teachers in the State of New York? By that, I mean specifically have they stopped teaching about the Constitution, have they stopped teaching about the Constitution of the State of New York, the Bill of Rights, have they stopped teaching about the Federalist Papers? Have they stopped speaking to all of the issues that were taught when I was in college? -- which was way before you went to college, Senator Maziarz, but I would suspect that similar courses taught when I attended college were taught when you attended, and they certainly had at that time all of those items of concern for our students who wanted to become teachers.

I am a licensed teacher, by the way, Senator Maziarz. Mr. President.

SENATOR MAZIARZ: Senator, if your question was have they indicated to me that they've been told to stop teaching it, the answer is no.

SENATOR WALDON: Thank you very much. Mr. President, if I may, on the bill.

ACTING PRESIDENT KUHL: Senator

Waldon on the bill.

SENATOR WALDON: Thank you very much Senator Maziarz, I appreciate your indulgence.

I am going to, for once in my life, echo my learned colleague from the area of Rochester. I'm going to vote as will Senator Dollinger because no one here wishes to be labeled anti-patriotic, and I think this is a situation where we may sink into the quicksand of indecision by voting on principle though we should always vote on principle.

But I wonder what is the real deal? I go into the schools of my district all of the time, and the students there are con stantly taught not only about the Constitution, the Bill of Rights, the Declaration of Independence but respect -- not respect - reverence to those documents and what they mean historically to this nation and to all of the people of this nation.

So I don't understand what we're trying to address with this legislation; but,

certainly, rather than be labeled anti-patriotic I will support this recommendation by Senator Maziarz.

Thank you very much, Mr. President. Thank you, Senator Maziarz.

ACTING PRESIDENT KUHL: Chair recognizes Senator Leichter on the bill.

SENATOR LEICHTER: Good. Mr. President, thank you; and I'm grateful to my friends Senator Dollinger and Senator Waldon for addressing this bill. It gave me a chance to look at it.

I think there's a very easy answer to the question that you raised, why deal with a bill that concerns itself with a matter when there is no problem. It's a lot easier to deal with it when there is no problem than when there is a problem, so that part doesn't bother me. That I can understand.

But I wonder whether Senator Maziarz would be good enough to yield.

ACTING PRESIDENT KUHL: Senator Maziarz, do you yield to a question from Senator

Leichter?

SENATOR MAZIARZ: Yes, I do.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LEICHTER: Senator, while I was listening to my colleagues here, I had a chance to read the bill more carefully than I might have when I voted for it and I did vote for it the last time, and the thing that intrigued me is, what is the definition of content-based censorship?

SENATOR MAZIARZ: Content-based censorship would be the elimination of some of the original verbiage. It would be posting shall we say the Pledge of Allegiance without the word God in it, if I use that as an example.

SENATOR LEICHTER: Senator, if you would be good enough to yield?

SENATOR MAZIARZ: Yes, I do.

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

The Senator yields.

SENATOR LEICHTER: Does that mean

that in the Declaration of Independence if I just wanted to put on that school bulletin board the beginning, that wonderful beginning, "When in the course of human events," and so on, if I just wanted to put that sentence, could I do that or would that -

SENATOR MAZIARZ: As long as you put it in as it was written originally.

SENATOR LEICHTER: What you are saying is that as long as I quote the language exactly as it is in the document, I can take a sentence here or a sentence there; is that correct?

SENATOR MAZIARZ: No, I would say not "a sentence here or a sentence there," Senator. If you were going to put the preamble of the Constitution, then you would put the entire preamble in, all two paragraphs.

SENATOR LEICHTER: Well, Senator, if you will continue to yield?

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

SENATOR MAZIARZ: Yes, I do, Mr.

President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR LEICHTER: It gets, frankly, more and more confusing. For the Declaration of Independence, I could take the first sentence, but the preamble for the Constitution, I've got to take the whole preamble. Is that correct?

SENATOR MAZIARZ: No.

SENATOR LEICHTER: I thought that's what you just said.

SENATOR MAZIARZ: No. I'm sorry. You used the example of the Declaration of Independence and I used the example of the Constitution. The Declaration of Independence, you wanted just the -

SENATOR LEICHTER: Can I just take that first sentence, "When in the course of human events..."?

SENATOR MAZIARZ: As long as it was as written, Senator.

SENATOR LEICHTER: Okay. But

why -

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

SENATOR LEICHTER: Yes.

ACTING PRESIDENT KUHL: Senator Maziarz, can I just ask you to do one thing. Take one step back to your right. That way your conversation will be recorded on the microphone in front of you.

Okay. Thank you.

SENATOR LEICHTER: All right. Senator, so Declaration of Independence, I can take the first sentence as long as I take it in haec verba, in the exact words; and, obviously, that's what should be done. However, the preamble to the Constitution -- frankly, I don't remember if it's more than one sentence. I believe it is. But, there, I can not just take the first sentence; I have to take the whole preamble?

SENATOR MAZIARZ: No, you could take whatever part you want to take, Senator, as

long as you take it as was written. That was my point, as was originally written.

SENATOR LEICHTER: But, Senator, I asked you if I could take let's say the first sentence of the Declaration of Independence and then the last sentence. Can I do that?

SENATOR MAZIARZ: As written?

SENATOR LEICHTER: As written.

SENATOR MAZIARZ: Yes.

SENATOR LEICHTER: All right. Because, previously, when I asked you, can I take a sentence here and a sentence there, you said I could not do that, but now that we look at it a little more carefully, you're changing your answer; is that correct?

SENATOR MAZIARZ: And correct it, Senator. You could post it as it was written.

SENATOR LEICHTER: All right. So it's clear that as long as I identify with quotes and so on, I could take sentences here and there.

Now, Senator, can a teacher write any sort of explanatory material on a matter in

the Declaration of Independence? I mean could the teacher, for instance, where it says all men are created equal -- could the teacher write underneath that, "This does not include slaves"? Would that be permitted or would that be content-based censorship?

SENATOR MAZIARZ: I don't think that's addressed at all in this bill, Senator. I don't think that would be content-based censorship.

SENATOR LEICHTER: Well, what is addressed?

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

SENATOR LEICHTER: If you will continue to. Yield?

SENATOR MAZIARZ: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR LEICHTER: What are we addressing? I would like to know. Give me an example of content-based censorship.

SENATOR MAZIARZ: All right. We will use the example that I used earlier about the preamble to the Constitution, not to delete the word "God," as an example, in the preamble, to post the Pledge of Allegiance to the Flag deleting the word "God".

SENATOR LEICHTER: Well, Senator, suppose I take it the preamble -- or take the Pledge of Allegiance and I quote it but I show that I'm leaving out words. Could I do that, with an identification as we often do? When authors are quoted, you may leave out certain words but indicating. Could I do that?

SENATOR MAZIARZ: I would say no. You mean post the Pledge of Allegiance and leave out certain words?

SENATOR LEICHTER: But indicating that I've left out some words.

SENATOR MAZIARZ: I would say no.

SENATOR LEICHTER: Senator, how about in a decision of our Supreme Court, where, as you know, sometimes these decisions go on for many, many pages. Sometimes a sentence will go

on for a page or more with quotes, and so on. Could I take a sentence from a Supreme Court decision and leave out the citation of precedents?

SENATOR MAZIARZ: I would say no.

SENATOR LEICHTER: I would have to -- this is a fifth grade class, Senator, and I want to give them a wonderful statement, let's say, from one of our great Chief Justices. But you are saying for that fifth grade class, I've got to give them all the citations. I've got to give them all the words; and then afterwards when they say, "56 US 9484 Supreme Court AD 2d" and so on, if I have left that out, that would be censorship?

SENATOR MAZIARZ: I don't know how many fifth grade classes would post something like that in, Senator, but I would say you would do that maybe in a high school or in a college. I would say to post the entire matter and let the student decide what is important and what is not.

SENATOR LEICHTER: Excuse me.

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

SENATOR LEICHTER: Yes, if you would do so.

SENATOR MAZIARZ: Yes.

ACTING PRESIDENT KUHL: Senator Maziarz continues to yield.

SENATOR LEICHTER: Senator, you were a teacher. I wasn't. You would write things on the blackboard. Now, here you're writing -- this is an eleventh or twelfth grade class, studying constitutional history, and you're writing out an important decision of the Supreme Court, Brown versus Maryland or something like that, where there is a particularly important sentence that includes within that sentence a long string of citations. You are saying that I have to write down all those citations?

SENATOR MAZIARZ: I would say - no, Senator, you're way off the mark here. I'm talking about posting in a classroom information

of historical significance, historical documents. You know, you are talking about writing information on the blackboard about a particular decision. I think you are carrying it a little bit too far, Senator. You are carrying it beyond the meaning, beyond my intent of this resolution.

SENATOR LEICHTER: Senator Maziarz, then, as I understand it, your bill would not include writing anything on the blackboard. Is that correct?

SENATOR MAZIARZ: No, Senator. I think you don't understand the bill. The bill simply requests the Education Department to promulgate rules to encourage teachers to post in the classroom historical documents.

SENATOR LEICHTER: Senator, I'm trying to understand the bill. Obviously, it's clear in your mind; but as we find out sometimes when we start looking at legislation what's clear in the sponsor's mind, when questions are raised, sometimes it's not that clear to other people or to agencies that then have to

interpret the bill and sometimes it isn't clear to courts when they have to deal with it, so that sort of discussion helps; and, frankly, I have a little trouble understanding as a clear guide to the Education Department and then to teachers throughout the state what they are allowed to do and what they are not allowed to do; and if you are talking about posting, that would seem to include writing on blackboards.

So that in the example that I gave, where there are decisions of the Supreme Court, very important documents in our constitutional history which include a very long string of citations, I would like to know whether now I've got to post that whole string of citations, if it's included within one sentence?

SENATOR MAZIARZ: Again, Senator, I'm going to answer you the same way I answered you previously. I think you're carrying it - you are carrying it much beyond the meaning and the intent of this resolution.

SENATOR LEICHTER: Mr. President,

on the bill.

ACTING PRESIDENT KUHL: Senator Leichter on the bill.

SENATOR LEICHTER: Let me thank Senator Maziarz.

Senator, one of the things that we find out here -- and I don't mean to presume to lecture you, and so on, or anybody, but we find out that when you write bills -- and they are extremely well-intentioned. I think if you go to somebody and say, "I put in a bill against censorship," and everybody will say, "Gee, that's wonderful. We hate censorship." We particularly hate it if you a take a great American constitutional document and twist its meanings, and so on.

The problem is, however, when you interpret that and when you put it in practice, sometimes you find that very difficult. So when you say "no content-based censorship," I submit to you that, far from achieving your purpose, it actually precludes teachers from doing their job and helping to teach children about what the

meaning of our history is and the meaning of our wonderful historical documents, because what is clear to you as far as censorship is certainly not clear to me; and I must say the questions I asked you and your answers would seem to leave a lot of doubt as to what is included. When you have to have a whole sentence, you have to have the whole document, you have to put in the citation; and as was pointed out by Senator Dollinger and Senator Waldon, we don't even have that problem.

I mean nobody's been able -- you were asked, "Well, where is there a problem?" Where do we find in the schools in this state that anybody is twisting our wonderful tradition of liberty, of democracy, of individual freedom? Where are they twisting it? Where is there a problem? Where has the school board come to us and said, "Oh, my God, we're having such a terrible time; you got to give us some legislation because our teachers don't know what to do?"

I have no problem passing bills

that -- you know, that try to deal with non problems, but I have problems passing bills that deal with non-problems that create problems, and I think that you are achieving the very thing that you are trying to prevent, if it were a problem which is, by writing it in this way, you are in a certain sense imposing censorship because you are making it difficult for teachers to really express themselves and to do what I'm sure you did in your classroom, which was to try to educate the students in your classroom within the purpose and aim of the class that you were teaching.

I'm sure you did an excellent job. I don't think anybody had to tell you about content-based censorship. So I submit to you that really this bill just is going to end up creating a problem, and I think your answers made it very clear that there is no guide that we have, no sensible, logical, clear guide of what is content-based censorship; and, indeed, you are creating that sort of censorship by this bill.

ACTING PRESIDENT KUHL: Chair recognizes Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. I was wondering if Senator Maziarz would yield for a couple of brief questions.

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

SENATOR MAZIARZ: Sure.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Thank you, Senator. Senator Maziarz, we have in our Constitution Article I, Section 2, Clause 3, which was the section of the Constitution that allowed for slavery in this country and, for purposes of population counting, counted these slaves as 3/5 of an individual for purposes of taxation.

Also in the Constitution, there was added Article IV, Section 2, Clause 3, which was the article that provided for the recovery of runaway slaves.

Now, because of the passage of

the Thirteenth, Fourteenth and Fifteenth Amendments, in many copies of the Constitution, it is said in a sort of scholarly way that this article, Article IV, Section 2, Clause 3, doesn't have any real meaning based on the subsequent passage of the Thirteenth, Fourteenth and Fifteenth Amendments. So, many times, when the Constitution is actually printed out that section, Article IV, is deleted.

Are you saying that that section should be put in because in the original drafting of the Constitution, it was there?

SENATOR MAZIARZ: I would say, Senator, that in the original drafting it was there, but in the Constitution as it now reads, it is not there, and what I'm saying is if the teacher wants to post the Constitution of the United States or the Constitution of the State of New York, they should post it the way that it is in the form that it's in right now.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Senator,

that's the question I'm asking you. Do you think that the articles should be or should not be there?

SENATOR MAZIARZ: The articles that have been deleted from the Constitution?

SENATOR PATERSON: Mr. President. What I'm saying, Senator Maziarz, is that those articles have never been deleted from the Constitution.

ACTING PRESIDENT KUHL: Senator Maziarz.

SENATOR MAZIARZ: I'm saying that the Constitution should be posted in the manner that it is in law right now and on the books. I guess I don't understand the question.

SENATOR PATERSON: Okay.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Let me try to explain again. The article that I am referring to has never been deleted from the Constitution. It's never been taken out. It's always been there. But due to the passage of the

Thirteenth, Fourteenth and Fifteenth Amendments, it doesn't have any real meaning. So when the Constitution is printed-- and you will see many manuals that print the Constitution -- they don't list it any more, and I'm asking you, would they be in violation of your law if they did not list it?

SENATOR MAZIARZ: No, they would not be, Senator.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: What I'm saying, Senator Maziarz, is my interpretation of your bill is that they would be in violation of the spirit of your legislation if they don't list it, because in the original Constitution it's never been deleted; and so, therefore, it should stay. It should not be deleted by anybody when printing a copy of the Constitution. So I'm saying my interpretation of your bill without, you know, giving you any personal comment but just my interpretation of the legislation, is that under what your bill

says, that the historic documents have to be printed accurately, that the most accurate way to reflect what Article IV, Section 2, Clause 3, means is to list it.

SENATOR MAZIARZ: I'm sorry, Senator. You have an incorrect interpretation. That's your interpretation. You can certainly vote based on your interpretation if you like.

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

SENATOR PATERSON: Mr. President, before I even vote, I just want to understand and what I'm trying to understand is -- if Senator Maziarz would yield for a question?

SENATOR MAZIARZ: Yes.

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

SENATOR PATERSON: I just want you to explain to me how I'm wrong. The article that I'm referring to has never been deleted. It has never been deleted by any government body; and so, since it hasn't been deleted, why do they continue to print the Constitution and

not put it there? In other words, what I'm saying under your bill is, it should be printed and you are saying that's an incorrect interpretation, and I don't understand that because I'm relying on your bill to provide me with the scope for which I'm making the interpretation.

SENATOR MAZIARZ: Well, certainly those amendments have been superseded by the Thirteenth, Fourteenth and Fifteenth Amendments, as you pointed out, Senator.

SENATOR PATERSON: Well, Senator, if I would give an example, I would go back to your example of the Pledge of Allegiance because, although the references to God are in the Pledge of Allegiance now, they were not in the original version which was -- we started using the Pledge of Allegiance in 1911, and the reference to God, which I would always want to keep and I'm sure you would too, was first brought into being in 1953 during the Eisenhower Administration.

So I'm just using your example to

say that in the original form, now that we have added the reference to God, it would seem to me that I would want to know whether or not anyone printing the original form would be wrong under your legislation, based on how you answered the question relating to Article IV.

SENATOR MAZIARZ: Would they be wrong?

SENATOR PATERSON: That's what I'm asking.

SENATOR MAZIARZ: Yes, because the document has the word "God" in it now.

SENATOR PATERSON: Okay. And that part I understand totally, because what you are attempting to do in this legislation is to stop someone who wants to substitute their own interpretation of what the Constitution or the Declaration of Independence should be, based on their opinion, particularly to school children who could, in many ways, be manipulated to think one thing when, in reality, that's not what the Constitution or the Declaration of Independence says, and that's what I think your bill means,

and I'm going to vote for your bill.

All I'm asking is that in these other situations where based on superseding legislation there has been an interpretation to remove the preexisting verbiage just for purposes of clarity that your bill does not strike that down.

SENATOR MAZIARZ: No, it does not.

SENATOR PATERSON: All right. Thank you very much, Senator.

ACTING PRESIDENT KUHL: Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President. Would Senator Maziarz yield for a couple of questions.

ACTING PRESIDENT KUHL: Senator Maziarz, do you yield to Senator Montgomery?

SENATOR MAZIARZ: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MONTGOMERY: Thank you, Senator Maziarz. You seem to be -- the

legislation seems to say that you want to preserve the integrity of the original documents, historical documents, and I notice in the memo in support, you talk about providing young people with an understanding of the foundation of our various cultural heritages, and I'm wondering if you include in the documents that you want to ensure the integrity of writings of people like Fredric Douglass, Dubois, Phyllis Sweetly, those people who were writing during the same period and whose writings are obviously part of our history and culture?

SENATOR MAZIARZ: Yes, Senator, if you look on line number 21 at the very end, it says, "and any other primary source or historic document." I put that in there, Senator -- we amended it to put that in there so that it would include -- other documents would be able to be included in the bill.

SENATOR MONTGOMERY: Thank you. Senator, if you would yield for one other question.

SENATOR MAZIARZ: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR MONTGOMERY: Recently, there was a school board member in Queens -- I forget his name -- who held up certain books by certain authors. One of those authors was Martin Luther King, and what he was attempting to do was to have any books by Martin Luther King or about Martin Luther King censored from the schools and libraries in that particular school district because he said Martin Luther King was unfit and that he was a thug and it would not be fitting having writings by him in the school.

Would your legislation prohibit that kind of decision and action by a school board member in the State of New York?

SENATOR MAZIARZ: Yes, I believe it would. I believe it would, Senator.

SENATOR MONTGOMERY: All right. Thank you.

Mr. President. If Senator

Maziarz' bill will, in fact, prevent this kind of outrageous statement and action and attempt to delete from the libraries of a school district or the public libraries in any jurisdiction in this state, prevent people from censoring material by people who have made great contributions to our nation, I certainly support that; and so, therefore, I'm going to vote yes for Senator Maziarz' legislation.

Thank you.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, just one brief moment. I'll spare Senator Maziarz. Again, I point out that when Senator Daly was up talking about this bill, I asked him a whole bunch of questions as well.

I point out this is really a mandate to school districts to tell them what to do. We pass a bill every year that says we will have no more mandates. This Legislature will not mandate anything. But, yet, this bill says we're going to tell you what to do.

There's nothing in this bill that says a local school board can't do exactly what Senator Maziarz wants to do. I appreciate that. Let's let local school boards make this decision. They are perfectly capable of doing it.

There's no enforcement clause. What happens if they don't do it? No enforcement clause. The whole thing just seems like an idea looking for a problem to solve, and I think the point that Senator Paterson made is absolutely correct. There is revisionism in this country. I'm not afraid of it, but some people would look at the Pledge of Allegiance and say, "My gosh! It was a victim of revisionism."

In 1953, in the last Republican contract for America, they decided that the word "under God" should be inserted into the Pledge of Allegiance; and so they revised the Pledge of Allegiance which had been in this country for half a century to conform to their view of what they thought it ought to say. If revisionism is

alive and well supposedly in 1990, it was alive and well in the last Republican contract with America back in 1954. We should all be leery of it, yet it's nothing to be afraid of it so long as we understand historically what happened.

I repeat, I think this is a solution looking for a problem. I'll vote in favor because I don't want to be unpatriotic. I don't want to tamper with the great documents of America, but I'm not so sure that we're doing anything to solve any real live problem.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 51, nays 1. Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Chair recognizes Senator Maziarz.

SENATOR MAZIARZ: Mr. President, could we please take up Calendar Number 1006.

ACTING PRESIDENT KUHL: Secretary will read the title to Calendar Number 1006.

THE SECRETARY: Calendar Number 1006, Budget Bill, Senate Print 5193, an act to provide for payments to vendors under the marketing and advertising program and making an appropriation therefor.

ACTING PRESIDENT KUHL: Chair recognizes Senator Paterson.

SENATOR PATERSON: Mr. President, do we have a message of appropriation from the Governor on this?

ACTING PRESIDENT KUHL: No, we don't, Senator Paterson. We're informed by the second floor that there is no need for a message of appropriation.

SENATOR PATERSON: The second

floor says there is no need for it.

ACTING PRESIDENT KUHL: That's correct. This is similar to many of the appropriation bills that we've taken up for the last, now, about seven weeks.

SENATOR PATERSON: Well, Mr. President, I know I have been a little slow. I was spending that time trying to get the staff paid, and so when I finally got past that, I finally got a chance to look at some of this, and it is just the opinion of the Minority Leader, my opinion and that of many others that under Article VII, Section 5, that there should be a message of appropriation from the Governor on an item of necessity such as this, and I would like to make record of the fact that we feel that there should be a message of appropriation.

ACTING PRESIDENT KUHL: Certainly the record will reflect your comments, Senator Paterson.

Secretary will read the last section.

Senator Dollinger.

SENATOR DOLLINGER: Which number is this, Mr. President?

ACTING PRESIDENT KUHL: Calendar Number 1006.

SENATOR DOLLINGER: Is this the "I Love New York" appropriation?

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

SENATOR DOLLINGER: Can we have an explanation of that, and why we need to do this now? Senator Stafford for an explanation?

SENATOR STAFFORD: I would just say that Senator DeFrancisco has done and is doing a great deal of work in this field and I'm sure he will explain very clearly why it is necessary for us to take steps which will add to our coffers, and really it's what this budget is all about.

ACTING PRESIDENT KUHL: Senator Stafford yields to Senator DeFrancisco for an explanation.

SENATOR DeFRANCISCO: In order to

have an advertising budget that will mean anything, you have to advertise before the season when people start making plans for their trips. We've had calls in my office from all the area coordinators of tourism indicating that people are already making their plans for the summer. Other states are making their advertising campaigns; they are performing their advertising campaigns and unless we get on board, the most important season, the summer season, is going to be lost and it's essential that we start doing our advertising campaign.

ACTING PRESIDENT KUHL: Excuse me, Senator DeFrancisco.

Senator Gold, why do you rise?

SENATOR GOLD: If he has completed his comments, I wanted to ask him to yield to a question.

ACTING PRESIDENT KUHL: Senator Gold, I do have some other members who've indicated that they wanted to speak, prior to your rising.

SENATOR GOLD: I'm just asking

the gentleman to yield. I want to speak.

ACTING PRESIDENT KUHL: If you have no problem with Senator Smith.

Senator Smith, do you yield to Senator Gold?

Senator DeFrancisco, do you yield to Senator Gold for a question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR GOLD: I don't think there is anybody that I've spoken to on this side who has a problem with what you have said so far, but my understanding, Senator, and if you'll answer this question, is that the $10 million is the annual budget that's being requested by the Governor. Isn't that true?

SENATOR DeFRANCISCO: That's correct.

SENATOR GOLD: Well, if the Senator will yield to another question -

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator

yields.

SENATOR GOLD: Senator, is this advertising budget then for advertising that will take place throughout the whole year?

SENATOR DeFRANCISCO: Through the balance of the year, correct.

SENATOR GOLD: Well, Senator, if you will yield to one more question.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR GOLD: How does advertising next January help people make their plans for this June and July.

SENATOR DeFRANCISCO: It doesn't.

SENATOR GOLD: Well, Senator, isn't it a fact -- if you will yield to a question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR GOLD: -- that the budget bills that we have out of Finance today are

emergency bills for most of it. We give money that gets us through a few weeks here and there, and that all we really need to do at this point with the "I Love New York" program is to authorize advertising money for May and maybe into June, that people making their plans in May and June will see these ads and maybe we'll get them for July and August and maybe at that point maybe have a budget; but I don't understand, and perhaps you can explain it to the house, why the "I Love New York" program rises or falls based upon a budget today for advertising which will not take place until January, February and March of next year.

SENATOR DeFRANCISCO: See, advertising doesn't -- even though advertising is airing for the summer season starting now if we can get this passed -- but also there's not only the physical commercial that's out there but there's also agencies that are actually doing planning for the next phase that has to be paid so the commercial will go on time for the next phase. In addition, the local tourism

agencies have a matching fund program, as you well know, that will depend upon the type of advertising that we're able to do, and they have to plan as to what we're going to be able to do over the full time.

Now, presumably, we can say, "All right, make this a $5 million special appropriation." It's not out of the question. It just happens to be the full amount. It would make most sense for planning to have the advertising agency be able to do the whole planning for the entire year so that the advertising will be ready at the appropriate time.

SENATOR GOLD: Will Senator yield to another question?

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR DeFRANCISCO: Yes.

SENATOR GOLD: Senator, I saw a note around today, and I don't know whether it's accurate or not, but it seemed to indicate that -- here it is right here. It seemed to

indicate that the Assembly was suggesting a version of this that was at $7 million, and we don't have a budget. Senator, can you conceive of any situation where, when we did our final budget, the city of Syracuse would need $3 million and that you might say at that point that the "I Love New York" program might do terrific at 7 million if the other 3 million might go to Syracuse? Don't you think that might at some point handle itself into the negotiations of a total budget?

SENATOR DeFRANCISCO: No, Senator. I try to look at this as a global state budget rather than my parochial interest in the city of Syracuse, although I have an interest in that, as well.

But in all seriousness, I think that the tourism industry is the second largest industry in this state. For years, before my time, we were spending $17-18 million a year in this advertising campaign. The tourism business has been hurt substantially over the last several years; $10 million is not enough to do

what we need to generate economic activity and to help all the tourist attractions in this state, so I can conceive of a need for Syracuse, for Buffalo, for whatever other city, but not out of this pot because it's already been depleted, and this will generate a substantially greater income and resources, so maybe there is a bigger tax base that we can use to help Syracuse and your city as well.

SENATOR GOLD: Thank you. If the Senator will yield to one more question.

ACTING PRESIDENT KUHL: Senator DeFrancisco yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR GOLD: Senator, I'm not going to stand here and question your concerns about the people of Syracuse. I think that your sincerity is there, but I remember a day earlier this year, within the last seven weeks, when the Senate was supposedly passing a complete budget one day, and you voted for that, and the next

day you had a bill to change and to add on because something important to Syracuse was left out, and my only concern, Senator, is not for the tourism program or not for the tourism industry -- because I am concerned about the tourism industry and I'm concerned about the program. What I am concerned about is the fact that we have been handling emergency bills as we need them, and here is one situation where we do not have to make the total commitment; and in the final judgment on the budget, it may be that the schools need that extra 3 million. Maybe it's $5 million. It may be a lot of things.

I don't even know whether the Assembly is committed to this bill, again. God forbid people talk to each other except for in the newspapers, but my understanding is they may not even handle this bill at $10 million, that they are willing to go for the program and maybe even for an emergency appropriation. So I don't know why we have a confrontation on this, when the fact is, Senator, I believe you that we have to encourage tourism. I believe you that the

program, the "I Love New York" program, is important, so I don't know why we don't - not -- we depoliticize it and pass an emergency appropriation that gets it rolling and on its way while we finish the budget negotiations.

ACTING PRESIDENT KUHL: Senator Dollinger, do you wish to speak?

(There was no response.)

Senator Smith is next. Senator Smith waives.

Secretary will read the last section.

Senator Paterson.

SENATOR PATERSON: Mr. President, earlier, I made an objection just to the failure of the body to be using the message of appropriation from the Governor, and I think this is just a little bit of an example of it because the overriding point that I think Senator Gold -- and he made several points, but the one that he really drove home to me is the fact that we're appropriating the annual amount rather than what would be, say, 1/26 of it,

which is what we're doing in these messages of appropriation which are really items of necessity, things that are urgent, that we need right now; and I'm sure that we can plan a budget for advertising to the very important industry of tourism in this state, but I just think that it's not really fair to the rest of the budget process and to all of the other appropriations of need that we have to come to -- being 52 days late, as we are, to be putting this one in front of others.

ACTING PRESIDENT KUHL: Senator Dollinger now.

SENATOR DOLLINGER: Mr. President. Will Senator DeFrancisco yield to one question?

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

SENATOR DeFRANCISCO: Yes, I will.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: Senator, how

much do you anticipate "I Love New York" would spend in the next month?

SENATOR DeFRANCISCO: The next month or what should have been spent in the past three months?

SENATOR DOLLINGER: We can't do anything about what should have been spent in the last three months. The question is how much -- I appreciate your comment. If we're going to spend the money, we've got to spend it now, but how much are we going to spend in the next month? Are we going to spend all 10 million?

SENATOR DeFRANCISCO: No, we're not going to spend all 10 million, but you got to realize we're also behind from what should have been spent and paid to those providers who got us to this point to get the advertising ready for airing, so I can't precisely tell you, to be honest with you, the amount. It's a percentage of the 10 million. I don't know.

SENATOR DOLLINGER: I appreciate that -- through you, Mr. President, just on the bill.

I appreciate that dilemma. I think our position, at least mine is, we have handled emergency appropriations to pay for the bills for a two-week period. We have other vendors who are out there, frankly vendors who are calling me saying, "Where is the rent? We are now two months behind in the rent. I'm out" -- in one case -- "$27,000 from the State of New York and I don't have any money." They are a vendor that would love to be paid, too; and we have taken a position -- the second floor has taken a position that those bills are not going to be paid because they are not part of the emergency appropriations to keep the state going.

Here we are giving preferential treatment to the people who happen to be in the advertising industry. I understand the basis for that because I agree with you, Senator, if we don't spend the money now, it's going to be a dry summer in our tourist business.

This highlights the problems that are created by a delayed budget, but it seems to

me to authorize the whole 10 million, as Senator Gold in his questions pointed out, now when what we should do is give it 2.5 million -- this is the big time. Let's put 2.5 million into the "I Love New York" campaign, so while we fiddle around with the budget we can get the tourist message out, but to authorize the thing for the whole year is inconsistent with what we have done in our prior emergency appropriations.

ACTING PRESIDENT KUHL: Senator Abate.

SENATOR ABATE: Would Senator DeFrancisco yield to a question?

ACTING PRESIDENT KUHL: Senator DeFrancisco, do you yield to a question from Senator Abate?

SENATOR DeFRANCISCO: Yes, I do.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR ABATE: Yes, I just need some clarification. The $10 million, that represents the annual appropriation for this program, does that exceed last year's total

appropriation?

SENATOR DeFRANCISCO: By a few, a very few dollars.

SENATOR ABATE: How many dollars is a few?

SENATOR DeFRANCISCO: 500,000, if I'm not mistaken. It was around there, one of the sides -

SENATOR ABATE: Right.

SENATOR DeFRANCISCO: It's about the same amount.

SENATOR ABATE: Wouldn't you say, though, even if it exceeded it by 10,000, now maybe half a million dollars, isn't that an issue that should be addressed through the budget negotiations?

SENATOR DeFRANCISCO: Of course.

SENATOR ABATE: But, yet, we are now -- if we pass this in the Senate, we are furthering an additional $500,000 appropriation over last year without a full discussion whether this program merits that growth.

SENATOR DeFRANCISCO: Well, when

you say "full discussion," what full discussion have we had so far in the budget negotiation process?

SENATOR ABATE: But there is a process in terms of the budget, and this is, in effect, going through an independent means, and shouldn't -- my suggestion is clearly this is a worthwhile program; it should be funded. We have to make sure it's not paralyzed because of the budget delay, but my concern is, do we need to spend the full year and in excess of last year? That also troubles me, that we're not only funding it a full year but another $500,000 which may or may not be warranted, and that really should be within the budget process and in negotiations.

SENATOR DeFRANCISCO: From my perspective, I agree with you. It should be part of the process as everything else is, but all I'm guessing is it's been grossly underfunded in comparison to prior years, and from my position as chairman of the tourism committee, I think this is a wonderful

opportunity for the tourism people who have been neglected over this period of time to have a decent advertising campaign, and budget negotiations should be talking about more money so that we can have more economic growth in this second biggest industry in this state, so I agree with you in philosophy but from a practical standpoint, from my perspective, this is grossly under what we should have, and we should have more in the budget process.

SENATOR ABATE: But isn't this -

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

SENATOR DeFRANCISCO: Yes.

SENATOR ABATE: Yes. Thank you.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR ABATE: But isn't this an unusual way to use the emergency appropriation process to now say that not only do we want to fund it so it stays whole and stays on the right track, but we want to fund it beyond last year's growth, and it seems to me that's not the

purpose of an emergency appropriation.

So I would ask you along with my colleagues to consider an accounting, what's been spent, what needs to be appropriated over the next couple of months so the program is not jeopardized. I don't think through an emergency appropriation process we should be funding this program in excess of last year's dollars.

SENATOR DeFRANCISCO: I understand. Thank you.

ACTING PRESIDENT KUHL: Senator Waldon.

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

Would Senator DeFrancisco yield to a question or two?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR WALDON: Senator, are you able to tell us which company will be the lead company on this advertising campaign?

SENATOR DeFRANCISCO: I can tell

you. I just can't remember the name. It was hired a while back. I can find that out for you momentarily, but it has been selected. It was selected some time ago.

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

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

SENATOR WALDON: Senator, can you advise us if this was one of three companies which submitted bids for this opportunity?

SENATOR DeFRANCISCO: It was part of a bid process, correct.

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

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR WALDON: Senator, I have an awareness -- and I'm going to say this and then ask a question. I have an awareness of the

advertising industry. My wife was an assistant art director of one of the major advertising firms in this state and at a very young age received national recognition in that capacity. So I understand story boards. I understand what it means to buy print. I understand what it means to do air time, the whole nine yards, not from personal experience, but just observing her for many, many years.

Can you tell us what kind of campaign has been proposed for the $10 million dollars and why we had to do it all at once in that regard to the specific program, because normally in these situations you pay as you go. You don't pay the whole thing up front; you pay a part. When that piece is delivered, you pay the second part; that piece is finished, you pay the next part.

SENATOR DeFRANCISCO: I don't know the payment schedule, but I do know we had a committee meeting of the tourism committee about a month and half ago where the advertising agency came up, showed us all the story boards,

all the print, gave us examples of the items they were considering. I remember Senator Hoffmann was there, made suggestions as to other types of commercials that she felt would be more appropriate, for example, using the canal system as one of the bases, and using some of our historic battlefields as another tourism attraction.

That was done about a month and half ago. The payment schedule, I really can't tell you. I know it's not the full 10 million. I can clearly say that, but the process is ongoing for the rest of the year, as well.

SENATOR WALDON: If I may, Mr. President.

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

SENATOR DeFRANCISCO: Yes.

SENATOR WALDON: Senator, I don't want to -

ACTING PRESIDENT KUHL: Senator continues to yield, Senator Waldon.

SENATOR WALDON: Yes, thank you,

Senator. I don't want to really ask the question. I would like to make a request in closing, that when you get the information on the payment schedule and which company is being utilized and other information, for those of us who are not on the tourism committee, if you would be kind enough to share that information with us, I'd greatly appreciate it.

Thank you, Mr. President. Thank you, Senator.

ACTING PRESIDENT KUHL: Chair recognizes Senator Smith.

SENATOR SMITH: Thank you, Mr. President. Would Senator DeFrancisco yield for one question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR SMITH: Senator, could you possibly tell me what amount was set aside in the Senate Republican version of the budget that was voted on in this house in March of this year?

SENATOR DeFRANCISCO: The same amount as the Governor had, 10 million, last year's amount. It was last year's. I think - I got to correct myself. The extra 500,000 was actually for the matching funds for the agencies, the TPAs throughout the state. The actual advertising budget was actually the same as this past year.

SENATOR SMITH: You are saying that this is the amount that you had originally requested for the entire year in the -- in your particular budget?

SENATOR DeFRANCISCO: That's correct.

SENATOR SMITH: The one that you then changed a few days later?

SENATOR DeFRANCISCO: No, no. The Governor recommended 10 million in advertising. The Senate passed the same 10 million in the advertising budget which was the same as last year.

SENATOR SMITH: Thank you.

ACTING PRESIDENT KUHL: Secretary

will read the last section.

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

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Call the roll. Senator Gold to explain his vote.

(The Secretary called the roll.)

SENATOR GOLD: Mr. President. I don't think the issue is the "I Love New York" program. I think it's a wonderful program, and I'm glad the Governor is committed to continue it. But there is a major principle here.

If I listen to Senator DeFrancisco about localities having to plan, Senator, I know you are in a hurry but the localities also have to plan about their school budgets, and we're driving them crazy on their school budgets. They have to plan on transportation costs, whether they are going to have increases in the transportation costs.

There are day care centers, there are senior centers, all wondering whether they will be kept open throughout the year.

The Assembly, as I'm told, will not pass the 10 million. So we wind up doing nothing for the "I Love New York" program. I personally would have no trouble voting for 2 million, 2.5 million, if that's what it takes to get us going and get us back through the summer; but as a matter of principle, it's totally irresponsible to vote for one item of the budget and say that this 10 million must be held in place, but we don't know what the school kids are going to get; we don't know what's going to happen to SUNY and CUNY; we don't know what's going to happen to medical costs, and nursing homes. It's a ridiculous way to do a budget. An emergency bill is fine. This is not an emergency bill. This is one isolated item, and it shouldn't be handled at the 100 percent level.

I vote no.

ACTING PRESIDENT KUHL: Senator Gold in the negative.

Senator Dollinger to explain his vote.

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

I concur with everything that Senator Gold said except I would add one other one. There are construction workers in my district who are sitting in the hall waiting to be called out because this state hasn't passed the budget. They would like to go to work on projects that are going to be authorized by this state in the budget. There are projects that are going to be bonded that are going to put those people to work. They are waiting for us to finish the budget, just like the day care workers and everyone else that Senator Gold mentioned.

I got that idea from my colleague, Senator Jones, who perhaps isn't as interested in jumping up to point that out, but I think that's critical too. There are lots of people waiting for that budget. If we're going to prefer "I Love New York" for funding, we should just give them what's needed, $2 million, $2.5 million. If it's $3 million due, give them

the $3 million and deal with the issue later.

I will be voting no.

ACTING PRESIDENT KUHL: Senator Jones to explain her vote.

I apologize. If I had known Senator Dollinger was going to steal your thunder, I would have called on you first.

SENATOR JONES: I am very uncomfortable the way we're approaching this. I certainly support the tourism. I think we have to get it started for the summer, but, you know, we made people worry from week to week whether or not they were going to be able to pay their mortgage. As Senator Dollinger pointed out, and I know I'm getting those phone calls, we got people sitting there waiting. Are they even going to be able to get enough weeks work on construction to get unemployment, because the season is going to end before they start work.

So I feel very uncomfortable singling out one single piece here and giving them their entire year's budget with so many things left hanging.

I certainly would have supported it if you could have given me the figure that it would have taken to get the summer going and whatever number of months, I could have supported it, but I can't support it the way it's out here today.

I vote no.

ACTING PRESIDENT KUHL: Senator Jones in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1006 are Senators Abate, Connor, Dollinger, Gold, Jones, Mendez, Montgomery, Onorato, Paterson, Smith and Senator Waldon. Ayes 42, nays 11.

ACTING PRESIDENT KUHL: The bill is passed.

Chair recognizes Senator Maziarz.

SENATOR MAZIARZ: Mr. President. Could we please take up Calendar Number 1002, please.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1002.

THE SECRETARY: Calendar Number 1002, Budget Bill, Senate Print 5189, an act to provide for payments to licensed day care centers and family day care homes under the child and adult care food 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 53.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President. Can we please take up Calendar Number 1003.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1003.

THE SECRETARY: Calendar Number 1003, Budget Bill, Senate Print 5190, an act making an 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 53.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President. May we please take up Calendar Number 1004, please.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1004.

THE SECRETARY: Calendar Number 1004, Budget Bill, Senate Print 5191, an act making an 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 53.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President. Can we please take up Calendar Number 1007.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1007.

THE SECRETARY: Calendar Number 1007, Budget Bill, Senate Print 5194, an act to provide for payments to municipalities and to providers of medical services under the medical assistance 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 53.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President. Can we please take up Calendar Number 1055.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1005.

THE SECRETARY: Calendar Number 1005, Budget Bill, Senate Print 5192, an act to provide for payments to pharmacies under the Elderly Pharmaceutical Insurance Coverage Program and making an appropriation therefor.

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 53.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President. May we return to the controversial calendar, please.

ACTING PRESIDENT KUHL: Secretary will continue to call the controversial calendar commencing with Calendar Number 475.

THE SECRETARY: On page number 16, Calendar Number 475, by Senator Cook, Senate Print 4140A, an act to amend the Education Law.

SENATOR COOK: Lay it aside for the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day at the request of the sponsor.

THE SECRETARY: Calendar Number 501, by Senator Farley, Senate Print 2674, an act to amend the Personal Property Law and the General Business Law, in relation to the taking of a purchase money security interest.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Farley, an explanation has been asked for by Senator Paterson.

SENATOR FARLEY: Thank you, Mr. President. This bill would entail -- excuse me. It would enable retail merchants in New York to take a security interest in certain high value merchandise sold under the revolving credit agreement. New York is the only state in the nation which prohibits a security interest. There is no evidence that in the other 49 states that the consumers are harmed or merchants unduly enriched by the ability to receive payment for goods purchased.

This bill also contains consumer protection provisions far in excess of any other state. They have been described by a committee of the State Bar Association as landmark in nature. That's in consumer protection.

The retail industry in New York State employs nearly a million people, many part-time and low-income people. Retail employment is in decline. Restrictive laws

which prevent merchants from collecting payment for items sold can only contribute to business losses which lead to job losses.

This bill is essentially the same which passed both houses in 1992. The Senate vote was 44 to 16, and it was vetoed by then Governor Cuomo.

The veto referenced the overall interest rate deregulation issue, and that issue was resolved in 1994. That was the reason for his veto because he wanted to see deregulation of interest.

The companion Assembly bill is sponsored by Assemblymen Feldman, Farrell, Lafayette, Green, Kaufman and Ramirez. I expect that this bill will become law.

ACTING PRESIDENT KUHL: Chair recognizes Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. Would Senator Farley be willing to yield for a question?

SENATOR FARLEY: I would be happy to.

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

SENATOR PATERSON: Senator Farley, why is there no minimum financial amount level that would be the level that would trigger a repossession process?

SENATOR FARLEY: Why is there no minimum?

SENATOR PATERSON: Right. For instance, if a person is $5 in arrears, after the 30-day period has elapsed, theoretically you might be able to come over and repossess something that costs thousands of dollars.

SENATOR FARLEY: We're talking about a significant item and, of course, again, it has to be more than $200.

I understand your question. I'm just checking to see if there is -- the account must be in default for 30 days before the notice is sent. The buyer is given an additional 30 days.

All right. I don't have that. Gosh, he's got about 15 pages here of

information.

I can't answer that question, Senator Paterson. I'm sorry. Why is there no minimum? I guess there isn't one. There is on almost all security interest, I could answer it that way.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Senator Farley. I have a couple of other questions, if Senator Farley will yield.

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

SENATOR FARLEY: All right.

ACTING PRESIDENT KUHL: Senator does.

SENATOR PATERSON: Senator Farley, I notice that the agreements are not written in large type. Also for those who might not have had the presentation made in English, the agreements are not written in the same language as the presentation may have been, and you said earlier that it has the strongest

consumer protection issues that are involved in any other state, but I find the two of them to be important issues.

But if you would yield for a question, and you said that you would, my question is, at the time that the account is actually opened, there has to be a notification of the buyer that there is this security interest, but the item that may be bought at that time might not actually be one that is over $200, so it is not necessarily eligible; in other words, we're just allowing the consumer to know that a security interest exists, that they are in an account that could later have a security interest.

My question is, at the point that they actually purchase the item that could be repossessed, do you think it would have been better to have written the legislation to reflect it at that time as well, because that's the real big ticket item, and that's -- the consumer down the road may not realize he would incur the repossession?

SENATOR FARLEY: Okay. Let me, generally speaking, discuss disclosure requirements, and we did expand them. You know, over the last two decades, several changes have taken place in both the state and federal treatment of these types of financing agreements and in the practical application and management of consumer financing accounts, the major change in federal regulation in 1982 was the "truth in lending." That is Federal Reserve Regulation Z. Because New York's closed end agreements permit more than one transaction on an account, the amendments treated them as open-ended for federal disclosure purposes.

Similarly New York's personal property law subjects both types of accounts to the disclosures required in the "Truth in Lending" regulation; hence, as far as the consumer can see, there is no distinction between the types of account as far as regulated disclosure is concerned.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: I have one last question, Senator Farley.

ACTING PRESIDENT KUHL: Senator Farley, do you yield to one more question? The Senator yields.

SENATOR FARLEY: I'll try.

ACTING PRESIDENT KUHL: Senator Farley, as you know, many of these retailers have in their agreements very high, almost astronomical, interest rates, 18 to 23 percent at times and, if we are going to pass this bill which is going to be adding protection for retailers, why are we not insisting that the retailers bring these interest rates down to consumers of New York State?

SENATOR FARLEY: Well, that's an ongoing question. So many times on the interest rates with credit cards, and so forth -- I don't want to go into past history, but when Senator D'Amato proposed capping credit card interest rates, it really blew up from the point of view -- from the general public's point of view that

they just will not make them available to people that -- that want the credit cards and revolving credit.

I couldn't agree with you more, and I would have -- probably concur that, for instance, some of these retail rates are very, very high, but people that want to use them and avail themselves to it that need that item and they're willing to pay that, that's all part of the marketplace and, believe me, even in the area of credit cards -- because I'll use that as a retail credit situation -- there are competitive rates that are down to seven and eight percent.

You can see those -- Senator Markowitz, I think, announced last year in Money Magazine and in some of the other financial magazines where you can apply for a credit card that has lower interest rates as I'm sure that retailing, which is very competitive, will probably bring down the rates on some of these security interests in order to attract business.

SENATOR PATERSON: Mr. President.

SENATOR FARLEY: I can't justify the high rates standing here, Senator Paterson.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, may I make a suggestion to Senator Farley?

SENATOR FARLEY: Sure.

SENATOR PATERSON: Why don't we sunset this particular legislation, Senator, and then at that point we would be able to gauge whether or not the interest rates went down, and the reason I make the suggestion is because what drove the interest rates to the point that they are now, averaging sometimes 20 percent, which is really quite a lot, was the fact that they were not secured creditors, the fact that they were unsecured so, in other words, this was the reason that they told us they needed to have this interest rate, but now that they've come and told us that they want to create a circumstance where they are secured creditors, they haven't said, "And when you do, we'll let you have the interest rate back." I think

they're kind of having their cake and eating it too.

So my suggestion is that we have some sort of opportunity to give ourselves a second chance, lest the consumers of New York State, all around the state, would suffer from now being put in this position of having repossessions and at the same time you are paying, I think, exorbitantly high interest rates.

SENATOR FARLEY: Well, Senator Paterson, you make the point but, again, let's go back to square one where we started. 49 states allow the consumer to be able to buy these items with a security interest. Otherwise, they wouldn't be able to purchase it. We could have a sunset in this, but all we're doing is bringing New York State in line with the rest of the nation in allowing our consumers to make that choice.

Now, we could sunset this and do many other things but, again, with deregulation, if there's anything that is competitive in our

society -- and I happen to think that the financial industry is competitive, but it's certainly retailing -- we see how viciously competitive sometimes they are as far as driving other people out of business. I think that maybe you're going to see Congress or the Legislature look at some of these unfair trade practices in retailing because they drive people out of business.

I truly believe that this offers the consumer the most protection of any security interest legislation in the nation. It's been applauded in different retailing magazines. It also gives the consumer of New York State an opportunity to have security interests to be able to buy rather expensive property when, let's say, their credit is not the best in the world, that they wouldn't be able to go out and get a low interest loan, and you're speaking of persons -- generally speaking young people that are trying to get started, and so forth, building up their credit and building up an opportunity to set up a home.

I think it's a good piece of legislation and one that has been pretty generally received in both houses here in the Legislature.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, I want to thank Senator Farley.

SENATOR FARLEY: Thank you.

SENATOR PATERSON: He was very responsive and just on the bill, if I might add.

ACTING PRESIDENT KUHL: Senator Paterson on the bill.

SENATOR PATERSON: While Senator Farley made a case for how this is very popular around the country, it's very popular to have this type of added, in a sense, incentive for retailers and gives them a very powerful weapon. What I probably would have wanted that would have enabled me to vote for the bill was some assurance that in those 49 states that now have the purchase money security interest, that the interest rates in those states have gone

down.

I do not know the answer to that question. If Senator Farley wishes to enlighten us, I'd certainly like to hear it because my fear is that perhaps in a lot of those states you have consumers now wishing they hadn't put the purchase money security interests in, and even with the added consumer protections that we have allowed in this legislation, as I said, we don't require that the security interest be written in the same language as the presentation. They're not required to be written in very large print.

We have the situation where the security interest is made available, the possibility of it at the opening of an account, but that when the actual item that meets the threshold for the repossession is purchased, you don't have any notification procedure at that particular point and, finally, as you pointed out earlier, there's no minimum amount of money that the consumer would owe, so the consumer could owe one dollar on a $1200 console and get

it repossessed because they are one dollar in arrears. It might have just been a technical or computer problem.

And so I think that it's headed in the right direction to be in compliance with the rest of the country, but I just wish that the bill addressed some of the issues that I've raised.

Thank you, Mr. President.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 501 are Senators Abate, Gold, Kruger, Leichter, Markowitz, Mendez, Onorato, Oppenheimer, Paterson, Smith, Stavisky and Waldon. Ayes 42, nays 12.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Stavisky, why do you rise?

SENATOR STAVISKY: Mr. President, on Calendar Item 473, would you be kind enough to record me in the negative?

ACTING PRESIDENT KUHL: Without objection. No objections being heard, Senator Stavisky will be recorded in the negative on Calendar Number 473.

Senator Leichter, why do you rise?

SENATOR LEICHTER: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar 1006?

ACTING PRESIDENT KUHL: Without objection. No objections being heard, Senator Leichter will be recorded in the negative on Calendar Number 1006.

Senator Libous, why do you rise?

SENATOR LIBOUS: Mr. President, may I also have with unanimous exception to be

recorded in the negative on Calendar Number 840, please?

ACTING PRESIDENT KUHL: Without objection. No objection being heard, Senator Libous will be recorded in the negative on Calendar Number 840.

Senator Skelos.

SENATOR SKELOS: Mr. President, Senator Goodman informs me that the objection to Calendar Number 814 has been removed, if we could call it up at this time and vote.

ACTING PRESIDENT KUHL: The Secretary will read the title to Calendar Number 814.

THE SECRETARY: On page 37, Calendar Number 814, by Senator Goodman, Senate Print 1618-A, an act to amend the Penal Law, in relation to consecutive terms of imprisonment under certain circumstances.

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

THE SECRETARY: Section 2. This act shall take effect on the 1st 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 Chair recognizes Senator Skelos.

SENATOR SKELOS: If we could go back to the controversial calendar, regular order.

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

THE SECRETARY: On page 28, Calendar Number 707, by Senator Saland, Senate Print 2916, an act to amend the State Administrative Procedure Act, in relation to including the Workers' Compensation Board under the scope of the act's provisions.

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

THE SECRETARY: Section 3. This act shall take effect on the 30th 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 722, by Senator Saland, Senate Print 2039, an act to amend the Public Health Law and the Executive Law, in relation to court authorization for human immunodeficiency virus related testing for certain sex offenders.

ACTING PRESIDENT KUHL: Explanation.

SENATOR SALAND: Mr. President, please lay it aside until tomorrow -- tomorrow's calendar.

ACTING PRESIDENT KUHL: Calendar Number 722 will be laid aside for the day at the request of the sponsor.

The Secretary will continue to

call the controversial calendar.

THE SECRETARY: Calendar Number 760, by Senator Marchi, Senate Print 742, an act to amend the Real Property Law, in relation to modifying the real estate continuing education requirement.

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 -

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 53, nays 1, Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 769, by Senator DiCarlo, Senate Print 3962, an act to amend the Real Property Law, in relation

to occupation of premises for unlawful purposes.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT KUHL: Senator DiCarlo, an explanation of Calendar Number 769 has been asked for by Senator Dollinger.

SENATOR DiCARLO: Yes, Mr. President (inaudible-inoperable microphone).

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: I just rise. I think this is a good bill. I think it -- I know that a number of us have had bills in about bawdy houses and the use of bawdy houses. This is a good bill that I think expands the powers of neighborhood groups to deal with the problem of drug infestation in their neighborhood, and I commend Senator DiCarlo. I know a number of us have pushed similar bills in the past, but it's good to see that we're doing it. This is a good idea.

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 54.

ACTING PRESIDENT KUHL: The bill is passed.

ACTING PRESIDENT KUHL: Calendar Number 816, by Senator Kuhl, Senate Print 3234, an act to amend the Penal Law, in relation to criminal possession of a weapon in the third degree.

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

THE SECRETARY: Section 2. This act shall take effect on the 1st 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 826, by Senator Volker, Senate Print 4297, an act to amend the Civil Rights Law, in relation to access to personnel files of parole officers and warrant officers.

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 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 839, by Senator Lack, Senate Print 2826-A, an act to amend the Judiciary Law, in relation to payment of expenses in attorney disciplinary proceedings.

ACTING PRESIDENT KUHL: The

Secretary will read the last section.

SENATOR DOLLINGER: Mr. President, I had asked to lay that bill aside and I've had a discussion with Senator Lack. My questions have been resolved.

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

THE SECRETARY: Section 2. This act shall take effect in 90 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, that completes the controversial calendar. Senator Montgomery has risen to be recognized.

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Thank you, Mr. President.

I would like to be recorded in

the negative on Calendar Number 501.

ACTING PRESIDENT KUHL: Without objection.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT KUHL: No objection being heard, Senator Montgomery will be recorded in the negative on Calendar Number 501.

Senator Skelos, we have some housekeeping.

SENATOR SKELOS: Please recognize Senator Farley.

ACTING PRESIDENT KUHL: We'll return to motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Senator Skelos.

Mr. President, on behalf of Senator Saland, on page 52, I offer the following amendments to Calendar Number 937, Senate Print 4009, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The

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

Senator Farley.

SENATOR FARLEY: On behalf of Senator DiCarlo, on page 61, I offer the following amendments to Calendar Number 195, Senate Print 2503, and I ask that that bill retain its place.

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

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Cook, on page 56, I offer the following amendments to Calendar Number 967, Senate Print 3961, and I ask that that bill retain its place too.

ACTING PRESIDENT KUHL: Calendar Number 967, the amendments are received and adopted. The bill will retain its place on the

Third Reading Calendar.

The Chair recognizes Senator DiCarlo -- or, excuse me, DeFrancisco.

SENATOR DeFRANCISCO: May I have unanimous consent to be recorded in the negative on Calendar Number 840?

ACTING PRESIDENT KUHL: Without objection. Hearing no objection, Senator DeFrancisco will be recorded in the negative on Calendar Number 840.

Senator Skelos, we have a couple substitutions at the desk.

SENATOR SKELOS: Please make the substitutions.

ACTING PRESIDENT KUHL: The Secretary will read the substitutions.

THE SECRETARY: On page 7, Senator DeFrancisco moves to discharge from the Committee on Rules Assembly Print Number 917-A and substitute it for the identical Calendar Number 206.

On page 27, Senator Trunzo moves to discharge from the Committee on Rules

Assembly Bill Number 7394 and substitute it for the identical Third Reading Calendar 690.

On page 58, Senator Farley moves to discharge from the Committee on Rules Assembly Bill Number 184-A and substitute it for the identical Calendar Number 983.

ACTING PRESIDENT KUHL: The substitutions are ordered.

The Chair recognizes Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

I would request unanimous consent to be recorded in the negative on Calendar Number 840.

ACTING PRESIDENT KUHL: Without objection. Hearing no objection, Senator Wright will be recorded in the negative on Calendar Number 840.

Senator Skelos.

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

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, Tuesday, May 23rd at 11:00 a.m..

Prior to that, Senator Nozzolio.

SENATOR NOZZOLIO: Negative on Calendar Number 840.

ACTING PRESIDENT KUHL: Without objection. Hearing no objection, Senator Nozzolio will be recorded in the negative on Calendar Number 840.

Again, without objection, the Senate stands adjourned until tomorrow -- note the change of time -- tomorrow, Tuesday, at 11:00 a.m.

(Whereupon, at at 5:10 p.m., the Senate adjourned.)