ALBANY, NEW YORK

May 24, 1995

10:04 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the members to find their places, staff take seats. Ask everybody in the house to stand up and join me in saying the Pledge of Allegiance to the Flag.

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

We're very pleased today to be joined by the Rabbi Cecil Walkenfeld, the Spiritual Leader of the Clearview Jewish Center of Whitestone, New York. Rabbi Walkenfeld.

RABBI CECIL WALKENFELD: Almighty and merciful good protector of all people, as the members of this Senate of the state of New York, the elected guardians of its welfare, begin their deliberations, we pray that You, O God, will bless them. Protect them from every trouble and misfortune. Guard them from all the stress, affliction and injury. Sustain them in their dedication to the civic, social and economic progress of all its inhabitants. Do guide them, we pray, to use the wisdom and

understanding with which You have endowed them so that at all times they combine justice with compassion, are always equitable and fair and that they diligently protect the rights of all who live within this state of New York.

May they not stumble or falter in their decisions in order that they judge cor rectly, judiciously conclude their contempla tions so that only good and progress occur through their actions. May it be Your will, O Lord, that through the accomplishments of this Senate, the state of New York shall be a model of proper government for all states. Send blessing and success in all their deliberations. For this we pray. Amen.

ACTING PRESIDENT KUHL: Amen.

Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, May 23rd. The Senate met pursuant to adjournment, Senator Kuhl in the Chair upon designation of the Temporary President. The Journal of Monday, May 22nd, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there's a resolution sponsored by Senator Mendez at the desk. I ask that the resolution be read in its entirety and adopted, and that Senator Mendez be recognized to explain her vote.

ACTING PRESIDENT KUHL: Senator Skelos, there is a privileged resolution at the desk. I'll ask the Secretary to read the privileged resolution in its entirety.

THE SECRETARY: By Senator

Mendez, Legislative Resolution, honoring 1st Lieutenant Ellen Meagher Danker and Captain Elizabeth Schwartz Holmes for their valiant tours of duty as members of the United States Army Nurse Corps during World War II.

WHEREAS, members of the armed services from the state of New York who have served so valiantly and honorably in wars in which this country's freedom was at stake as well as in the preservation of peace in peacetime, deserve a special salute from this legislative body; and

WHEREAS, attendant to such concern and in full accord with its long standing traditions, it is the sense of this legislative body to honor 1st Lieutenant Ellen Meagher Danker and Captain Betty Schwartz Holmes for their valiant tour of duty as members of the U. S. Army Nurse Corps during World War II;

Ellen Meagher Danker of Albany, New York and Betty Schwartz Holmes of Buffalo, New York met at Pine Camp, now Fort Drum, New York, in April of 1942, where they were

commissioned as 2nd Lieutenants in the Army Nurse Corps;

Ellen Meagher Danker and Elizabeth Schwartz Holmes' friendship was formed in the tumultuous years of the second World War and has endured since;

Initially assigned to the 17th Station Hospital in the Outback of Australia, Ellen Meagher Danker and Elizabeth Schwartz Holmes were then deployed to form the 11th Portable Hospital, the forerunner of today's MASH Units;

Subsequent assignments included Charters Towers, Australia, New Guinea, Panama, Denver and Manila. Both were honorably discharged in 1945; and

WHEREAS this Legislature is justly proud of its commitment to the veterans who served in times of active conflict and in times of peace;

No greater debt is owed than that to those who serve their country preserving peace and ministering to the needs of those who

fought in freedom's cause;

Having exhibited their patriotism both at home and abroad, Ellen Meagher Danker and Elizabeth Schwartz Holmes demonstrated their love for their country and fellow man and now merit the highest respect from the state of New York;

This legislative body is greatly moved to extend its highest commendation to 1st Lieutenant Ellen Meagher Danker and Capt. Elizabeth Schwartz Holmes for their meritorious service;

NOW, THEREFORE, BE IT RESOLVED that this legislative body pause in its deliberations to honor Ellen Meagher Danker and Elizabeth Schwartz Holmes for their years of service, sacrifice and dedication to their communities, their state and their beloved country; and

BE IT FURTHER RESOLVED that copies of this resolution, suitably engrossed, be transmitted to Ellen Meagher Danker and Elizabeth Schwartz Holmes.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Mendez on the resolution.

SENATOR MENDEZ: Thank you, Mr. President.

It is indeed an honor for me to introduce to my colleagues here today these two wonderful American women who contributed their share shoulder to shoulder with men fighting for the freedoms of this great country of ours, and Mrs. Holmes is visiting here today. In fact, I understand that she has a rather -- a nephew that is a judge in Buffalo, probably very well known by both Senators from Buffalo, Senator Volker and Senator Stachowski, and Mrs. Danker has been a resident of Albany for many, many years.

I think it's appropriate, as the resolution states, that as we celebrate the 50 years of effort of our men fighting and gloriously defending our freedoms, that we also remember that women here within the country made a tremendous effort working in factories, producing the planes and all the -- the physical

armaments that were required for our men to fight up there in the war fronts, and these two women, personal friends of mine, do represent a sample of the glorious work done by them on behalf of all of us.

So anyone who would like to join in this resolution please do so. Mrs. Danker, would you kindly stand up.

(Applause.)

Mrs. Holmes?

(Applause.)

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Paterson on the resolution.

SENATOR PATERSON: Mr. President, on behalf of our Minority Leader, Senator Connor, we would also like to extend our congratulations to Lt. Ellen Meagher Danker and also Capt. Elizabeth Schwartz Holmes on a week that we are honoring all Americans who fought overseas and even in this country, to give us the opportunity to be here today to deliberate and to pass legislation that strengthens and

enhances the value of living in this particular country.

The added benefit that they have to their military service is that they are friends of Senator Olga Mendez who I've been working for years to become a friend of, and I think -- I think I'm getting close.

Thank you.

ACTING PRESIDENT KUHL: Chair recognizes Senator Skelos.

SENATOR SKELOS: Yes, Mr. President.

I want to join Senator Mendez in support of this resolution and, on behalf of Senator Bruno, welcome our two distinguished guests to the chambers today. In particular, I wanted to pay tribute to Mrs. Danker because my wife, Gail, is a lifelong friend of the Danker community. In fact, she grew up with many of Mrs. Danker's children, and perhaps after session you can tell me some stories that I can hold against her.

But we do welcome you to the

chambers again on behalf of Senator Bruno and the entire Senate Majority.

Congratulations.

ACTING PRESIDENT KUHL: The question is on -- Senator Marchi.

SENATOR MARCHI: Yes. Mr. President, through them we also have the opportunity of thanking so many of their colleagues that served valiantly and with great commitment. I feel I owe my life really, when I was out in the Far East and had a rough time and their ministrations that went around the clock, their devotion and care simply would not have been enough, and I really credit my life to them.

So there are so many of you who have done so much good, and your presence here today gives us an opportunity to thank them as well as yourselves who have exemplified the very best that is in the service that you have rendered, the type of service.

Thank you.

ACTING PRESIDENT KUHL: The

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is unanimously adopted.

The Chair recognizes Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there is a privileged resolution at the desk by Senator Hoffmann. I ask that the title be read and the resolution adopted.

ACTING PRESIDENT KUHL: Secretary will read the privileged resolution by Senator Hoffmann, the title.

THE SECRETARY: By Senator Hoffmann, Legislative Resolution commending Madison County's Senior Citizens of the Year.

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 Skelos.

SENATOR SKELOS: Mr. President, if we could go to the non-controversial calendar at this time.

ACTING PRESIDENT KUHL: Secretary will read the non-controversial calendar, but before that, the Chair recognizes Senator Rath.

SENATOR RATH: On page 53 of the starred calendar, I'd like the star removed from Calendar 337, please.

ACTING PRESIDENT KUHL: At the request of the sponsor, the star will be removed on Calendar 337.

Senator Saland.

SENATOR SALAND: Mr. President, I would like to remove the sponsor's star from Calendar Number 958, Print Number 4987A.

ACTING PRESIDENT KUHL: Without objection, star is removed.

Senator Trunzo.

SENATOR TRUNZO: Mr. President, there will be an immediate meeting of the Civil Service and Pension Committee in Room 332.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Civil Service and Pension Committee in the Majority Conference Room, Room 332. Immediate meeting of Civil Service and Pensions Committee, Majority Conference Room.

Senator Skelos.

SENATOR SKELOS: Now, Mr. Presi dent, if we could take up the non-controversial calendar at this time.

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

THE SECRETARY: On page 7, Calendar Number 188, by Senator Cook, Senate Print 2345A, an act to amend the Education Law, in relation to the use of district categorical aid funds.

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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 206, by member of the Assembly Pillittere, Assembly Print 917A, an act to amend the Navigation Law, in relation to vessel lighting and the operation of personal watercraft.

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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

260, by Senator Skelos, Senate Print 2337B, an act to amend the Correction Law and the Criminal Procedure Law, in relation to notification concerning released or escaped inmates.

ACTING PRESIDENT KUHL: 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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 364, by Senator Lack, Senate Print 2456, an act to amend the Public Authorities Law, in relation to creating commuter railroad police departments.

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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 387, by Senator Lack, Senate Print 2833A, an act to amend Chapter 689 of the Laws of 1993 amending the Criminal Procedure Law.

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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 446, by Senator Levy, Senate Print 25A, an act to amend the Real Property Tax Law, in relation

to granting a graduated real property school tax exemption.

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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 455, by member of the Assembly Bragman, Assembly Print 1905, an act to amend the Vehicle and Traffic Law, in relation to fire police.

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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 607, by Senator Saland, Senate Print 3918, an act to amend the Public Housing Law, in relation to creating the town of Patterson Housing Authority.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

SENATOR LEIBELL: Mr. President, with unanimous consent, I'd like to abstain from voting on this bill.

ACTING PRESIDENT KUHL: Without objection, Senator Leibell, and hearing no objection Senator Leibell will abstain from

voting on this. Announce the results.

THE SECRETARY: Ayes 37, nays zero.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 613, by member of the Assembly Vitaliano, Assembly Print 2334, an act to amend Chapter 677 of the Laws of 1977, amending the Civil Service Law and the Judiciary Law.

SENATOR SPANO: Mr. President.

ACTING PRESIDENT KUHL: Senator Spano.

SENATOR SPANO: Mr. President, will you please lay that bill aside for the day.

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

THE SECRETARY: Calendar Number 616, by Senator Trunzo, Senate Print 2819, an act to amend the Civil Service Law, in relation to extending the effectiveness of provisions establishing dispute resolution.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 39, nays one, Senator Rath recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 631, by member of the Assembly Englebright, Assembly Print 1808, an act to amend the Navigation Law, in relation to historic ship wrecks.

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 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 795, by Senator Skelos, Senate Print 4000A, 400A rather, an act to amend the Real Property Tax Law, in relation to exemption from tax for persons 65 years of age or over.

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 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 818, by Senator Volker, Senate Print 3693, an act to amend the Civil Practice Law and Rules,

in relation to the compensation of referees appointed to sell real property.

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 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 822, by Senator Volker, Senate Print 3919.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 843, by Senator Levy, Senate Print 428, an act in relation to authorizing the Commissioner of Transportation to conduct a comprehensive review.

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.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 843 are Senators DeFrancisco, Farley, Sears and Wright. Ayes - also Senator Present; also Senators Maziarz and Libous. Ayes 33, nays 7.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 847, by Senator Cook, Senate Print 1181, an act to amend the Vehicle and Traffic Law, in relation to allowing volunteer firefighters to solicit funds.

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 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 848, by Senator Kuhl, Senate Print 1382, an act to amend the Vehicle and Traffic Law, in relation to appropriate reduced speeds for motor vehicles.

ACTING PRESIDENT KUHL: 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 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 877, by Senator Skelos, Senate Print 11B, an act to amend the Correction Law, in relation to enacting the Sex Offender Registration Act.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 878, by Senator Velella, Senate Print 761, an act to amend the Executive Law, in relation to establishing the office of risk assessment and management.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT KUHL: Announce the results when tabulated. Excuse me. Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 41, nays 2,

Senators Saland and Wright recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 880, by Senator Skelos, Senate Print 2361A, an act to amend the Executive Law, in relation to membership of the New York State Committee for the Coordination of Police Services.

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 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 901, by Senator Saland, Senate Print 691, an act to amend the Tax Law, in relation to excluding receipts from the sale of meteorological

services from the imposition of sales tax.

ACTING PRESIDENT KUHL: There's a local fiscal impact note at the desk. Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of September.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you kindly recognize Senator Stafford.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Stafford.

SENATOR STAFFORD: Thank you. May we please have an immediate meeting of the Committee on Finance in Room 332.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Committee on

Finance in the Majority Conference Room, Room 332, immediate meeting of the Finance Committee in the Majority Conference Room.

Secretary will continue to call the non-controversial calendar.

THE SECRETARY: Calendar Number 903, by Senator Kuhl, Senate Print 906, an act to amend the Tax Law, in relation to certain Tax Department liens.

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 43.

ACTING PRESIDENT KUHL: The bill's passed.

THE SECRETARY: Calendar Number 927, by Senator Stafford, Senate Print 3308, an act to amend the Tax Law, in relation to exempting volunteer fire departments and

companies and ambulance companies.

SENATOR PATERSON: Lay aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 968, by Senator Hoblock, Senate Print Number 3965, an act to amend the Military Law, in relation to eligibility for the Conspicuous Service Cross.

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 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 969, by Senator Hoblock, Senate Print 3992, an act to amend the Education Law, in relation to

conforming amendments with regard to certain dates of wartime service.

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 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 970, by Senator DeFrancisco, Senate Print 4227, an act to amend the General City Law and the Town Law, in relation to meeting rooms for the Woman's Army Corps Veterans Association.

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 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 973, by Senator Kuhl, Senate Print 3939A, an act to amend the Agriculture and Markets Law, in relation to milk dealer and farm product dealer security.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 974, by Senator Tully, Senate Print 4527, an act to amend the Agriculture and Markets Law, in relation to the collection and disposition of

dog license fees.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Saland, why do you rise?

SENATOR SALAND: Mr. President, I would request unanimous consent to be recorded in the negative on Calendar 843, Senate 428.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Saland will be recorded in the negative on Calendar Number 843.

ACTING PRESIDENT KUHL: Secretary will continue calling the non-controversial calendar.

THE SECRETARY: Calendar Number 976, by Senator Saland, Senate Print 1424, an act to amend the Education Law, in relation to making certain incarcerated persons ineligible for certain general tuition awards.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside at the request of the Acting Minority Leader.

THE SECRETARY: Calendar Number 983, by member of the Assembly A. Greene, Assembly Print Number 184A, an act to amend the Banking Law, in relation to loans and invest ments by employees of the Banking Department.

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 47.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 985, by Senator Farley, Senate Print 3852, an act to amend the Banking Law, in relation to examination of banking organizations.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect the on the 1st day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 986, by Senator Farley, Senate Print 4556, an act to amend the Banking Law, in relation to requiring deputies to file oaths of office.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 10. This

act shall take effect 30 days after it shall have become law.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 988, by Senator Libous, Senate Print 4997, an act to amend Chapter 166 of the Laws of 1991, amending the Tax Law and others.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, that completes

the non-controversial calendar.

SENATOR LACK: Mr. President.

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

SENATOR LACK: Yes. Without objection, Mr. President, could I be voted in the negative on Calendar Number 843, Bill Number S. 428.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Lack will be recorded in the negative on Calendar Number 843.

Senator Waldon, why do you rise?

SENATOR WALDON: Mr. President, I request unanimous consent to be recorded in the negative on Calendar 878.

ACTING PRESIDENT KUHL: Without objection, Senator Waldon, hearing no objection, Senator Waldon will be recorded in the negative on Calendar Number 878.

Senator Skelos, you having a hard time hearing?

SENATOR SKELOS: Do I have -

ACTING PRESIDENT KUHL: Is it noisy in here?

SENATOR SKELOS: A little bit.

ACTING PRESIDENT KUHL: I thought I heard some of our members being a little vociferous this morning. You're the one making the noise, Senator Farley. Just quiet it down. We're about to go, I think, to the controversial calendar.

SENATOR SKELOS: Mr. President, if we could first return to motions and resolutions, I believe there's a privileged resolution at the desk that I've sponsored. I ask that it be read in its entirety, that I have the opportunity to make a comment and that it be adopted.

ACTING PRESIDENT KUHL: Senator Skelos, there is a privileged resolution that you're offering at the desk. I'd like to ask the Secretary to read it in its entirety.

THE SECRETARY: By Senator Skelos and others, Legislative Resolution memorializing the Honorable George E. Pataki to proclaim May

25, 1995 as Missing Children's Day in New York State.

WHEREAS, the children of today are our citizens of tomorrow and deserve a voice to protect their interests; and

WHEREAS more than one million children are reported missing, abducted, murdered, lost, injured or have run away in the United States each year;

There are currently more than 6,100 children missing in the state of New York, an increase of more than 1,600 in one year's time;

The injury of abduction has been proven to cause permanent emotional trauma not only to the children but to the relatives and others who are close to the child;

Missing children, including those abducted by family members or strangers, and those who run away, often suffer emotional, physical and sexual abuse;

It is important to remember all children who are missing; and

WHEREAS the New York State Senate is joining forces with other missing children's organizations, criminal justice officials, and concerned citizens throughout America to observe 1995, National Missing Children's Day;

NOW, THEREFORE, BE IT RESOLVED that the New York State Senate designates May 25, 1995 as Missing Children's Day in New York State; and

BE IT FURTHER RESOLVED that the New York State Senate reaffirms its commitment to address the issues of missing and exploited children during 1995 National Missing Children's Day and throughout the year; and

BE IT FURTHER RESOLVED that on this day parents throughout New York State are urged to be aware of the potential threat of child abduction and exploitation and to emphasize to their children the importance of knowing their full names, address and telephone numbers and of avoiding situations that can lead to abduction; and

BE IT FURTHER RESOLVED that a

copy of this Legislative Resolution, suitably engrossed, be transmitted to the Honorable George E. Pataki, Governor of the state of New York.

ACTING PRESIDENT KUHL: Senator Skelos, on the resolution.

SENATOR SKELOS: Yes, Mr. President.

First of all, with the consent of the Minority, I'd like to open up the resolution for sponsorship by all members.

ACTING PRESIDENT KUHL: Are there members in the chamber who would like to be on this resolution? All right. Senator Skelos, why don't we take the appropriate standard procedure. We'll put all of the members on the resolution, both the Majority and the Minority members except for those people who signify to the desk at some time during the course of the morning that they don't wish to be on the resolution.

SENATOR SKELOS: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos, on the resolution.

SENATOR SKELOS: On May 25, 1979, Etan Patz vanished from the streets of New York City on his way to school. The massive search effort and media attention which followed helped to focus national attention on the problem of child abduction.

In 1981, our sensibilities were again assaulted with the disappearance of 6 year-old Adam Walsh and the discovery of his body two weeks later.

In the years following the momentum which began with Etan and Adam's disappearances served as a catalyst to move elected officials, child advocates, families of missing children and concerned citizens from coast to coast to action.

Together, the Patz and the Walsh families mobilized the government into action in 1982. President Reagan signed into law the Missing Children Act in 1983. May 25th was proclaimed National Missing Children's Day. In

1984, the National Center for Missing and Exploited Children was created to spearhead efforts at the national level to locate and recover missing children and help reduce crimes against children.

Each year in communities across America, family and friends of missing children plan events to raise public awareness about the problem of missing children. This year the theme will be keep your porch lights on, help light their way home. We are all asking all members of the community to keep lights burning throughout the night of May 25th as a visible symbol to the children and to the whole community that we care about children's safety.

A couple of statistics that I'd like to mention. At the end of 1993, there were 4,547 missing children in New York State. At the end of 1994, there were 6,147 missing children in New York State. This is an increase of 1600 children in one year, the largest jump in numbers in the last decade. Of the 6,147 children missing in New York State, currently

5,110 of these children are from New York City, 405 children are missing from downstate New York, including Long Island, and 624 children are missing from upstate New York.

I also have a special introduction that I'd like to make at this time, Mr. -- Mr. President. I am sure that you have all heard the name Megan Kanka. A name that you may not readily recognize is Maureen Kanka, Megan Kanka's mother, but after today you will. Since the rape and murder of her 7-year-old daughter last July by a convicted sex offender who lived across the street from her family home, Maureen and her husband, Richard, have set out to make the world a better and safer place for everyone else's children.

As a result of this tragedy, with the help of Maureen and Richard Kanka, the New Jersey State Legislature passed and Governor Christine Todd Whitman signed legislation which monitors the whereabouts of sex offenders and provides for the notification to communities of a sex offender's presence.

Since the enactment of "Megan's Law", Maureen has established the foundation called the Megan Nicole Kanka Foundation which she operates to inform other states of the need to enact similar legislation. Maureen has sent packets of information to every state in the United States on "Megan's Law" and has received responses from 29 states to date. Six of those states have introduced legislation as a result of the foundation's efforts. Maureen has also traveled from state to state to promote public awareness and urge legislators to act on this important issue.

Recently, Maureen traveled to Maryland and Connecticut to address their respective legislatures on sex offender registration and community notification. I am delighted to say that the state of Maryland enacted their sex offender registration bill into law more than two weeks ago.

Connecticut's sex offender proposal has already passed one house of the Legislature, and they are optimistic that the

other house will send the bill to the Governor soon.

Additionally, media representatives from Germany, Austria, Scotland and Japan have made visits to the Kanka home to get information on "Megan's Law" as a possible remedy to the problems they are also facing across the world with the victimization of innocent young children by pedophiles.

While this is already a big triumph, Maureen has only begun her crusade. I am proud to have Maureen here with us today in the Senate chamber as we will shortly discuss, debate and ultimately pass New York State's version of "Megan's Law".

At this time, it's my honor to introduce to you Maureen Kanka.

(Applause.)

Also with Maureen is Judy Clevenger, who I know works very closely with her traveling around the nation urging passage of "Megan's Law" and we welcome you to the Senate chamber.

(Applause.)

And at this time I believe Senator Libous would like to also make an introduction and comment on the resolution.

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

SENATOR LIBOUS: Thank you, Mr. President. Thank you, Senator Skelos. Like Maureen Kanka, there are many individuals who have embraced this seemingly tragic situation, the senseless and brutal slaying of an innocent child, and used it as a force for good. One of these individuals is a constituent of mine. It is the Reverend Joseph Hind, the Pastor of St. Paul's Lutheran Church in Johnson City, who is also here in the chamber with us today.

Like many of us, Joe is the father of a little boy, Max, aged 7, so you can imagine the outrage that he felt when a convicted pedophile was released into Max's community in 1991. Rather than simply just rail against the system which enabled a known sex offender to quietly move into his neighborhood,

Joe used his passive position to create an organization called Protecting Our Children. The group soon began to lobby for mandatory registration and public notification when a sex offender moves into a community.

Reverend Hind and his band of volunteers soon organized a series of constructive preventive programs like childhood fingerprinting, like telling kids what to do if a stranger tries to lure them into a car, all these programs designed to protect children from would be stalkers.

Last October, Maureen Kanka joined Reverend Hind for a candlelight vigil and a march of hope in Johnson City, New York, in an effort to spearhead legislation similar to New Jersey's "Megan's Law" here in New York State.

Aided by a core group of about 16 individuals and over 100 volunteers, Reverend Hind has tirelessly criss-crossed the state since then collecting nearly 20,000 signatures urging us to honor the memory of Megan Kanka by ensuring that thousands of other would-be Megans

are better protected forever from child molesters.

For his efforts to safeguard our right to know, for his commitment to help law enforcement officials remain on top of these criminals that are more likely to repeat their offenses than any other, for his ability to call attention to the needs of our children as the most precious form of life that we know, I ask you to please join me in recognizing Reverend Hind for his efforts today.

Reverend Joe Hind.

(Applause.)

ACTING PRESIDENT KUHL: The Chair recognizes Senator Paterson on the resolution.

SENATOR PATERSON: Mr. President, on behalf of Senator Connor, who is out of the chamber and also on behalf of myself, I'd like to welcome the advocates and Maureen Kanka to the chamber and applaud the effort that they have made. It is really a paradox of life that some of the greatest tragedies inspire the victims of those tragedies to do some of the

great work that the society really needs.

It's a shame often that it takes such a horrible situation that motivates individuals to accomplish all that they have accomplished and to focus our attention on this terrible situation.

This is a budget period in our state, and there are so many statistics floating around that sometimes the numbers lose their meaning, but I distinctly heard Senator Skelos say there were 6,154 missing children in this state, 6,000 children missing in this state. It boggles the mind that that could actually be possible.

I went away on vacation about a year and a half ago, and I went to visit some friends in San Francisco, California and I was really going to spend the week relaxing, and we heard about the disappearance of a 12-year-old girl in that area, Polly Klas, same type of situation. The eventual predator, who was arrested, turned out to have been a person who had been convicted of similar offenses in the

past.

I guess when it happens the first time, it's a shame on the one who commits the act, but when it happens more than once, it's really a shame on the society that allows it to happen.

We understand that there is legislation before us today that will help to address these problems. In some respects, a few of us will ask some questions not meant to in any way diminish from the strength and the spirit of the legislation, but hopefully just to fine tune it so that it will serve our society better.

But all the while, while we may differ on some of the details, we all feel the same way about missing children, and we all have the anguish against those who are so mean and so horrible and would manifest their conduct in such a loathesome and despicable way to pick on innocent children and forever leave their families with the degradation and horror of the events that occur thereafter.

And so it is in that spirit that we welcome the advocates here today, and we thank them for the work they've done because they've done probably what we all would wish to do which is to welcome an issue that is greater than our own personal tragedies and think of the other thousands of families who have been befallen by the same thing, and yet from those thousands of families, just a few have come forward hopefully to improve the quality of life in our society and hopefully to prevent these types of tragedies from occurring again.

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is unanimously adopted.

Chair recognizes Senator Skelos. He defers to Senator Tully.

SENATOR TULLY: Thank you, Mr. President.

I was out of the chamber at a hearing in the LOB when Senate Calendar Number 878 was called. May I have unanimous consent to be recorded in the negative on that bill, please?

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Tully will be recorded in the negative on Calendar Number 878.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time would you call up Calendar Number 877.

ACTING PRESIDENT KUHL: Secretary will read the title to Calendar Number 877.

THE SECRETARY: On page 37, Calendar Number 877, by Senator Skelos, Senate Print 11B, an act to amend the Correction Law, in relation to enacting the Sex Offender

Registration Act.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Skelos, an explanation of the bill has been asked for by Senator Paterson.

SENATOR SKELOS: Yes, Mr. President.

This legislation would enact the Omnibus Sex Offender Registration Act in New York State, and very similar to the "Megan's Law" that was adopted in New Jersey.

I'd like to start off by thanking my staff, Tracy Lloyd, Kelly McGuiness and John Conway, for working almost two years with Assemblyman Dan Feldman and Mindy Bockstein, his counsel, in crafting the legislation that is before this Senate chamber today.

This has truly been a bipartisan effort. Assemblyman Feldman has stood tall, has worked aggressively on this legislation, and I am hopeful that with passage in the state Senate today, that Speaker Silver will allow this bill to come to the floor for a vote so that we will

have the opportunity in New York State to protect our children.

In recent years, state legislatures across the country have attempted to strengthen pertinent sex offense laws by requiring released sex offenders to register with law enforcement upon release from jail. For those of you are not familiar with sex offender registration laws, they require offenders to supply their address to state and local enforcement as a means of increasing community protection.

Laws in 43 states have been adopted with most occurring since 1985. 25 of the 43 laws have some form of community notification, as does this legislation today. The 43 state registration laws conform in many aspects and certainly our legislation has many aspects of registration and notification.

Typically the convicted offender must register upon release from prison, upon being put on probation or parole. Maintenance of the registry is overseen by a state agency,

Division of Criminal Justice Systems in our state. Typical info would contain the name, address, fingerprints, date of birth, I.D. numbers, criminal history, employment. Duration is generally ten years or longer. Change of address requirements are included in this legislation.

In all cases, the offender is responsible for supplying accurate information and is penalized for non-compliance. Once created, the registry becomes a tool that law enforcement uses to solve or hopefully prevent crimes and, indeed, under the federal crime bill that was passed approximately a year ago, states are required to establish registries or they will lose federal money.

The registry provides a readily available list of potential suspects once a sex crime has been committed. In addition, many feel it is also a possible deterrent since offenders know they are being monitored. Registration laws also create, as this law will, legal grounds to hold sex offenders who do not

comply with registration and are later found in suspicious circumstances like hanging around schools or playgrounds. If not registered, the offender can be charged and prosecuted.

The goals of this legislation can be summed by four simple statements: Sex offenders pose a high risk of reoffending after release of custody.

Protecting the public from sex offenders is a primary governmental interest. Government's interest in public safety is more important than the so-called privacy interests of persons convicted of sex offenses, and release of information about sex offenders to public agencies and the general public will assist in protecting the public safety.

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

SENATOR PATERSON: Mr. President, if Senator Skelos would please yield to a question.

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

SENATOR SKELOS: Yes, I do.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: I was wondering if you would go into a little more detail. It would be interesting to hear about the distinction between the level one, level two and level three sexual offenders, particularly the distinction between the individual who might expose themselves outside a playground to children, and the one that would jump over the fence and abduct the children, how we under this legislation are going to treat them.

SENATOR SKELOS: Senator Paterson, the way this legislation is crafted, the level of the offense -- and, of course, it requires that all sex offenders, whether it's level one, two or three, be required to register for a period of ten years and that a sexually violent predator would be required to register for the rest of their life unless released of this requirement by the section -- the sentencing court at a subsequent date.

As you mention, level one, and let me say that all, in my opinion, all sex crimes are offensive, but because of certain guidelines that we've been given by the federal government, we have to attempt to distinguish between the various levels; so you are correct. For example, if level one was a peeping Tom or that type of individual, they would be categorized level one, and there would be no real community notification of this person although you could call the '900' number that will be established and find out, for example, is so and so, who is my -- my son or daughter's camp counselor, give a certain description, certain information to the '900' number, is that person at all in the registry, and the person on the other side of the phone could say either yes or no. That's all, either yes or no.

Level two, which would be a higher degree of offense to society when you call the '900' number, you would be entitled once you gave a proscription or the name of the person -- name or proscription of the person,

the '900' number would say to you, yes, that person is in the registry level two and, for example, if I made the phone call would say, the person lives in the community of Rockville Centre. There would not be an exact name given.

Level three, which is the violent predators, in that instance the information would be forwarded to the local police depart ment; in fact, all the information on all the offenders is forwarded to the local police department, but in this instance, you would have the opportunity upon making a request to the local police department, to find out exactly who this person is and where they reside and, in fact, there will be a registry that's established and the information will be held in your local police department.

The purpose for this is to avoid the Megan Kanka tragedy that we saw in New Jersey because, as Mrs. Kanka said to me approximately a month or so ago when we were together, "If I had known this individual lived

across the street from me, I would have told my daughter how to protect herself and she would not have been murdered," so that's the purpose of the community notification provisions of this legislation is to help parents protect their children.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: That was an excellent response. Would Senator Skelos yield for another question?

SENATOR SKELOS: Yes, I do, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: One of the major problems involving the sexual offenses that are committed against children are actually coming as much from the home and often the caretaker or some custodial agent even as much as strangers or individuals who live in the neighborhoods. To what extent would we be notifying the neighborhood of the incidents of

child sexual abuse which is now estimated to often injure as many as one out of seven women and one out of 12 men in their youth?

SENATOR SKELOS: Level -- if you were categorized level two or three, in level two, the police department would have the option to notify the community of what they think is appropriate. Level three, they can notify the community plus you have the option to go in and actually look at the file to see what the person looks like and where they live.

Also, Senator Paterson, presently, the Division of Parole in their discretion, and we allow this to continue, when an individual, what they consider a violent predator, is released from jail, put on parole, they are presently notifying the school districts in the community where this individual is going to be released so that they can help protect the children for -- from, for example, a pedophile who so often will hang around a school yard looking to pick up young children.

The purpose for this is, number

one, to protect the children, but also generally when a pedophile is released, one of the conditions of parole, probation, is that they stay away from school yards or other locations where young children may congregate. Therefore, they could be picked up in violation of their parole or their probation.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

One last question if Senator Skelos would be willing to yield.

SENATOR SKELOS: Yes, Senator Paterson.

ACTING PRESIDENT KUHL: Senator Skelos continues to yield.

SENATOR PATERSON: The '900' number, I'm just a little unclear on how it actually operates. You would call and you would give the name of the individual?

SENATOR SKELOS: You would give the name of the individual.

SENATOR PATERSON: And then at that point you're asking if there had ever been any -

SENATOR SKELOS: You would also have to give some sort of description of the individual, whether it's a physical description, whether it's an address that you may know, whether it's a community that you may know, that will give that person sufficient information to believe that this, in fact, is the person you're referring to, so I -- I couldn't just go and say, Is David Paterson on the list, and they would then come back and say yes. There has to be some sort of a description given to the person answering the '900' number.

SENATOR PATERSON: Eliminating the possibility that two people of the same name would -

SENATOR SKELOS: That's the intention of the legislation.

SENATOR PATERSON: Right. Then at the point that the information is distrib uted, I assume it's distributed verbally.

SENATOR SKELOS: It's distributed verbally over the phone.

SENATOR PATERSON: And so there is not necessarily a record of the actual -

SENATOR SKELOS: There are records kept. Under federal law '900' numbers are required to give certain information, for example, that there is a child involved, that the phone number will be recorded, it goes on and on, certain requirements. This will have to be done by the '900' number before there could be a charge incurred by the person, so that the number will be recorded in terms of protecting the community also from a person making calls and abusing what the intent of this legislation is also, and plus there are civil penalties if this law is abused from 500 to $1,000.

SENATOR PATERSON: The cost to call the '900' number, the benefits from that go to where?

SENATOR SKELOS: This would be used by the Division of Criminal Justice Systems to cover the costs of setting up the registry

and the community notification process.

SENATOR PATERSON: And, finally, Senator, because you've been most gracious on a very difficult subject, the actual fact that an individual made the request, since the information is verbal, then I would assume that, in other words, there would not be any documentation that the request was made, so that the individual who may have absolutely no record, in other words, the camp counselor that does not have such a record, would not have to be a victim of just the gossip or the discussion of the fact that there was an inquiry.

SENATOR SKELOS: If they're not -- if they're not on the -- on the list.

SENATOR PATERSON: Correct.

SENATOR SKELOS: No, there's no information given then.

SENATOR PATERSON: Thank you very much, Senator.

ACTING PRESIDENT KUHL: The Chair recognizes Senator DiCarlo.

SENATOR DiCARLO: Thank you, Mr.

President.

I rise to commend Senator Skelos for this excellent piece of legislation that we're going to pass today, and just a few comments.

Government's responsibility is to protect the citizens. We are now 40-some-odd days late on a budget, and it's one of the most important things to everybody to see that this budget is passed, but I would say that this piece of legislation, along with other pieces of legislation where we're trying to protect our citizens and most especially our children, are what is really important in this state.

We passed in this house a few weeks ago the Sex Offender Reform Act which would keep these people in prison for longer periods of time. I think it's important that we understand something. Sex offenders cannot be cured. I grow tired of hearing people tell me, Well, once they do their time they have to come out into society again. That might be true for most criminals, but it is not true for sex

offenders.

This legislation is important because we on the state level have not done what we should have done in terms of punishing sex offenders and keeping sex offenders off our streets.

This legislation, by Senator Skelos, is so important again because we have not done our duty in terms of sex offenders. This house has done it. The other chamber has seen fit not to do so. Senator Skelos' legislation is important, as I said, because we have not done our jobs. We have not done our jobs and, if we leave here today and we pat ourselves on the back and we said, All is well and good in this state because we have passed a piece of good legislation, then I think we've missed the point of Senator Skelos' legislation and having some very wonderful people up here today who've had some great tragedies.

We have got to finally change the way we run our criminal justice system in this state. We have got to take sex offenders off

the streets. We have got to protect the women and children of this state and we've got to stop kidding ourselves.

I commend Senator Skelos. This is necessary, but let's wake up and do what is really necessary in this state and that is to protect our people.

Thank you.

SENATOR DOLLINGER: Mr. President.

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

SENATOR DiCARLO: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: I just have a question. Is it your theory then that if, under Senator Skelos' legislation, one who is con victed of a minor sex offense should get life in prison without parole and not come back into the community?

SENATOR DiCARLO: That is

obviously a ridiculous statement.

SENATOR DOLLINGER: Well, that seems to be -

ACTING PRESIDENT KUHL: Senator Dollinger, if you're going to ask a question, please allow the answer to come forth before you interrupt, O.K.?

SENATOR DiCARLO: Senator Skelos' legislation is separate from what we're trying to do in his legislation and other legislation. Why it's important we have to do Senator Skelos' legislation is because other states are not doing what we are empowered to do, and that is to keep those sex offenders -- I'm not talking about keeping somebody in prison for the rest of their life for a first offense, I'm talking about those who we know out there are stalking our children and stalking the women to a great extent in this state, be put away for extended periods of time, and those most heinous among them, yes, should be taken off the streets permanently.

SENATOR DOLLINGER: All right.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Secretary will read the last section for the purposes of a limited roll call.

THE SECRETARY: Section 3. This act shall take effect 180 days from the date on which it shall have become law.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Wright, how do you vote?

SENATOR WRIGHT: Aye.

ACTING PRESIDENT KUHL: Senator Wright will be recorded in the affirmative. The roll call is withdrawn. We'll return to debate on Calendar Number 877.

The Chair will recognize Senator Rath.

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

I rise in support of Senator Skelos' legislation. I'd like to congratulate

Senator Skelos and the committee and all the people who worked so hard to pull together this very vital and important piece of legislation.

I'd like to thank Mrs. Kanka for being here today. I don't think there's anyone in this room who has not been touched by your story and the term "Megan's Law" will live forever in the state because that's why New York State is moving on this today, for Megan and other children, so on behalf of the children and the families of the 60th District and, of course, all across New York State, we are supporting and I'm sure this will pass this chamber.

In 1991, there were in excess of 129,000 confirmed cases of sexual abuse in New York State. The average molester, and I think this goes to some of the questions that were raised just now, molests somewhere between 50 and 150 children before being caught. This was reported on 20/20 and New York was far behind other states in keeping track of these molesters, the individuals who pray on their

communities, that is until today and the passage of this bill will not only bring New York State sex offenders in line with the other states but will restore a sense of sanity to the state's communities.

I'd like to share with you a little personal vignette. Several weeks ago former Miss American Marilyn Van Derbur, was in Buffalo to speak about her struggle to overcome the effects of sex abuse as a child. It was hard to believe when she first came out of the closet, as it were, with her story, she's traveling all across the United States -

ACTING PRESIDENT KUHL: Excuse me, Senator Rath. Can we have a little order in the chamber, please. It's awfully difficult to hear the debate, there's so much noise. If you want to have a conversation with another member or staff, please take it out of the chamber.

Excuse the indulgence, Senator Rath.

SENATOR RATH: Thank you, Mr. President.

The recollections of Marilyn Van Derbur were shocking. They are bringing many people across this country as they did in Buffalo, many people across this country to realize the tremendous need there is to enact pieces of legislation such as brought to our attention through "Megan's Law" and through the hard work of Senator Skelos' committee.

I congratulate all of you who are involved and I, of course, support this piece of legislation. Thank you.

ACTING PRESIDENT KUHL: Senator Marcellino, on the bill.

SENATOR MARCELLINO: Thank you, Mr. President.

Mr. President, I commend -- I also commend my good friend and colleague, Dean Skelos, on this very important piece of legislation and the work of his staff.

This is a necessary piece of legislation unfortunately. I remember a time when parents could allow their children to play in the front of their house in their front yard

and feel free. I remember a time when you could allow your child to walk to school or walk to the local playground and not worry about it. I remember a time when we didn't need to lock fences and lock our gates and lock our doors to our homes. I remember a time when we didn't need burglar alarms in our homes.

Unfortunately, today we need all these things. Unfortunately, today parents bond together in car pools to take their children to Little League games and stay there, not just to enjoy the game and to watch their children but because they're fearful that, if they let their children out of their sight, some predator can come in and harm them.

This, ladies and gentlemen, my colleagues, is a tragedy. This is a disruption and a destruction of the quality of life in this state.

We have to lock school yards at night because predators will be there. Kids cannot play in school yards any more because they have to be kept locked because security

require -- requires it to be that way. We can not trust our streets. We cannot trust our communities because we have predators out there, recidivists who go out and repeat the crimes over and over again.

This state must pass legislation like this. I urge its passing. I know it will be passed because it's necessary to send a strong message to everyone, to the predators and the parents alike, watch out for your children and to the predators, we will always watch you.

Ladies and gentlemen, I urge the passage of this bill. It is a necessary piece of legislation.

ACTING PRESIDENT KUHL: Senator Nozzolio, on the bill.

SENATOR NOZZOLIO: Thank you, Mr. President.

On the measure, I rise to support it. As chairman of the Senate Crime and Corrections Committee, it is my honor to rise in support of this legislation, to protect our neighborhoods and our children from sexual

predators.

Senator Skelos is to be congratulated and thanked for his leadership in bringing this measure to fruition. Mrs. Kanka is to be thanked for her courage, for being with us today and for her support so that tragedies in the future can be prevented.

Ironically, my colleagues, it was a year ago today that a little girl in Rochester was abducted, Kelly Ann Poulton, a year ago abducted, now gone and added to cases like Sarah Ann Wood and Megan Kanka, cases that are tragedies, tragedies though that are not forgotten. We must never forget. We must never cease to remember what happened to these young ladies at the hands of predators and that we must do all we can to support strong measures as Senator Skelos has in this bill, that would protect our neighborhoods, protect our school yards, protect our back yards and protect our homes.

As stated by other speakers, this legislation puts New York in the forefront in

the area to combat sexual offenders. This legislation is critically important not only for that reason, but to protect our efforts in protecting our communities from these tragedies and to put us in compliance with the federal mandate requiring all such states to adopt a registry before October 1977.

The federal crime bill requires all states before that October 1997 date to adopt a registry or risk losing federal grant monies. Protecting the public is our objective certainly, and that is our primary objective in this legislation; but we also must recognize the national scope of this problem and that for us to not enact legislation now, I believe would send a terrible signal to the rest of the nation that New York is sitting on its heels and not getting out into the forefront as it has done in many other areas of legislative history in many other areas of importance to our citizens. We have been in the forefront.

It is only a compounding of tragedies that New York is not the first state

to adopt such a registry. I'm hopeful that this action will be taken today to, again, put New York where it should be in combatting these heinous offenses and sending a very strong signal to sexual predators that your actions will not be tolerated in New York.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Maziarz, on the bill.

SENATOR MAZIARZ: Thank you, Mr. President.

I, too, rise in support of this legislation. First, I want to applaud the courage of Mrs. Kanka. She's traveled across this country in order to advocate for this type of legislation. Although Mrs. Kanka has already made the ultimate sacrifice, she has chosen to transform her tragedy into action and into helping others.

Senator Skelos and his staff are to be commended for diligently pursuing this legislative effort. There's not a bill, I think of in this very short time that I've been here

that I have co-sponsored, that I'm more proud of than this bill today, and I can tell you looking into the future, I think there may not be a bill in my entire career here that I'd be more proud to co-sponsor than this bill.

I have to share with you the feelings of the people in my district. They anxiously await this legislation. This past summer it was reported in the local newspaper that 112 sex offenders were paroled in the three counties that I represent. Painfully aware of the Kankas' tragedy in New Jersey, the people of those three counties rose up in indignation that nothing was being done in the state of New York.

I think that it's -- it does not speak well of the legislative process that it took the state of New Jersey only 89 days to enact this type of legislation. 43 states have already enacted this type of legislation, and we all know that this bill hopefully, this piece of legislation, is going to be passed here today and sent over to the Assembly, and we can only

hope that the leadership in the Assembly will bring this bill out of committee, place it on the floor and allow the membership of the Assembly to vote on it because we also all know that, if this bill is reported to the floor of the Assembly, it's going to pass overwhelmingly and it's a tribute to Assemblyman Feldman and to Senator Skelos that this bill is out there today.

The people of the state of New York want this legislation. It's an insult to the people for any leadership in the other house of this Legislature to hold this legislation up, and again I want to commend Senator Skelos and Assemblyman Feldman and, like my colleague, Senator Nozzolio, as a member of the Crime Victims, Crime and Corrections Committee, I would just like to have everyone remember that today is the one year anniversary of the disappearance of Kelly Ann Poulton of Rochester, and you could all see that beautiful little girl's face when you stop at the Thruway rest stops on your way home, and when you look at

that little girl's face, she's telling you to vote for this bill.

Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

You know, usually we try to be objective about these bills and not get personal experience and emotion involved, but I have to say something. I have to say this to Mrs. Kanka.

As I've said to many of you here and for those who were guests I'm the Democratic leader in this Senate, and I represent part of Brooklyn and Manhattan but, as I've said to many of you, I wasn't born in the city. The fact is I was born in Hamilton Township, New Jersey and when I was four years old, we moved way out to Mercerville, and I was raised there and I was there Sunday visiting my parents, and this case obviously, this tragedy, affected me so much personally because, you know, living in the City

as many of you know, I'm a father, I have a 5 year-old, a 7-year-old. You know, they look forward to going to Nana's and Pop-Pop's in Mercerville, because they can run around there in a way that they can't in the City, in a way that you can't leave them for a second on a sidewalk without your eye on them, and indeed we were there last July, saw the posters. Megan was missing at the time, the last 4th of July. We always go to Mercerville for 4th of July because it's my father's birthday, so it's a big family occasion. We went to Mercer County Park to watch the fireworks. I guess because when I first moved to Mercerville it was way out in Mercerville, it was the same township, the same town but it was way out. The church was a tiny little church then. The fields all around, I remember shooting rabbits in those fields, but now they're houses because Mercerville has grown, but it's still a place of green and safety; at least that's the feeling, you never -- you know, you never get over that feeling when, from the time you were 4 years old until

you were 18 years old, you could ride your bike anywhere, walk anywhere.

I remember going to kindergarten in Mercerville school, and my mother took me the first day to make sure I knew the way and I walked alone after that, and there were no sidewalks in Mercerville then and we were taught to walk to the left facing the traffic, with trees and woods along the side.

So I get that feeling when I go there, not just that it's home but, you know, it's not the hustle and bustle of the City where I've lived for many, many years now and to my children it's just gee, green open fields and, you know, you can go kick a soccer ball around and it seems very, very safe.

I have to say my mother has warned me in past years, It's not like when you were a kid. Kids don't walk to school, the parents drive them to school, but her saying it wasn't like seeing this tragedy. Literally tomorrow's May 25th. May 25th, 1952 I made my first communion in Our Lady of Sorrows Church,

the church from where Megan was buried in her first communion dress.

So in a very personal way this brought home to me something that those of us in the City know every day, it's not safe. The streets aren't safe; it's not a safe world out there and there are predators that we have to do something about. Our first obligation is to protect our children and our families, and the -- this bill, I think, is a good start.

I look at this bill as someone who represents a very urban area, and I say regrettably it won't do that much for the City. When you live on a block with 6,000 people on it, notification, registration, you know, it's still hard to figure out who the threats are, and so I guess we have to persist in viewing everyone regrettably, and it's hard to bring up kids that way because you have to teach them not to trust. You have to teach them everybody is a potential threat, but the fact of the matter is we have to protect as best we can and certainly there are communities throughout New York State

that we all have an obligation to, where this protection could be much more real than it will be in the City, and -- and I know, Maureen Kanka has been around the country taking action, urging that other children be protected, and I -- I certainly congratulate her for that, and for turning her pain into something that could benefit everyone else, really all the children.

I would urge all of us really to think of other ways that we can protect children from these predators, that we can protect children from people who, you know, whatever illness or however you want to describe it, are a threat to other people, and really have to be removed from -- from our neighborhoods and our streets.

So I am supporting this bill. You know, I never -- I never grew up to realize my boyhood aspiration of being a member of the Mercerville Volunteer Fire Department. I have taken my kids over there to look at the engines when we go over there on week ends, but here I am having failed in that aspiration and I am

only very humbly grateful that this legislation has come out and that I can add my voice in support.

Thank you.

ACTING PRESIDENT KUHL: Senator Mendez on the bill.

SENATOR MENDEZ: Mr. President, I also do want to rise in support of this bill, and in doing so, I must congratulate Senator Skelos for taking the time and working great to make this bill possible.

I also want to join the others that have -- all my other colleagues that also have seen the reality through which Mrs. Kanka has gone through and what she's been able to achieve as she has been working through a personal family, and this bill brings to mind something that I feel -- a problem that I feel very strongly about and I have been expressing here at the Senate for a while.

The reality number one, there is no cure for sex offenders. There might be a couple little studies, but forget it, no cure at

this point for sexual offenders. The rapist, unfortunately, will end up being a rapist. Sex offenders, even if they are just child molesters, they might start molesting a child today, molesting another child tomorrow and eventually they increase the violence of the crime against the children.

So that this bill really represents a serious effort by New York State to start protecting the children. Do you know that in the public schools, one out of four children will be sexually molested? We haven't dealt with that problem yet.

There was a magnificent article in the New York Times recently, two or three days ago, stating that in the city of New York -- in the city of New York, children are being molested in our public schools and primarily the ones that are being molested or sexually as saulted are children who are in special educa tion,.

Who are the children -- most of the children in special education in the public

school system of New York City? Puerto Ricans, Hispanics and African-American, but what really -- what really is uncomprehensible to me is to read that one school district discovers a teacher that has sexually molested a child. You know what they do? They stay very quiet. They change that teacher to another -- they transfer that teacher to another school, and they do not state -- they do not say to the receiving school district that that person over there has violated in a most horrendous fashion the trust of that child -- that that child has towards authority.

I feel that, if people do take all these 44 of these bills for registry of sex offenders that have been passed already in 43 states, if they are taken to the Supreme Court and they say -- and the ruling comes down that they violate the rights of a sex offender, then I think that if that occurs, we will have to go back to the drawing board and keep on and on and on because in the final analysis, Mr. President, the primary responsibility of government has to

be the protection of children, families and the safety of all its citizens.

So to me, from molesters to the most repeated felons in the most heinous sex crimes, I say let's put them away forever. Let's put them away forever because they do not deserve to be given another opportunity to be out in the street and hurting in a horrendous fashion, a child or woman.

My congratulations again to you, Senator Skelos, and to Mrs. Kanka.

Thank you.

ACTING PRESIDENT KUHL: Senator Volker on the bill.

SENATOR VOLKER: Mr. President, first of all, I want to congratulate Senator Skelos and his staff for a tremendous amount of work and I -- as chairman of the Codes Committee, I'm well aware of the complexity and the difficulty in dealing with issues of this nature, and one of the things that I think is most difficult sometimes is dealing with the - some of the emotional trauma that the families

and the victims of these kind of crimes have to deal with and just -- just dealing with the issues involved here sometimes can be very wearing.

I know that we held -- the Senate and the Assembly held hearings over the last few years on issues involving sex crimes and some of the members of my committee, when we talked afterwards, said that some of the testimony was maybe some of the most difficult that we had dealt with in all the years that a number of the people had been members of the committee and part of this Senate.

Let me just say that this bill does go a long way toward beginning to deal with many of these issues, and I think as many of the people in this chamber know that we have been examining sexual predator legislation for several years. In fact, our committee and Senator Skelos and myself and a number of people as part of the Senate are looking at even going further on issues of incarceration and treatment, and so forth.

I guess as somebody who came from a law enforcement background and, in fact, as some of you know a state trooper and myself led the largest rape investigation in upstate New York's history a number of years ago, and although our investigation was primarily - obviously involved adults and the person that we finally did convict who eventually was involved in two other murders and was eventually killed himself, the chilling part of that investiga tion, I think, was the numbers of people -- and this was in the '60s -- the numbers of people who were out there who were sexual -- could be classified as sexual predators, both of adults and of children.

Another thing that I think has struck a number of us is that sometimes I think we try to separate sexual predators involved with children with adults, and that's something that you really have to be careful of.

There was a multiple -- group of multiple murders in the Rochester area involving an individual, and the real reason that the law

enforcement people didn't zero in on him was because he had been convicted of child molestation, in fact, actually a child killing, and the feeling of the parole people was that he was not a -- would not be a -- likely to be involved in sexual "predating" on adults, but that, of course, obviously was not true. The individual killed seven or eight people, if I'm not mistaken in the Rochester area and was eventually convicted and is now serving a - well, what amounts to -- he is serving a prison term that he will never get out.

So there's no question that this legislation is a huge step, I think, and I commend Senator Skelos and all of the people that have worked on this bill, and I can only say that I'm convinced that this house -- and I know Dan Feldman in the Assembly and a number of people in the Assembly want to move even further in dealing with this issue that probably is one of the most critical issues of our time in dealing with a society and wrestling with the issues of protection, not only of our children,

but of the very society itself.

ACTING PRESIDENT KUHL: Senator Marchi on the bill.

SENATOR MARCHI: Mr. President, I certainly want to compliment Senator Skelos on the tremendously fine work that he has done, along with his staff, and Dan Feldman over in the Assembly who is a fine legislator. It seems that this cooperation has has been very beneficial and responsive to the concerns presented by our good friends who have come over from the state of New Jersey and argues persuasively certainly for the action that is proposed to us today.

I am -- I do have some concern, however, and if I might be reassured on that point, it -- and I was questioning whether I ought to raise it -- the subject at all, but knowing how the quixotic nature of judicial interpretation is, I thought I might share it with you and perhaps you have some of the answers to this.

I don't know if you recall some

time ago, some months ago or maybe a year ago we had the issue of rape, and the presiding justice of the Court of Appeals spoke -- well, not this one, a prior one -- spoke of gender neutrality. I simply could not fathom gender neutrality beyond -- or the application of the law beyond that which I had learned years ago in law school that a woman could be indicted for aiding the commission of a rape, but there was no provision, and the law itself was not gender neutral.

I believe that we may have addressed this in legislation to make it gender neutral, and I was stupefied because I cannot imagine rape in this classic sense being committed by a woman.

Here, the approach is more solid because in the definition it speaks -- the definition is sex offender, and it's described here, includes "any person who is convicted" of any of the crimes, so I think we're on fairly solid law here, but then if you plunge on, "that any person happens to be his conviction, he

resided", and again "for a sex offender in which he is required", so the reference to person is that -- that person is "he".

To me, in the classic sense, that would mean "he" in a generic way describing the human species. Whether we ought to fortify this as a matter of legislative intent while we deliberate this and just say into the record that we are aware of this and that what is controlling is the definition and its reference to "he" and "his" is generic in sense, in that it refers to the human species, because I simply don't have that blind trust that some quixotic prior justice will come out and perhaps acquit a woman who is a pedophile or perhaps even say that the law itself is flawed because it is not gender neutral.

The circumstances of the case that came up was rather somewhat different from -- from the -- it had complicating factors, and I wish I could remember them all, and I think I could distinguish it to some extent, but I would be far more comfortable if the record reflected

the fact that what controls is the definition and that the reference to "he" and "his" is generic in nature and just applies to the human species irrespective.

ACTING PRESIDENT KUHL: Senator Abate is at a meeting. We'll pass her temporarily.

Senator Dollinger on the bill.

Senator Leichter, why do you rise?

SENATOR LEICHTER: Mr. President, with your permission, Senator Abate and I were both in meetings and she's still in that meeting and I believe she's been moved to the end of the list and said that I could take her slot and then we'll change and I'll go back to the meeting.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter, we also have Senator Leibell and Senator Libous who are ahead of you. If they yield to you, that's fine.

Gentlemen?

Senator Leibell is nodding yes.

Senator Libous, he's nodding yes. It may cost you something later on, Senator Libous is saying, but the Chair recognizes Senator Leichter on the bill.

SENATOR LEICHTER: Mr. President, while I think you've always done a very good job, I'm pleased to see that you felt it necessary to call on the distinguished members of the judiciary to help you in performing your awesome tasks, and you couldn't have chosen a better person than the distinguished judge and our former colleague and it's certainly good to see him.

Thank you, Mr. President.

If Senator Skelos will be good enough to yield.

ACTING PRESIDENT KUHL: Senator Skelos, do you yield to Senator Leichter?

SENATOR SKELOS: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LEICHTER: Senator, let me first join with the other colleagues here today that I have heard commend you for the work that you've done and the very assiduous and very sincere way that you've dealth obviously with not only a heart-wrenching problem, but with one that all of us want to find some way to provide the maximum protection to the public consistent with constitutional guarantees and other matters of public safety.

I just have a couple of questions. One is it's my recollection that there have been one or two decisions by, I believe it was a federal judiciary -- it may also have been the state judiciary in New Jersey declaring parts of the "Megan Law" there unconstitutional, is that correct?

SENATOR SKELOS: Mr. President, if I could respond to Senator Leichter. There have been several court decisions in New Jersey, and obviously the whole aspect of a registry has been challenged in other states, and in no instance has a registry been declared

unconstitutional.

What the New Jersey court ruled -- the federal court, is that in the New Jersey legislation, there was a requirement that any individual that had even been convicted of a sex offense -- this would be a person already released from jail, no longer on probation, no longer on parole, New Jersey's law required that they still have to register and where appropriate, the community be notified.

A lower federal court declared that aspect of it unconstitutional, although I think their decision has been stayed by an intermediate appellate court.

We do not have that reach-back provision in our legislation. Our legislation would reach back in instances where a sex offender is presently in jail, on parole or probation and say they would be required to meet all the registration and notification provisions of this new law when implemented 120 days from the effective date.

New Jersey state court I believe

has ruled part of that aspect as being unconstitutional. We do have -- and that is on appeal -- we do have a separability clause in this legislation, so that if any aspect of it is declared unconstitutional -- although I believe it will not happen because we have all the due process provisions and I think our law will stand muster either in the federal courts or the state courts -- we have a separability clause that would just eliminate that provision of the legislation, and I do believe the challenge in Jersey was as to the notification part, and Attorney General Reno, President Clinton have filed an amicus curiae brief in favor of the New Jersey legislation saying that this is appropriate community notification provisions.

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

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

(Senator Skelos nods head.)

SENATOR LEICHTER: If I understand your answer, we do have in this bill

a reach-back provision. In other words, if there is somebody presently who is on parole and he has been convicted of a sex offense, one of those that is enumerated in your bill, he would now have to register and he would be subject to all the dissemination of information that's provided for in your bill.

SENATOR SKELOS: Yes, we do.

SENATOR LEICHTER: So, in that sense, assuming that the decision by the -- both -- and I think that applies both to the federal decision and the state decision, are upheld that that part of your bill would be unconstitutional, although as you point out, you have a separability provision in there.

SENATOR SKELOS: The federal court -- just as a reminder, Senator Leichter, in New Jersey, the person was not on parole, was no longer incarcerated nor on probation. That's what the federal court in New Jersey said was improper.

SENATOR LEICHTER: And correct me if I'm wrong, I think the constitutional

impairment that the courts saw is that it was, in effect, an ex-post punishment, because somebody had been convicted under a law which provided you would be sent to jail for a certain number of years, you might be subject to -- then to parole and whatever the supervision is there, but not provisions that are now part of the Megan Law, and that was the constitutional -

SENATOR SKELOS: That is not in our legislation.

SENATOR LEICHTER: Well, that's what I'm trying to understand, because if somebody who was convicted, let's say ten years ago, of a sexual offense, that person is now out on parole, he would be subject to the registration provisions of your bill and the other provisions relating to the dissemination of that information.

SENATOR SKELOS: Again, if a person is no longer under any type of supervision by the state of New York, whether it's being incarcerated, on probation or parole, our legislation does not affect that -

SENATOR LEICHTER: I understand that.

SENATOR SKELOS: Go on.

SENATOR LEICHTER: Somebody who was convicted ten years ago -

SENATOR SKELOS: Right. Our legislation, if the person is in jail, on parole or probation, yes, they would be required to register and when appropriate, there would be community notification, but I believe that it will stand constitutional muster because of the fact that they are still under the supervision of the state, and in the event that the courts ever do declare it unconstitutional, we do have a separability clause in this legislation so that it all won't fall.

SENATOR LEICHTER: Right. Senator, one of the bases of this legislation and the "Megan Law" -- and I certainly heard my colleagues address it today, and that is the belief, the assumption and maybe the fact, that persons who have committed sexual offenses are much more likely to commit that offense again,

and I have no reason, you know, to challenge it or doubt it, but I don't know whether anybody has given us the actual statistics, if they exist, to as what the recidivism rate is for sexual offenders as against the criminal pop... the other criminal population, if you will.

SENATOR SKELOS: Yes. Senator Leichter, there are studies and statistics that show upwards of 40 percent of pedophiles will repeat their offense, upwards of 40 percent will repeat their offense, and unlike most other criminals, as they grow older, for example, your burglar, the desire to commit that crime lessens. With pedophiles, as they get older, the desire to commit that horrendous act does not diminish, and you never know when they're going to want to commit that horrendous act once again.

SENATOR LEICHTER: I accept the figures on the -- on the pedophiles, although I would be interested in the study that came to that conclusion of 40 percent, but is that true for some of the other sexual offenses that are

included in your bill?

SENATOR SKELOS: We had one study concluded that child molesters' recidivism rate was 31 percent within ten years after release and nearly 50 percent over the 24-year period of the study.

SENATOR LEICHTER: And who made that study?

SENATOR SKELOS: I'm not sure but we can get that to your office.

SENATOR LEICHTER: Because I think it's -

SENATOR SKELOS: You know what, Senator Leichter, it's the Washington Institute of Public Policies.

SENATOR LEICHTER: I don't know who they are, but it may be a perfectly good study, I just have no way of knowing.

I thank Senator Skelos.

Mr. President, just very briefly on the -

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: -- on the bill.

What comes to mind is that expression that we learned in law school that tough -- tough cases end up making bad law, and I don't mean to apply that broadly to this bill because I think there's much in there that I think is valuable. I certainly think a central registry makes sense. Apart from the fact that we're required to do it under federal law, it certainly should be done. I think providing information to the police departments certainly makes sense.

What concerns and bothers me is the public dissemination, and I realize that in some respects it is the very heart of the "Megan Law" which is really that the public needs to know because the public has to take action to protect itself, and I'm bothered about that aspect of it, and I think we've seen situations in Jersey which -- where there's been vigilantism, mistakes, other situations that really raise at least a question in my mind

whether that public dissemination on balance serves its purpose, and it doesn't do more harm.

I yield.

SENATOR SKELOS: Let me just comment on that, Senator Leichter.

Obviously, we do not condone any type of vigilante activity. Mrs. Kanka, again approximately a month or two months ago when we last met -- and my numbers aren't going to be exactly correct, but from what I can recall, she mentioned at that time that there had been approximately 40 notifications in New Jersey of which in two instances there were problems, and those individuals that committed the vigilante activity are being prosecuted under the laws of that state, and it would be my hope that, number one, there be no vigilantism. Number two, if there is, that they be agressively prosecuted, but even more important is that we have an opportunity through this legislation to protect our children and to protect the families of the state of New York to not have to go through the

tragedy of Mrs. Kanka.

Let me just -- if I could. In Binghamton, New York -- why this legislation is important, Senator Leichter -- there was a Sherry Lindsay, who was the daughter of a David Lindsay, a retired Binghamton police officer. She was lured into the house of a convicted sex offender while delivering newspapers trying to make a little extra money. She was held in the basement for three days before he finally killed her. Talking to her father, he said to me, had the police or her father known that this convicted, released sex offender had lived within that community, they probably would have saved her life, because this is one of the first houses they would have gone to, would have been those who had been convicted of some sort of sex offense, and that's part of the reason for the registry is to help people -- the police investigate crimes and save children's life.

Arthur Shallcross was convicted of a sexual offense in Watertown, released, went to Rochester where he brutally murdered a number

of women. Had the Rochester authorities known of his presence there, perhaps many lives would have been saved.

This is the purpose of the legislation, to save lives. That's the primary purpose.

SENATOR LEICHTER: I -- Senator Skelos, let me say, I have no reason to doubt. In fact, I know as a fact and I so stated that this legislation is put forward with the very best of motivations, and there's no question about that. Also, for you to get up and say that you don't condone vigilantism, that's a given, and obviously your record in this state and in this Legislature will make -- will assure everybody that this legislation doesn't have that intent, and so there's no question about that, but the point and the issue is whether, nevertheless, that potential exists.

The second point you made really deals with or addresses what I see are merit in this bill, which is the central registry and advising the police departments. Now, all of

the examples you gave dealt with having the police informed. I favor that. I favor the central registry. My problem is the public dissemination, and I can see to some extent and I realize that that is one of the aspects of the "Megan Law". Let the public know so that they can inform their children that they can take action to protect themselves, which I think has a certain validity.

I think that's got to be balanced against the risk, even though you certainly don't encourage it and, in fact, discourage it, of vigilantism, of creating anxiety, creating fear, some of the things that have happened in New Jersey that have been unfortunate.

So if I could put it in the form of a question, give you a chance to answer, Senator, how important is the public dissemination? How important is that '900' number? How important is it allowing people to know that somebody living in their community is a sexual -- or somebody that has been convicted of a sexual offense? And why not just limit

that information to the central registry and to the police?

SENATOR SKELOS: The example is sitting right over there -- Mrs. Kanka. The police may have known that that murderer was living in the community, but I would have preferred to have her daughter living today rather than the police having to investigate a murder once it occurred knowing that a person lived at that address. So Mrs. Kanka is an example of why parents should be notified. I want parents to know so they can protect their children and, yes, I do want the police to know where the person lives to help them investigate.

SENATOR LEICHTER: As I said, Senator, I understand that that is the basis of the "Megan Law".

SENATOR SKELOS: That's the basis.

SENATOR LEICHTER: It, in effect, arms the public with information so they can protect themselves, and my concern about this and my uncertainty, frankly, about this bill is

whether that -- how valuable that information is. I'm sure that you can point to some cases where it would have made all the difference.

SENATOR SKELOS: Senator Leichter, I'm giving you one perfect example. Mrs. Kanka's daughter is dead, brutally murdered. If she had known that this individual lived across the street from her, she would have protected her child and Megan Kanka would be alive today. There's your example.

SENATOR LEICHTER: I understand that, Senator, and I accept -- I accept what you -- I accept what you say, and even as much as, you know, we have the greatest sympathy and sorrow that we share with Mrs. Kanka, we obviously still have to explore this bill to see -- I'm sure you don't want to pass it just on emotionalism, Senator, and I know that's not your purpose. I would like to deal with whether this law is really in the long run going to be of benefit to the people of the state of New York.

SENATOR SKELOS: Senator

Leichter.

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

SENATOR SKELOS: I apologize. I should be -

ACTING PRESIDENT KUHL: Senator Leichter, do you yield to a question from Senator Skelos? The Senator yields.

SENATOR SKELOS: This legislation has been worked on for close to two years. We have worked closely with Mrs. Kanka. We've worked closely with the Division of Criminal Justice Systems in New York State. We've worked closely with counsels. We've contacted other states. It's not something that I drafted just yesterday and I'm putting out on the floor today. There has been close to two years of work on this legislation and, in fact, I don't know if you remember last year the Senate unanimously passed a registry act which, unfortunately, your good friends in the Assembly did not give the opportunity to bring up to a

vote on the floor. Hopefully, this year with the great sponsorship of Assemblyman Feldman, this legislation will be voted on.

SENATOR LEICHTER: If I may just finally, Senator -- and if you want to take this in the form of a question, that's fine. I just -

ACTING PRESIDENT KUHL: Senator Skelos, do you yield to Senator Leichter?

SENATOR SKELOS: If Senator Leichter would just like to conclude, I won't take it in the form of the question.

SENATOR LEICHTER: Yes. I will conclude just by reading -

ACTING PRESIDENT KUHL: Senator Leichter on the bill.

SENATOR LEICHTER: I would just conclude by reading from the memorandum in opposition from the Women's State Bar Association, certainly an organization whose record for concern of victims, for trying to achieve the very same aim and goal that you have, Senator, that I have, and I think that

everybody here shares, but I think it is something that's important to consider and, Senator, you say, "I have worked on this bill for two years" as if, you know, bills are like wine, they get better with age or the older they are, the better they must be. You and I know we've had bills before that have been around for ten years that are terribly flawed, so I don't deny the fact that you've worked hard on this. I don't deny the fact that a lot of people who are very concerned with this or have even had some terrible personal experience with this have worked on it, but that in itself doesn't preclude us from looking at the specific provisions to see if they make sense.

I just want to put on the record and leave with you this objection from the Women's State Bar Association, because I think they have analyzed the bill carefully and, as I do, they agree with the central registry. They agree with informing the police. The issue is the public dissemination, and they say, and I quote, "However, we object to any public access

to this registry. We specifically disagree with the community notification mechanism set forth in this bill and we have grave concerns about the due process implication of certain other aspects of the bill, including the breadth of its coverage, the unworkably vague definitions upon which it relies, the application of its terms to those convicted prior to enactment and the reliability of its core premise that the risk of future dangerousness may be accurately assessed."

Thank you.

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Mr. President, is it possible for me to just ask a quick question of the sponsor of this legislation?

ACTING PRESIDENT KUHL: We have been very lenient from the Chair, Senator, but we have -- we have a huge list of people who

have been sitting in their chairs waiting to speak.

SENATOR MONTGOMERY: I understand, Mr. President. I just -

ACTING PRESIDENT KUHL: So it probably would be considered to be a little out of order, if you don't mind. I mean, I have Senator Abate ahead of you, Senator Dollinger, Senator Leibell, Senator Libous, Senator Waldon, Senator Hoblock, Senator Saland and Senator Jones who have all been sitting here very patiently waiting to speak.

SENATOR MONTGOMERY: I understand. My question would just require a yes or no answer, if the Senator -

ACTING PRESIDENT KUHL: Senator Skelos, do you yield to one question which requires a yes or no answer from Senator Montgomery?

SENATOR SKELOS: As long as none of the individuals on the list object, I'll be happy to answer yes or no.

SENATOR MONTGOMERY: Thank you.

Yes. Senator Skelos, will this legislation protect children such as the ones who are visiting us today from PS 56 and District 13 in my district?

SENATOR SKELOS: Yes, it will.

SENATOR MONTGOMERY: Thank you. Thank you, Mr. President.

ACTING PRESIDENT KUHL: Thank you, Senator Montgomery.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, will the sponsor yield to a couple questions?

ACTING PRESIDENT KUHL: Senator Skelos, do you yield to Senator Dollinger for a question?

SENATOR SKELOS: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Senator, let me preface my questions by saying I think there are many good things in this bill and I intend to vote for it. I just want to make sure I

understand how a couple parts of it work.

The determination of the level of offender, my understanding is will be made by court at the time of sentencing.

SENATOR SKELOS: Yes.

SENATOR DOLLINGER: And that would be -

SENATOR SKELOS: It will be -- if a person is put on probation, it will be deter mined by the court at the time of sentencing. If the person is sentenced to jail or eventually is paroled prior to that release, the Board of Examiners of sex offenders which is established under this legislation will review the case and make a recommendation to the sentencing court as to at what level this person should be categor ized. Then the sentencing court will make a determination based on this recommendation whether it's one, two or three.

SENATOR DOLLINGER: Through you, Mr. President, just a couple questions on the process.

SENATOR SKELOS: Sure.

ACTING PRESIDENT KUHL: Senator Skelos continues to yield.

SENATOR DOLLINGER: The -- the board recommendation prior to the release from prison will include, as I understand it, evi dence and information acquired during the prison term about the prospects for rehabilitation or other change, and I know there's an extensive discussion about the factors, but that will be part of it, and the -- the determination by the judge will be made upon notice to the defendant, the accused, the prisoner, and he will have an opportunity to be heard. It will be a full - fully litigated opportunity to resolve factual issues or legal issues.

SENATOR SKELOS: Those due process provisions are provided for.

SENATOR DOLLINGER: Okay. Is - do you know whether the bill makes any provision for counsel for the released person?

SENATOR SKELOS: Yes, it does.

SENATOR DOLLINGER: It does. The public defender will pick up that cost?

SENATOR SKELOS: There will be assigned counsel as any other case if it's appropriate.

SENATOR DOLLINGER: Okay. Because you certainly would have a very unbal anced hearing if you had the board's determina tion all the way to the correctional department and then an inmate who is still in prison has no access to funds.

SENATOR SKELOS: There will be assigned counsel.

SENATOR DOLLINGER: Okay.

Two, the bill -- what does the bill provide as far as the penalty for failing to register?

SENATOR SKELOS: Failing to register?

SENATOR DOLLINGER: M-m h-m-m.

SENATOR SKELOS: Failure to register would be in the first instance a "D" mis... "A" misdemeanor. Second time would be a "D" felony.

SENATOR DOLLINGER: Okay.

There's also language in the bill -- again, through you, Mr. President, if Senator Skelos will continue to yield.

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

SENATOR SKELOS: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: There are provisions in there that will relate to change of address if, during the course of time in the year period between registrations, the -- the accused changes his address, he would have to then -- that activates a new notification period.

SENATOR SKELOS: Yes, it does.

SENATOR DOLLINGER: Okay. Two other observations, again through you, Mr. President, if the sponsor will continue to yield.

ACTING PRESIDENT KUHL: Senator Skelos, do you continue to yield? We have a lot

of visitors coming and going, Senator Skelos. I think that's more the noise than anything else.

SENATOR DOLLINGER: Does the bill provide for a uniform system of notification to the police? The reason why I ask is because we had an episode in my community in the 54th District involving the city of Rochester in which the Division of Parole gave the city of Rochester only -- Police Department only 36 hours notice of the fact that they were placing someone in the community and, frankly, gave the notice in writing by slipping it under the door of the Genesee substation for the police department at 6:00 o'clock on a Friday night. Frankly, I think both the mayor and the police chief in the city of Rochester were rightfully upset that this very important community notice was being sort of slipped under the door late at night. Is there a uniform system of notice?

SENATOR SKELOS: The notification process in each community will be determined by the local police department.

SENATOR DOLLINGER: Okay. So

that will be done in conjunction with the board -- the Division of Parole, the Board of Examiners that will deal with the -

SENATOR SKELOS: Yes.

SENATOR DOLLINGER: -- the greeting and the court system and the police department.

SENATOR SKELOS: Yes.

SENATOR DOLLINGER: Okay. So there is a flexibility in there for police departments to set up their own system how they get the notice and what they do.

SENATOR SKELOS: Yes, there is.

SENATOR DOLLINGER: One final question through you, Mr. President, if the - if the sponsor will continue to yield.

ACTING PRESIDENT KUHL: Senator Skelos, to one more question?

SENATOR SKELOS: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Senator, this bill does half of the empowering of the

community. It tells them and gives them access to information. Do you at this point have any -- any plan or any intention for giving the community the ability to do something with this information; and I only raise that issue because, in my community's experience with this, the community gets the information, rises up and demands that certain things be done by the police department, by the community and, frankly, the message is clearly "We don't want this person in our community. We want them to go somewhere else."

My question really deals with where is that "somewhere else"? How do we deal with the issue of where we finally place these people who have very significant socially unacceptable behavior, dangerous behavior, and how do we handle that problem, the bigger problem in the next page of this which is we tell the community; we let them know. And do we give them a remedy? Do we give them anything that says "We're going to take the next step and find an appropriate location"? How do we deal

with that?

SENATOR SKELOS: Generally, the Division of Parole will help make a determination where the individual should go.

Again, Senator Dollinger, the notification provision is intended to protect and inform parents to help them protect themselves. That's the intention of it. If it presents a hardship for the pedophile -- I'm more concerned about the child than the pedophile.

SENATOR DOLLINGER: Mr. President, on the bill.

I agree with that conclusion. I do, however -- in my own experience with this problem, I think that the question becomes where do we go? And I agree it's a hardship, but - and I agree it doesn't certainly overweigh the ability of the society to protect itself, but the question becomes every community that I've ever dealt with this issue says, "We don't care where they go. We don't want them here", and what I see happening is that you're going to

have the -- the offender who needs -- assuming that they're on some course of rehabilitation, needs access to employment opportunities, needs access to some kind of living environment where they can continue rehabilitation, assuming it's on the road to rehabilitation, and the problem with the local community saying, "We don't care. We don't care. We now know. We don't want him here", my guess is almost every community faced with that choice is going to say that, and it seems to me that we will face a problem downstream about how are we going to handle this problem? What are we going to do? Where, if at all, is an appropriate location for these offenders to live? I don't know the answer to that question.

That's the next issue we're going to have to deal with, whether we deal with the zoning power or we deal with it through some kind of community residence power or some other problem, because I believe that every community when notified as this bill does, they will all say, "We do not want that person here." The

danger of a pedophile is as present in every part of your district as it is in mine, and whether it's rural or urban, those dangers are readily apparent, but we're going to have to face that next issue of what we do as a state; what do we do as a community to try to find a place where that danger is minimized, and I hate to think that we will end up with a special camp or some other designation, and that may not work, but we have to look to the next page, which is we are empowering our people in this state to protect themselves, and they do it through knowing the information, being able to react to the information, but then we have to come up with a system of once they react, how do we solve the problem of where they're going to go?

Mr. President, I'm going to support this bill. I supported it last year. I think there are many good things in it. I think there are some issues that will be worked out over time, but I do think that we have to keep in mind that there's another big issue out

there, and that is what happens when everybody knows and nobody wants them there as rightfully so they shouldn't, we're going to have to deal with that other issue of how do we handle this problem of putting some -- finding some place where these offenders can go, especially if they already served their time. If they complied with the registration requirements, they're doing everything that the state wants them to do. They have broken the law in the past but they are complying now. We still have to find some place where they can be. I don't want that in our residential neighbors. I don't want that where they're a danger to our children.

ACTING PRESIDENT KUHL: The Chair would note just simply for the members' benefit that the debate started at 10:50. There are seven members who have indicated they desire to speak, the next member being Senator Leibell.

The Chair recognizes Senator Leibell.

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

I rise in support of this legislation. I think we've had a very good and full discussion, and there's a tremendous amount of bipartisan support in this chamber today for the bill that's before the house.

I would like to first congratu late my colleague, Senator Skelos, who I think has done such a superb job in his sponsorship of this legislation. I'm pleased to be a co sponsor. I did feel the need to rise to join my colleagues in commenting, however, and as I look across the room and I see Megan's mother there, I think you should be aware that last summer and fall in my district, I frequently talked about your loss, and I spoke about it, and I have to tell you in, what was then 12 years in office, I have never seen a community as touched by this loss and what you and your family have gone through.

They gave me a very strong message to go back to the Capitol and address this problem. I salute you in the efforts you have made, and even though your little Megan did

not have the opportunity to lead a long life, she has led a full life because she has brought us and other legislative bodies to a position where we are really forced to grapple with this terrible problem.

It was noted earlier, the Minority Leader noted earlier, the change that we have seen, the change in time, the change in expectations. I think Senator Connor and I are probably relatively close in age, and I grew up out in Queens County representing now a mid Hudson district, and I grew up in a day and a time also when you could go out of your door and your parents didn't have to worry about you. You could leave your house in the morning with confidence that your family members could return safe that evening.

That's no longer the case. For my colleagues who represent urban areas, I represent a district that's rural-suburban with folks who stay in the community during the day and other folks in the southern part of my district who commute to New York City. Whether

you're in the largest city or the smallest hamlet of this state or this nation today, every parent has great fear concerning the welfare and safety of their child.

Our greatest responsibility as members of the Legislature or anyone who holds any public office is the safety of our constituents. That is something that has obviously not been taken care of over the last few decades. We have not come across and come -- developed the legislation necessary to address these tragic changes we have seen occur in our society.

I believe we have before us legislation that will not be a complete solution but that will go a long way towards addressing this problem.

Little Megan with her short life has led my colleagues and I here today to deliberate this bill.

I congratulate again Senator Skelos for his efforts. I'm very pleased to co-sponsor and to vote in favor of this

legislation. It comes to us because of a great tragedy, but I believe it will go a long way towards preventing similar losses.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I only wish that Senator Leichter was still here, because I just wanted to comment a little bit further on something that Senator Skelos said when he referenced to Sherry Lindsay who was a young lady from Binghamton who was raped and murdered, and her father is a police officer, and at that time had the police even known in this particular case, he would have been able to do something about that not knowing that a pedophile was living next door right in the neighborhood when she was delivering papers on a daily basis, but as I was just discussing with Mrs. Kanka a few minutes ago, if you talk to the authorities, the experts, they'll tell you that they need help. They need the eyes and

ears of all of us to assist them in preventing these tragedies. So it's not always just the police and the authorities who we can hope can do the job, but it's the assistance of citizens, like everyone in this room and the people that we represent, who have to band together.

You know, in today's society, we're always depending on someone else, and in this case, it just makes an awful lot of sense to have this registry go public so that we can all protect our children.

You know, I doubt that there's a parent anywhere who hasn't been touched by the story of Megan Kanka and every day since we first learned of the details of her tragedy, I'm sure many of us have looked at these unfamiliar faces that are in our neighborhoods with increasing suspicion. I know that I have, and you know it shouldn't be that way. If a paroled sex offender moved next door, you and I have a right to know. That's why as we marked today earlier as Missing Children's Day and as I joined Senator Skelos who has done an

outstanding job in pulling this legislation together -- you know, two years ago they said that he wouldn't be able to get it through both houses of the Legislature, but through his effort and dedication to this very important cause, he's been very successful, not only in putting this bill on the floor for passage today, but I believe he succeeded in working with the Assembly so that it will be passed there. So I applaud my colleague, Senator Skelos, for moving forward with this.

By enacting this bill today into law, we'll ensure that convicted sex offenders are never very far away from the eyes of law enforcement authorities and from the public. It will also enable citizens to find out if a child molester moves into their communities so that they can take the necessary steps in keeping their families safe.

Ladies and gentlemen, a simple vote of yes today from the Senate and a vote from the Assembly and a quick stroke of the pen from Governor Pataki will protect thousands of

other little Megan Kankas who are -- knowingly run and jump and play within an earshot of would-be sexual predators. We'll also provide a lasting legacy to a child whose only flaw was her wide-eyed innocence.

Mr. President, I will vote aye today in the memory of Megan Kanka.

ACTING PRESIDENT KUHL: Senator Waldon.

SENATOR WALDON: Thank you very much, Mr. President, my colleagues. I will be brief.

First let me also applaud Senator Skelos and his very capable staff on bringing this to us for consideration, but the persons that I would most like to pay respect to and appreciation and applaud -- and applause would be the Kanka family. Mrs. Maureen Kanka and her husband Richard, each time that they go to a Legislature or to another city or before any group to speak on this very dramatic and profound issue, the loss of their child Megan must be resurrected within their mind's eye and

their soul, the experience of that great loss; and so I applaud them, because it takes a lot of courage to do what they have done, but in their courageous action, they're making not only the streets of the various cities where they travel but the states across this nation, safer places and safer havens for little children, and I think that will be the legacy that you leave for all of America, that Megan will be remembered because she, through the gifts that you are giving and bringing to our attention, this matter of great concern will result not only in legislation but in action that will make the streets safer for children.

I would like to note that as a father, when my children did not arrive at home as expected, I worried, because at that time when they were small I was a police officer, and I had seen firsthand the results of the madness that pedophilia can become, and I was so happy each time that they arrived safely eventually, even though they may have required some admonishment by me because they should have let

their mother or I know where they were; and now they've grown-up, thank God safely, and we have a grandchild, and so the worrying cycle begins again.

And so this pain that the Kanka family and all other families in like circumstances have experienced is universal, and today I would respectfully request that if there's ever a bill like this again in the Legislature, that because of the severity of the pain experienced by all, even those of us who are Democrats, when such a loss occurs, that we be also included as sponsors on this bill. It's a universal issue. It is universal pain, and it's one in which we should all cooperate, not just because it's politically correct to do but because it is morally correct to do.

Thank you very much, Mr. President.

ACTING PRESIDENT KUHL: Senator Hoblock.

SENATOR HOBLOCK: Thank you, Mr. President.

I also rise in front of my colleagues in support of this legislation and offer congratulations to Senator Skelos and his staff for putting it together.

You know, as we have a number of pieces of legislation that have come before this house as well as the Assembly that deal with crime and punishment for the conviction of that crime, rehabilitation and a number of other criminal justice issues, we all think that perhaps we have found the answer, that this one piece of paper, if enacted into law, is going to solve many of the problems that exist in our communities and make this a very law-abiding state in which to live, and it's unfortunate that we have to keep doing that, but that's the real world and that's what goes on out there, and it becomes very difficult in attempting to deal with these problems.

This legislation may not be the final answer. It may not be the protection of every young child that we would like to protect as well as everyone else, but it is a major,

major first step in going forward.

In my area, we've had a number of instances that I'm sure people can relate to and compare to what's happened in their own districts. About a year ago, some local people joined together because they got word -- and it was basically by rumor -- that a convicted sex offender was about to be released and was going to be placed in their neighborhood. They formed and tried to get as much information as they could for their protection and the protection of their families. They had a rather difficult time doing that, but they eventually did and together, as a group, they were able to persuade the authorities that this particular individual should not be located in this neighborhood, highly dense residential neighborhood with a number of young children.

It shows that knowledge does have power and, if nothing else, our constituents deserve the right to know. They deserve to know what exists in their neighborhood.

Just in the past two or three

weeks in this immediate area we've had some news reports about possible abduction of young children in one of our local supermarkets. There were stories of mothers that had their young children in their shopping baskets and would be no more than two or three feet away, turn their head to take something off the shelf and somebody is trying to nab that kid out of that basket. It happened two or three times in one of our local supermarkets. The local police departments are working feverishly to try to find the culprit.

Wouldn't it be nice if we're able to give them a start? Wouldn't it be great if they could bring that uncertainty and that fear to rest for those parents who, just two or three feet away, were experiencing the loss of a child? Absolutely incredible.

The society in which we live - and we spend so much time and energy and money on protecting those that choose to violate the laws of that society. We have to spend at least that much, if not more, on protecting the

victims or potential victims of that action.

Earlier today, I had the opportunity of going to a graduation ceremony. It was a ceremony of a nursery school, children three to five years old, and as I saw 45 young kids up on the stage all dressed in their various attire and putting on a little show with the beautiful smiling faces, I was thinking about this legislation. I was thinking about other pieces of legislation that we entertain in this house, and I'm sure that the thoughts that were going through my mind were going through the minds of every parent, grandparent and relative in that room, and how can I protect that child to make their life such that they can grow up and come back into this room some day and appreciate what it is I'm going through unscarred? How can we protect them against what is the violence and the crime that is going on in our communities? How can I protect them from the predators that we're trying to do here? How can I best make it safe for them? Knowledge is power and, when they have the knowledge, they

can form their plan.

So, Senator Skelos, I appreciate your work and the work of your staff in putting this legislation together. This deserves our support. It's the least we can do for those young kids.

Thank you.

ACTING PRESIDENT KUHL: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, I rise in support of this proposal and like so many of my col leagues who have sung the praise of Senator Skelos, I too join in singing that praise. He has labored long and hard in bringing this effort to fruition, and I think what he has given us is a carefully crafted bill intended to deal with some very difficult issues.

We have among our primary responsibilities as members of this Legislature the obligation to provide safety, safety particularly for those who are most vulnerable.

And who within our ranks are more vulnerable than our children?

Obviously, just looking at what has occurred over the course of the past couple of decades in terms of violence, in terms of acts -- criminal acts, in terms of acts of abuse within households, it seems to me that something is amiss. Something is clawing at the very fiber of our society and our traditions, and these manifestations of violence seem to show us at our worst, and yet in responding to those manifestations, we somehow or other, I think, have the opportunity to see ourselves at our best.

Mrs. Kanka is here with us. I don't know Mrs. Kanka. There can be very few people in this room, certainly, but in our nation who have not heard of the awful travail that she and her family has had to experience. Her journey has certainly been a painful one; one that, however, is not merely necessary but vital. Her being here today is not unlike the acts of others who have selflessly endeavored in

the form of a quest to try and make sure others don't have to share their painful experiences.

There are people such as the Clearys who very similarly endured the most heinous of tragedies in the loss of their daughter on a college campus, who became advocates on behalf of college campus safety, traveled this country, lobbied in Washington and were instrumental in changing the way we deal with campus security.

Your efforts certainly are not in vain. Your efforts have met with virtual unanimity here on both sides of this aisle. Your quest, while at times a painful one, certainly is one which, in terms of the ultimate you see in terms of result, will, in fact, occur.

As the chairman of the Children and Families Committee, as a member of the Codes Committee, as a member of the Crime Victims, Crime and Corrections Committee, I too have long been concerned with so many victims, people who have been victimized in so many ways.

This measure is a measure which is a cutting edge measure. It's the best that we have to offer today. Senator Skelos has seen to it that it is such. There will be other issues, other issues involving victims. This will not cure all the problems of young people who are at risk, communities that are at risk, but it certainly is a monumental effort and a giant step in making our homes, making our children, making our communities that much more safe than they previously have been.

It's unfortunate that it took something of the enormity of what occurred to young Megan in New Jersey to make this issue as important as it is but, nonetheless, we can't fail in our responsibilities and we will, in fact, today abide by those responsibilities by passage of this bill.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Jones.

SENATOR JONES: Yes. It was not my intent to speak today because I think my

views on this kind of thing are pretty well-known back home, but I did hear several of my colleagues mention the little girl who happens to live in my district, and there were several thoughts that I had while listening to it.

First of all, I hoped that the name Kelly Coulton will never be linked with this legislation, because that will say that she will not be found some day and not be found to be a victim as poor Megan was. So it is my hope that this legislation will not pertain to her, but that doesn't change the fact of how important it is and how it does pertain to so many other children.

I listened to Senator Connor today talk about his childhood and I guess we can't all help but think back to how the world has changed and how sad -- I guarantee all of us have sat here thinking about those changes and how different it is for us today.

In my own life, I lived in a home a block and a half from a lovely lake in

Rochester and a beach that my four children walked to almost daily once they learned to swim, not always with their mother because there were always neighborhood people there. My granddaughters now live in that same home with their mom and dad. They put a pool in the backyard because they did not feel that block and a half or being on the beach with neighbors was a safe place for their children to be. How sad that the world has come to that, but nevertheless, it has; and I think one other point that jumped out at me today was Senator Volker was the only one who did make the point, while all the children tug at our hearts and there certainly is no crime more heinous than that committed against a child, this bill does protect as well the many women out there who maybe did not appear on the front page of a paper nor would they have wanted their name or face there but, nevertheless, have been a victim of these sexual predators, and this bill will protect them as well, because many of their lives have been destroyed emotionally and

sometimes even physically by the attacks of these people.

I'm very happy that this bill is out here today. I think what our society is looking for is some sort of order in all of this chaos, because every one of these cases today is evoking panic out there. This morning in our local paper we have another situation where a gentleman served his full time and is being released into a community which has caused a tremendous uproar. This is about the third one that's occurred in Rochester in just a month and I think the problem is people need order. They need to know that's there's something that's going to happen, that they will be informed and that all the right things will be done, and I think a bill such as this is going to give them that kind of assurance that the government is - government, law enforcement and everyone is together in this issue and there are concrete steps that will be taken to protect their safety.

So I thank you for this, Senator

Skelos, and I would just add, along with my colleague, I'm a little disappointed that the system still doesn't allow us to join you and take the same pride in this thing as all of you are able to do.

ACTING PRESIDENT KUHL: Senator Abate.

SENATOR ABATE: So many of you have been so eloquent on the bill and I don't want to be repetitive. We've clearly expressed our disdain for sex offender behavior and the compassion we have for all victims, Megan's family as well as tens of thousands of women and children who have been victimized in our communities.

I would like to spend a moment to talk about the courage of Megan's family and the courage of so many victims. The crime victims' movement is a grass roots movement. It's not made up of paid professionals or paid lobbyists or expensive corporations; it's made up of individuals, many of them victimized themselves, who have taken their personal tragedy and pain

and dedicated their lives to helping other people, and this bill would probably not be here today if it weren't for the courageous efforts of Megan's family and other victims throughout our country.

I know -- and I have been a long time supporter of the sex offender registry. When I was the Commissioner of Probation in New York City in 1990, I was one of the first commissioners to talk about specialized case loads for sex offenders, and then -- and it's not so long ago -- people said, "Why do we have to treat them differently?" It's regrettable that we do have to have -- take these measures. We're a society that has to have strict law enforcement, that we have to track sex offenders because they are, in fact, different from other offenders. Many of them, although not all of them -- that's why these classification levels have to be carefully thought out and planned - but many of them cannot be cured; they can only be controlled.

So we understand more than we did

five years ago when people basically laughed at me and said, "Why do we need to do specialized case loads? Why do we need to have a sex offender registry?" We know more today and we're taking responsible steps to correct this problem.

Having said that, I have some concerns, Senator Skelos, that I hope will be worked out in the course of negotiations with the Assembly, and maybe many of these concerns have been addressed. If not, I believe the classification levels have to be carefully thought out and people that have committed crimes ten years ago, those classification levels can be re-evaluated over time, that there be due process given to the inmates that they can be heard -- not inmates, to the parolees that they can be heard before classification decisions are rendered and that those decisions are appealable and reviewable.

My other concern is the '900' hot line. I believe that whoever responds to these calls from community members have to be

trained. There have to be strict guidelines. I would like to have them under the jurisdiction of law enforcement because, as you said, Senator Skelos, it is very important that as we seek to protect members of the community, we don't encourage the non-law-abiding members to take advantage of these hot lines, take advantage of this information, abuse it, misuse this information and create acts of vigilantism. I would hope that maybe we could co-sponsor legislation that those individuals that do misuse this hot line or do misuse this information will be treated appropriately with independent penalties. Maybe you and I can talk about that kind of legislation.

So I think if we carefully think out these guidelines, make sure that the information is reviewed by law enforcement before it's disseminated to the community and we're very careful in this approach, this will give communities invaluable information.

But the last item, and I hope the Senate will review, we did pass a bill recently

that I objected to which would end parole for sex offenders, and if this sex offender registry is going to work, if parole officers who are invaluable in terms of ensuring that parolees, particularly sex offenders, are not engaging in illegal activity, are not relocating near playgrounds and schools, we need unannounced home visits by parole officers. They can ensure that parolees undergo continued treatment. I hope that this house revisits the notion that in our effort to make sure sex offenders do greater time, that we understand how indispensable and invaluable it is to have sex offenders supervised in the community through parole supervision. This is a public safety issue. This is what we're talking about today. I hope next year we'll revisit that issue.

Again, I'd like to end -- I'm a parent. I have never had to face this tragedy. I pray every day that I don't have to face this tragedy as a parent or as a woman and victimized by this heinous activity.

I applaud again the family that

is here today and on behalf of all the other victims, I applaud them for their courage and strength and their willingness to speak out.

ACTING PRESIDENT KUHL: Senator Skelos to close debate.

SENATOR SKELOS: Thank you, Mr. President.

I want to thank, once again, my staff, Assemblyman Feldman, his staff, for making this legislation possible today.

As was mentioned by so many of the speakers, this is only one step in trying to protect our communities and our children from pedophiles and those who would destroy not only that child's life but a family's life; but in passage of this legislation, I really want to thank Mrs. Kanka for being here and really taking what is a parent's, family member's nightmare and making it into a positive effort on behalf of our children and our communities.

So, Maureen, again, I thank you for traveling here from New Jersey. I thank you for your support. Our prayers, of course, will

always be with you and Richard, your family, your daughter, but as you reflect upon your life through the legislation we're passing today and so many other states are passing, you can look positively upon what occurred to you.

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

THE SECRETARY: Section 3. This act shall take effect 180 days after the date on which it shall have become law.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes -

ACTING PRESIDENT KUHL: Announce the results when tabulated.

The Chair recognizes Senator Leichter to explain his vote.

SENATOR LEICHTER: Mr. President, for reasons I stated earlier, I'm going to vote against the bill.

I want to see a centralized registration. I want to see dissemination to

the police. I don't think the case has been made for making this information public to the extent that this bill does. I think it raises some constitutional issues. I think it raises issues of whether it's really effective.

I appreciate we're trying to respond to a very tragic human situation, a situation where our heart certainly goes out, but I don't think that the case has been made that the public dissemination will really provide effective protection for children, and when you balance it against some of the problems that it causes, I agree with the Women's Bar Association of the state of New York in opposing this bill. I trust and I hope that we will see a bill back here this session that will not have some of the infirmities of this legislation.

I vote in the negative, Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter will be recorded in the negative. Announce the results.

THE SECRETARY: Ayes 52, nays 1,

Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR BRUNO: Mr. President, I would like to return to the report of standing committees. I believe there's a report from the Judiciary Committee.

ACTING PRESIDENT KUHL: Senator Bruno, there is a report from the Committee on Judiciary at the desk. We'll return to reports of standing committees and ask the Secretary to read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, offers the following nomination: Thomas D. Nolan, Jr., judge of the Saratoga County Family Court.

SENATOR LACK: Mr. President.

ACTING PRESIDENT KUHL: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I proudly rise to move the nomination of Thomas D. Nolan, Jr. to be a judge

of the Family Court of Saratoga County.

Judge -- Mr. Nolan, a graduate of Hamilton College, a cum laude graduate of Albany Law School, has been examined by the staff and counsel to the committee. He has been checked through the New York State Police with a BCI check. He has been found more than satisfactory in all regards.

He appeared before the Judiciary Committee this morning and was unanimously approved by members of that committee, to come before us this afternoon to move his nomination as a judge of the Family Court in Saratoga County.

He brings a wonderful under standing of the law to the role that he's about to play. He has been patiently, with his wife Marybeth, his sons Thomas, Joseph and John, sitting and following our debate this morning and this afternoon in the chamber, and it's my pleasure to yield to the Majority Leader, Senator Bruno, on the nomination of Thomas Nolan.

Senator?

SENATOR BRUNO: Thank you very much, Senator Lack.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, it gives me great pleasure to rise in support of this nomination.

I've known Tom Nolan for a lot of years and his family who are here with us, proud that they are constituents and have been for a lot of years.

Senator Lack talked about Tom's qualifications. He has been as active as any good citizen could be in his community in more ways than just as relates to his profession. He has a real concern for families, for young people and for the constituency generally.

I think the people of his judicial district and the county will be extremely well-served in having Judge Tom Nolan representing their interests and acting on behalf of the public.

So I am proud to be voting in favor of moving this nomination.

ACTING PRESIDENT KUHL: Senator Farley on the nomination.

SENATOR FARLEY: Thank you, Mr. President.

I am pleased and honored to rise in support of Senator Bruno's constituent, somebody that eminently deserves to be on the Family Court.

You know, I don't think there's a harder job in the judiciary than Family Court judge. It's one that is trying. It is one that is -- requires a person to have great patience and understanding of the family, and I'll tell you, anyone that is one of nine children, which he is, anybody that has such a beautiful family that he does, with his three boys and his lovely wife, I think he's eminently qualified to serve on that court; and let me just say that sharing Saratoga County with Senator Bruno -- although he's not -- I have the rural part where there's no people. Joe has it where -- the high rent

district where he lives. Senator -- he comes from a very distinguished family that came from Saratoga County even though he's not related to the late Senator who -- the late Senator -- the former Senator Howard Nolan. I think he's from Still... well, the last time I checked, who also, I believe came from around Stillwater, Mechanicville, and so forth, but there's a lot of Nolans that came -- four of his -- three of your brothers are attorneys, is that correct?

Anyway, he comes from a very distinguished legal family and I think that the Governor, again, is to be congratulated on making an outstanding appointment because Tom Nolan will be an outstanding judge, and I'm going to vote affirmatively.

ACTING PRESIDENT KUHL: The question is on the nomination of Thomas D. Nolan, Jr. as judge of the Saratoga County Family Court. All those n favor of the nomination signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is unanimously confirmed.

Judge Nolan, his wife Susan -- or Marybeth who is with us here.

(Applause.)

As a lesson in humility, you can see that we brought the judges down from their lofty perch in the gallery to a softer cushion on the floor; but we're very happy to be joined by Judge Nolan's wife Marybeth and their sons Thomas, Joseph and John.

Welcome to the chamber. Enjoy your stay. It's a great day, I'm sure, in your life, and good work. Godspeed.

(Applause.)

The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, offers the following nomination: Randolph A. Meyer as judge of the Livingston County Court.

ACTING PRESIDENT KUHL: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I rise to move the nomination of Randolph A. Meyer as judge of the Livingston County Court.

Mr. Meyer is a graduate of Tulane University of Northwestern University School of Law and has had a distinguished practice in the western end of this state.

I should tell you that last week I went to conduct a hearing in Rochester and when I arrived in Rochester, the administrative judge of that judicial district, Judge Willis who's a Democrat, said, "Glad you're here. Hope you're going back home and you confirm Randy Meyer as a judge in Livingston County."

For lunch -- I went and had lunch with justices of the Appellate Division, Republican and Democrat, who both said, "Please, leave here, go back to Albany and confirm Randy Meyer as a judge of the Livingston County Court."

I can't think of a better

bipartisan recommendation than judges of both parties for Monroe County and that judicial district asking for that confirmation. I should also point out that Mr. Meyer has been found qualified by our distinguished governor's screening committee and by the previous administration's screening committee.

Therefore, I would very proudly recommend to all my colleagues the nomination of Randy Meyer as a judge of the Livingston County Court, and I'm most happy to yield to Senator Volker.

Senator.

ACTING PRESIDENT KUHL: Senator Volker on the nomination.

SENATOR VOLKER: Mr. President, I am very proud to rise in support of this nomination and point out that, although Judge Nolan was the first judge, as I understand it, to be confirmed after appointment by Governor George Pataki, Randy Meyer from Livingston County of my district, from Geneseo, was actually the first judge submitted to the

Judiciary Committee by -- by Governor George Pataki and we were very proud of that.

I would point out that Randy not only has had a distinguished career in legal practice, but also had been an acting Rochester City Court judge and has been a justice in the town of Groveland.

As well as having a long and distinguished career, I would also like to point out that one of the judges who recommended Randy to Senator Lack is a former colleague from the Assembly, Dick Wesley, who is now the presiding judge in the Appellate Division and a former partner of Randy Meyer's, so I think he had a little bit of a personal intention there, but I think probably Randy is one of the most respected lawyers in western New York, and I have no doubt that he'll make a tremendous Livingston County judge.

He has been waiting for a little while to be confirmed, as Senator Lack said, that he had previously been screened by the previous governor's screening committee and has

gone through the same process with this -- with the present governor.

So, Randy, and his wife Suzanne, my heartiest good wishes and congratulations, and I know that you'll do a fantastic job on the Livingston County Court.

ACTING PRESIDENT KUHL: Senator Nozzolio on the nomination.

SENATOR NOZZOLIO: Mr. President, I rise to join my colleagues in support of this nomination. I too believe that Mr. Meyer is eminently qualified and will be an excellent judge.

I hasten, though, to add those of my colleagues who served with former Assemblyman and now one of the key judges in the Appellate Division of the Fourth Department, Dick Wesley, not to hold Randy Meyer's association with Judge Wesley against him in this nomination, that I hasten to point that out because there may be some who -- who believe that that association - and I say this with tongue planted firmly in cheek -- is anything but a good one, frankly,

and I think it's a great one, that Dick Wesley has informed me for many years about his colleague from Livingston County who is a very aggressive advocate on behalf of his client - clients and clientele and the people of Livingston County, and I know that if half of the good things that Judge Wesley has said about Randy Meyer are true, Randy Meyer will be an outstanding judge in the years ahead.

Mr. President, I add my support for this very fine nomination.

ACTING PRESIDENT KUHL: Senator Dollinger on the nomination.

SENATOR DOLLINGER: Mr. President, I rise as a representative from Monroe County, also a representative of the Monroe County legal community in support of Randy Meyer's nomination. His reputation has made its way up Route 15 from Geneseo and into Rochester. It has been a good one and a strong one as a practitioner and his experience as a town justice and as an acting city court judge in Rochester.

I'm pleased that Judge Willis conveyed to the chairman of the Judiciary Committee his sentiments that Randy Meyer should be put on the County Court bench. It's a sentiment that I agree with. I will also add for the benefit of all my other colleagues, as you know, as I said at the Judiciary Committee, I'm one of those who has been critical sometimes of this Governor's nominees for other positions, but if these two nominees for judicial positions are an indication of the trend that this Governor will have in appointing high quality people to the vacant judiciary positions in this state, then I will be consistently voting in the affirmative.

Randy Meyer will do a very good job, and I wish him the best.

ACTING PRESIDENT KUHL: The question is on the nomination of Randolph A. Meyer as judge of the Livingston County Court. All those in favor of the confirmation signify by saying aye.

(Response of "Aye".)

Those opposed, nay.

(There was no response.)

The nominee is unanimously confirmed.

Judge Meyer, nice to have you with us.

(Applause.)

Judge Meyer is also accompanied by his wife Susan who's here in the chamber with us. Susan, thank you for coming and joining us. Wonderful day.

Senator Larkin.

Senator Leichter, why do you rise?

SENATOR LEICHTER: Mr. President, I rise on a parliamentary inquiry. I didn't want to raise this before while Mrs. Kanka was here, but I think to my mind, it was inapprop riate and I found it personally offensive that she was asked to be here during the debate. I think it hindered us and limited us in the debate. I think it was one thing to have her here for a resolution, but then to have the

sponsor of the bill continue to point to her - and that's the very reason that we have, as I understand it, a rule that says that that cannot be done, and my parliamentary inquiry is, Mr. President, whether Rule X -- Rule X, Section 8 (g) applies, "No person shall be admitted to the floor of this Senate who is interested in pending or contemplated legislation or who is employed by or receives compensation from any public or private source for influencing legislation."

Obviously, the issue is moot, but I will certainly raise it in the future, if something which I think was done in such bad taste, and I'm sorry to say that to my friend, Dean Skelos, because I know how much he's personally committed to this legislation, certainly takes nothing away from his commitment or his integrity, but I think that really was something that should not happen, and I hope that we will not see that happen again and certainly if it does, I will raise the issue.

ACTING PRESIDENT KUHL: Senator

Leichter, the Chair would take your notation under advisement. The question certainly is moot at this point as the event has passed us.

Senator Larkin, why do you rise now?

SENATOR LARKIN: Mr. President, there will be an immediate meeting of the Rules Committee -

ACTING PRESIDENT KUHL: Where would you like that to occur?

SENATOR LARKIN: -- In Room 332.

ACTING PRESIDENT KUHL: Okay. There will be an immediate meeting of the Rules Committee -- immediate meeting of the Rules Committee in the Majority Conference Room, Room 332.

Senator Larkin.

SENATOR LARKIN: Mr. President, let's return to the calendar in regular order.

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

THE SECRETARY: On page 32,

Calendar Number 822, by Senator Volker, Senate Print 3919, an act to amend the Penal Law and the Criminal Procedure Law, in relation to term of imprisonment for certain offenders.

SENATOR PATERSON: Explanation.

SENATOR VOLKER: Mr. President, could we just temporarily lay this bill aside? I am just about to go to the Rules Committee.

ACTING PRESIDENT KUHL: We're going to lay Calendar Number 822 aside temporarily.

SENATOR VOLKER: Thank you.

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

Senator Larkin.

SENATOR LARKIN: Mr. President, the announcement concerning the Rules Committee, we would like to delay that for about another 15 or 20 minutes. We have a conflict with the utilization of rooms.

ACTING PRESIDENT KUHL: All right. The Rules Committee meeting which was

just called will be called at 1:20, 15 minutes from now, Rules Committee, Majority Conference Room, Room 332 at 1:20.

SENATOR PRESENT: Mr. President, can we call up Calendar Number 927?

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 927.

Senator Jones, why do you rise?

SENATOR JONES: Yes. I wonder if the sponsor would just yield to a technical question on this bill for me.

ACTING PRESIDENT KUHL: Senator Jones, let's get the bill before the house first.

SENATOR JONES: Okay, fine.

ACTING PRESIDENT KUHL: Okay? The Secretary will read the title of Calendar Number 927.

THE SECRETARY: 927, by Senator Stafford, Senate Print 3308, an act to amend the Tax Law, in relation to exempting volunteer fire departments and companies and ambulance companies.

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

Senator Stafford, an explanation has been asked for by Senator Paterson.

SENATOR STAFFORD: Sure. I would be glad to answer the question.

SENATOR JONES: I just have a technical question, if the Senator would yield.

ACTING PRESIDENT KUHL: Senator Paterson, do you have any objection to Senator Jones asking the sponsor a question?

SENATOR PATERSON: No. I would be delighted if Senator Jones would ask the question.

ACTING PRESIDENT KUHL: Senator Paterson yields to Senator Jones for a question of Senator Stafford.

Senator Stafford, do you yield to Senator Jones for a question?

SENATOR STAFFORD: I can already feel that we're on -- things are going well.

SENATOR JONES: Well, let's keep moving then.

ACTING PRESIDENT KUHL: The Senator yields, Senator Jones.

SENATOR JONES: This is a topic, Senator, near and dear to my heart, since I was the person that made out these papers attempting to get this money back, but what I'm asking - what I would like to know about your bill, how is it going to work? How does XYZ ambulance company under your bill not pay this tax? If they go to Joe's Mobil Station and it's already in the pump, how do they not pay the tax?

SENATOR STAFFORD: I asked the same question.

SENATOR JONES: Oh, good. Well, we'll get the answer then.

SENATOR STAFFORD: They'll be treated the same way that other entities now are that don't pay any tax. The dealer, whoever pumps the gas, keeps a log. I see people who know the industry are nodding. They keep a log and they explain -- they explain on a, I believe quarterly report that goes into the Tax Department why -- not why -- these entities

bought gas but didn't pay the tax.

SENATOR JONES: Would the Senator yield to another question?

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

SENATOR STAFFORD: Right.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR JONES: Okay. I know Senator LaValle has another bill that I have been interested in. To me there's someone still doing bookkeeping under your bill. Wouldn't it make more sense if the way, the approach that Senator LaValle was looking at, that all of these people could buy directly from whatever, the town -- from the government entity who doesn't pay the tax? I know that's happening in some areas now. They're doing it now as a courtesy, but in other cases they're refusing. Wouldn't it be possible, for instance, for the fire department or the ambulance to buy their gas directly from the town or the village or whatever and not pay the tax and neither has to

do the -

SENATOR STAFFORD: That's a possibility, but I would explain to you, there still would be bookkeeping because the town would have to make sure that they keep a log the same as the seller would, and it has to be accounted for.

These -- as you probably know, these forms that go in to the Tax Department are rather serious -- let me put it the right way. If you don't do it correctly, you can have some very serious ramifications, up to and including a felony. So these records are kept and I think it makes sense.

Let's think a minute now. If you bought it from the town, fine, but if you buy it from a dealer, you're at least giving him the opportunity to sell it and to get the profit, even though the state doesn't get any, and I know you want our dealers to get profits if they can.

SENATOR JONES: I -- on the bill.

ACTING PRESIDENT KUHL: Senator

Jones on the bill.

SENATOR JONES: I certainly don't object to anyone making money. I still think it seems to me though -- and I understand the issue very well because, truthfully, most of the volunteers because of the paperwork you're describing, gave up and didn't even bother applying.

I know we did because your volunteers, by the time you made out that paperwork wasn't -- it wasn't worth the effort and you just let the money go and pay the tax, so I agree with you on that.

I'm still wondering how the paperwork would work from the local gas station, but perhaps you've looked at that but perhaps I would suggest you maybe get together with Senator LaValle and maybe there's a combination of these that would benefit both that we would look at.

SENATOR STAFFORD: Thank you.

Mr. President.

ACTING PRESIDENT KUHL: Senator

Stafford.

SENATOR STAFFORD: I apologize to Senator Paterson. I owe you an explanation, but I thought if I answered the question, you would probably get a feel for what this is all about.

What it is -- he also did, so I didn't want him to think that -- but I wondered if he had any questions.

SENATOR PATERSON: No, Senator. The answer was quite sufficient. It was an education for me from both you and Senator Jones. You're both great educators.

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

THE SECRETARY: Section 2. This act shall take effect on December 1st.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR SEWARD: Mr. President.

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

SENATOR SEWARD: Mr. President, I would ask unanimous consent to be recorded in the negative on two bills, one being Calendar 843 and the second being Calendar 878, both of which passed earlier today. I would like to be recorded in the negative.

ACTING PRESIDENT KUHL: Without objection. Hearing no objection, Senator Seward will be recorded in the negative on Calendar Number 843 and 878.

Senator Present.

SENATOR PRESENT: Mr. President, can we stand at ease for a few moments?

ACTING PRESIDENT KUHL: The Senate will stand at ease for a few moments.

(Whereupon, the Senate stood at ease.)

ACTING PRESIDENT KUHL: The Senate will come to order. Members please find their places. The Senate will come to order.

Senator Present.

SENATOR PRESENT: Mr. President, can we take up Calendar Number 822?

ACTING PRESIDENT KUHL: The Secretary will read the title to Calendar Number 822.

THE SECRETARY: On page 32, Calendar Number 822, by Senator Volker, Senate Print 3919, an act to amend the Penal Law and the Criminal Procedure Law, in relation to term of imprisonment for certain offenders.

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

SENATOR VOLKER: Mr. President, this -- this bill is a -- what is known as a modified three-times-and-you're-out bill. Three times and you're out became a very popular slogan, I think, over the last few years in some states in the Union.

As I previously pointed out, New York had -- has always had a modified two times and you're out but not, of course, in the same vein and with some of the draconian sentences

that some states have used across the country.

There have been a number of bills that we've talked about on this floor. Last year, by the way, this bill passed this house by a vote of 48 to 10, and what the bill does is - very simply is -- very simply to a person who is convicted of a third VFO, a third offense, instead of a sentence presently which would be two to ten which, in other words, the minimum would be two to ten to life, this would raise that sentence, a person who, in effect, is convicted of a third violent felony offense to 25 years to life. In other words, a minimum of 25 years and, obviously, a maximum of life. That would make it for a third offense the highest offense except obviously for the death penalty in this state and for the highest offense other than for a murder case.

So what we have done here is this is a modified version of three times and you're out which, as I said passed the Senate last year and that we are again trying to move this year.

Senator Paterson.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Senator Volker, I know that I really consider you to be a friend, but I'm really very disappointed today. Since I don't have my bill memorandums, I really wished that you had talked for another five to ten minutes. After all the time you worked on this bill, I really thought it would have merited a longer presentation, but even without my memo, I'm trying to remember what it said.

The Older Prisoners Project, I think is a report that was released in 1994. In the project they said that 50- and 60- and 70 year-old prisoners are really taking the place of 15-, 20- and 25-year-old prisoners, and the spirit of what they were saying was just essentially that are we by extending the length of time of these incarcerations in a sense filling up the cells with individuals who have aged out and denying us the opportunity to put more of the younger, you know, more contentious,

meaner individuals who deserve to be behind bars, shortening their sentences and putting them back out on the streets where they can harm people? Is that a possibility?

SENATOR VOLKER: First of all, I guess I have some difficulty with the logic of that, and I know the report that you're talking about. The only problem with that report is that that's talking about the current situation in our prison system. This bill obviously would pertain to people who have -- who will in the future commit a third violent felony offense.

Now, it's true that obviously many of these people would all -- have been in our prison system for a considerable period of time, but assuming that they are out -- because most of the time they wouldn't commit a violent felony offense in prison -- these are people who have had an opportunity to be on the outside after committing two previous violent felony offenses and now have repeated again.

It seems to me that, I don't care what any project says about these people, these

are pretty mean people, pretty nasty people who I think belong behind bars, and not only that, they are people who should know that if they commit that third offense that they will be subject to the most severe penalty that we can give other than for the crime of murder, and that's why, by the way, we have drafted this bill the way it's been drafted.

I think, Senator, that in looking at that report that you talked about, the logic of it very honestly kind of escapes me. I understand what they're taking about and what they're really talking about is people we already have in and, by the way, we have done some -- the prison system has done some work on very elderly inmates and, as you know, we passed medical parole here a few years ago with the idea of people who were actually very old people in our system moving some people out.

We found the unusual situation that some people really didn't want to be moved out. Some people have become so used to prison life, they wanted to stay there, but we have

looked at that kind of an issue, but I think that the issue that we really should look at is the issue that these are people that are not just ordinary criminals. They're criminals who will have committed a serious violent felony offense for the third time, and I don't think that we should look at it from the standpoint that they may be taking up space in our prison system. I think it would be better to take up space in our prison system than out in society.

SENATOR PATERSON: Thank you, Senator Paterson.

SENATOR PATERSON: Thank you.

ACTING PRESIDENT KUHL: Senator Paterson, will you excuse us for a moment.

Senator Present.

SENATOR PRESENT: Mr. President, as I understand it, 332 is now open. There will be an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT KUHL: Immediate meeting of the Rules Committee in the Majority Conference Room, immediate meeting of the Rules

Committee in 332.

Thank you, Senator Paterson. Pardon the interruption.

SENATOR PATERSON: If Senator Volker will yield.

ACTING PRESIDENT KUHL: Senator Volker, will you yield? Senator yields.

SENATOR PATERSON: Senator, to amplify the thrust of what I was asking, before I draw your attention to the sentencing project, the sentencing project of 1994 and their con tention that age 30 is about the age limit at which you start to see a decrease in violent offenses among individuals, particularly males who, between the ages of 15 and 25 have a very high propensity to engage in violent activity, so this is what I was really getting at.

In other words, even if you are absolutely correct, and by the third -- by the third victimization, the third violent felony, we have now put them behind bars for 25 years, nevertheless they start to get to ages where they really statistically, if they have served

the time, in other words part of the punishment is retribution, and I understand that. Part of the punishment is, no matter what they do, if they get out, we want them to stay there as a punishment for what they've done to other members of society, but in terms of the actual recidivism, we're saying that there is a significant decrease after age 30, and what the sentencing project's report suggests is that there is basically a period in which we have individuals who, other than if you want to punish them, Senator Volker, and if you do, I can understand that, but what I'm asking you is, is there any real purpose that's served in the area of recidivism if we keep these individuals for 25 years while their replacements are out on the streets endangering society?

SENATOR VOLKER: Senator, I think I -- we took a glance at that report and, of course, the people involved in that report are traditional -- I don't want to use the word "liberal" because I don't want to get into that issue, but I think they're people that do not

believe in deterrence and who generally are looking at the prison system, and I would greatly question as to whether if you really looked at a snapshot of the criminals over the last ten years, if the -- if the violence ratio is as valid as they would -- they would claim.

There has been a decided rise in the number of violence, I think, that people in the age brackets -- in fact, one of the things that we looked at in the issue of the death penalty was the bogus complaint or claim that - that there was this huge surge of killings strictly by young people.

The facts don't necessarily back that up. That is, there has been a huge surge of killing by young people. There is also a huge surge of killing by higher age groups, and I think the problem with that argument that was made by this -- this prison group is that it does not, number one, take into consideration the level of potential violence involved here with the third violent felony offender, given the history of -- of these people, and secondly,

I happen to believe in the fact that there is a deterrence involved, and I point out that many years ago when I was a police officer and I always hesitate to do this, but we always said that if we could get better than 50 percent of the professional burglars in the state locked away in our prison system that the burglary rate in our state would decline. It has and we do. I have been told that that there is an estimate that we have something like 65 to 70 percent of the professional burglars in this state incarcerated for a fairly long period of time because of our second felony offender statutes, and so forth, and the result has been that the level of professional burglars in this state has dropped rather dramatically, and I think part of it is they're not there and they used to train people.

Secondly though, I think that there genuinely is a deterrence that is showing up in that area just as I think it's showing up and beginning to show up in car theft as when we changed the statute back to grand larceny where

we're beginning to see some decrease in car theft finally after we changed the law years ago and changed it to unauthorized use of a motor vehicle and the car thefts doubled, tripled, quintupled, went up like 20 times in the period of about five years.

My answer is very quickly, I don't think that project has a lot of validity. When you say it doesn't have room for younger people, the trick is to make sure that the people who are the professionals, if you want to call them professional felons, are locked up for as long as possible, get them off the streets and make sure that young people understand that they may be headed in the same direction and I think that, I think, is a very valid premise.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: If Senator Volker would continue to yield?

SENATOR VOLKER: Certainly.

ACTING PRESIDENT KUHL: Senator Volker, you continue to yield? The Senator

continues to yield.

SENATOR PATERSON: Senator, this is really a point of clarification, not a point of adversarialness. You're saying that the deterrence is to the individual or just where the statistics are related to that particular crime?

SENATOR VOLKER: No, I'm talking about the particular crime involved and the overall, you're talking about the overall deterrence, but I'm saying in the -- when you look at deterrence, you can't look at it on the basis of an individual case obviously. You've got to look at it on an overall -- the overall balance of things just as, you know, one of the arguments in the death penalty was that -- that deterrence is not based on any individual cases and as the lack of a death penalty in this country, now there is not only just a lack of a death penalty but a lack of executions, the murder rate soars and the contention, I think, is if you are looking at the aggregate and looking at overall and the reason that the

burglary -- I mentioned the burglary situation because there we have an overall view of an issue and, by the way, the so-called professional people who look at these things don't even want to look at burglary, they'd prefer not to because they know it's a bad - it's a bad area to look at, so one of the ways in which some of the people who oppose long sentences do, they only look at areas that they think might tend to back up their contentions just to even it out.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Accepting what Senator Volker says, it just brings me to this basic premise which is that we would want to have the most violent individuals in our society behind bars and, that being the case, we have to negotiate with a backlog of cases, an over emphasis on plea bargaining.

Unfortunately, even with the rapid expansion, often not enough cells to

contain the -- the skyrocketing rate of crime, and so what I think we're really trying to say here is that you have individuals who we think are 40, 50, 55 years old, who are aging out in terms of the statistical potential of their violence, and we have individuals who are committing felonies who are younger and are probably more apt to do it again, and there is even less deterrence when we plea bargain then rather than incarcerating them. That's just a point I'm making, but I'd like to go on to a different area if Senator Volker is willing to yield.

ACTING PRESIDENT KUHL: Senator Volker, do you yield to another question? Senator yields.

SENATOR PATERSON: Senator Volker, it seems -- and I don't want to put - attribute statements to you that you haven't made, but it seems that you don't think that there's a significant fiscal impact as a result of this bill, but it would certainly seem to me that, if you're having more prisoners serving

longer periods of time, that there would be almost an automatic fiscal impact. Would you elaborate on that for me?

SENATOR VOLKER: Well, first of all, I think you have to keep in mind that - that you can't -- you must look at this from the standpoint of the practical aspects of this. There certainly would be no initial impact because what would happen here is that somebody who committed a third offense, even under the present structure, the average judge even in New York City -- and I say "even in New York City" because we still, I think, find that New York City judges have had a tendency to sentence at a much lower rate -- but even in New York City, the likelihood that any judge is going to sentence a third violent felony offender -- and let's keep that in mind -- this is not just the ordinary criminals. If this is a third violent felony offender, by the way, they probably have been arrested 40 or 50 times and may have committed at least a dozen crimes because DAs in New York City generally "worst out" cases where

they don't have people that have been around for quite a while; but you got to keep in mind here, I think, the situation that we have, and I think that -- that with these types of people they're probably -- they probably would have been, under the old law, sentenced to a minimum of perhaps ten years anyway, but what we're saying here is that we are now setting a higher standard and that higher standard is 25 years.

The judge could have sentenced them to as high as -- to that technically I suppose before, because the minimum was only ten. We are saying that this will, over the long haul, have an impact on the system, but if all the things that we are doing -- and this is one of them -- impact as we feel that they will, we feel that we can see a decrease in the numbers of people in our prison system and that's what we're aiming for; but the initial impact of this will be zero.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: I want to

thank Senator Volker. He is gracious as he always is, for answering the questions quite thoroughly, and just to address the legislation itself, Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: I think that we have to be very careful. This is a well intended piece of legislation, and it may have some very good results from it, but often George Will talks about the doctrines of unintended consequences, and I think that this bill may be an example of it.

I have with me an article from the New York Times from March 26th, and it is entitled California Courtrooms Overrun by Trials and Backlogs, and it really is relating to the fact that, on the third offense, facing a 25-year sentence, many defendants are not pleading to the charge or to a lower count, they are simply eschewing the opportunity to take the plea and going directly to trial, and Senator Volker and many here do not need any lesson on

plea bargaining, but for those who are somewhat unaware, the plea bargain really is the defendant playing the percentage of having an opportunity to have a lesser sentence in exchange for not going to trial and risking a greater sentence.

When you remove that by enabling the district attorney to seek a 25-year sentence on a particular charge, it now being the third charge, the third strike, we then are faced with the situation as they are seeing it in California. We have a tremendous backlog of cases and, when you have a tremendous backlog of cases, you also have a higher rate of acquittals and so what we would certainly hope not to do in this particular piece of legislation, and I know that Senator Volker did not intend it to be that way, is to have a situation where we're causing more problems in our criminal justice system and in our incarceration facilities than we have at the present time.

It's just our opinion that we are weighing and balancing the values of stricter

punishment, particularly for predicate felons and repeat offenders, as opposed to the idea of the best way of curbing the violence in the areas where the crime rate is -- is the highest.

I will certainly look into what Senator Volker stated, which is that he disputes what the sentencing project of 1994 is contending, that there is an age-out of violent offenders, but I think that we all need to take a second look as to whether or not this legislation will cure the problem or exacerbate the courtroom procedures that would create a greater problem in the criminal justice system.

ACTING PRESIDENT KUHL: Senator Waldon.

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

If Senator Volker would be kind enough to yield.

ACTING PRESIDENT KUHL: Senator Volker, do you yield to Senator Waldon for a question? Senator yields.

SENATOR WALDON: Thank you, Mr. President. Thank you, Senator Volker.

Senator, is there any discretion in the judge hearing a particular case with the circumstances as presented in your proposal to circumvent the mandatory minimum sentence?

SENATOR VOLKER: Senator, I'd like to say to you that there is absolutely no discretion, but we know that that's not true. I mean it's like saying if there's no discretion under the Rockefeller judge laws, and we've done numerous studies of that, that, although we knew the answer before we even looked, that there are all sorts of ways in which you can potentially get around. The D.A. can reduce indictments; the judge can order the D.A. to relook at the sentencing structure. There's technically speaking -- I say "technically" and keep in mind one thing here, that these are not -- no one is contending, I would hope, that these are non-violent people.

Obviously these are people who have committed a very serious offense three

times and been convicted three times. I'd point out again that the history, if you look at the criminal histories of these people, you will find they certainly just didn't commit three crimes. I mean the histories of these kinds of people is that they have probably committed anywhere from 15 to 20 to 25 crimes because they're not caught or they have reduced sentences. In fact, under the Rockefeller drug laws, we find a number of people who have pled to long sentences under the Rockefeller drug laws because they would have been subject to violent offenses that would have put them away even longer.

So that a lot of these people that we sometimes classify as non-violent are only non-violent because the bullets that they fired missed, although that's an exaggeration maybe, but what I'm pointing out to you is these are pretty serious people, and the answer to you is, under the law, they must be, if they're a third violent felony offender and they're convicted, that they must be sentenced to 25 -

a minimum of 25 years and then obviously a maximum of life. They could be sentenced to the 25 and from there would be subject to parole after that.

So the answer is, technically speaking, the judge would have no option, but in these cases we do know there are various ways in which there could be an option depending on a situation.

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

ACTING PRESIDENT KUHL: Thank you. Secretary will read the last section. Senator Abate.

SENATOR ABATE: I'd like to explain my vote.

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.)

ACTING PRESIDENT KUHL: Senator Abate to explain her vote.

SENATOR ABATE: Yes, Senator Volker, we agree on a number of things. This is where, although I think we understand that there are violent offenders in the community that need to do long sentences, if you look at the current Penal Law, PPL, the scope of punishment available to judges is already extremely lengthy as it relates to persistent violent felony offenders.

Right now, a judge who reviews an individual case can already sentence that individual to 25 to life and the minimum they could sentence that persistent felony offender is six to life. That is the -- the worst scenario, and I believe that there certainly are offenders who deserve 25 to life but not all persistent felony offenders. There will be some cases where a judge will look at the age of the defendant, when those two prior felonies, convictions occurred, they may have occurred ten years, not ten years, but nine years prior.

They may have been addicted on drugs at the time when they committed the other felony offenses. There may be mitigating circumstances that the judge cannot take into consideration when we tell all judges all persistent felony offenders must be sentenced to 25 years to life.

Senator Volker, I would agree with you if the sentence structure did not allow currently for life imprisonment in certain cases. I think our jail and prison systems now, the beds available are precious resources. I do add here, and the studies I have read, that people do, in fact, age out of crime, that more and more people are committing violent crime. It used to be up to 24, now it's even being lowered. The bulk of the crimes are being committed by people less than 20 years of age.

So in terms of effective crime policy, effective sentencing policy, how we're going to use our resources effectively to stem the tide of violent crime, I think this is a misuse of these resources. I want to see not our incarcerating people when they're 50 and 60

when they're no longer in the danger of putting that money into law enforcement efforts, into police, into crime victims programs, parole, probation and treatment. That, in the long run, will make our streets safer.

I vote no.

ACTING PRESIDENT KUHL: Senator Abate will be recorded in the negative. Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar 822 are Senators Abate, Connor, Espada, Leichter, Montgomery, Paterson, Smith and Waldon. Ayes 46, nays 8.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, can we take up Calendar 976, please.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 976.

THE SECRETARY: On page 47, Calendar Number 976, by Senator Saland, Senate Print 1424, an act to amend the Education Law,

in relation to making certain incarcerated persons ineligible for certain general tuition awards.

SENATOR PATERSON: Explanation.

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

SENATOR SALAND: Mr. President, this bill is a bill which would exclude inmates currently serving time in our correctional facilities from eligibility for the Tuition Assistance Program.

The Tuition Assistance Program or the so-called TAP program, is a means-driven program which would apply to anybody who was otherwise qualified in terms of academics to obtain this particular taxpayer-funded benefit. I feel that the $5 million that's currently being spent for this program for inmates could be better spent providing additional grants for -- for people, young people throughout the state of New York, who are desperately seeking to better their opportunities and their futures

by way of obtaining a college education, and these TAP monies would assist them in that endeavor.

This measure apparently has been taken up by the Governor as well. I know he has advocated it, so I believe it may well form at least in part a portion of one of his budget bills. I would think that this is the type of measure that this house should adopt as we have in prior years, only to be stymied by former Governor Cuomo and the Assembly.

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

SENATOR WALDON: I would like to know if the learned Senator would yield to a question from me?

ACTING PRESIDENT KUHL: Senator Waldon. Senator Paterson did have the floor initially. Do you want to wait until he's finished?

SENATOR SALAND: Senator, I'm looking for the learned Senator. I'll see if I can find him.

ACTING PRESIDENT KUHL: Senator Paterson, you have the floor. Do you want to yield to Senator Waldon, or do you wish to continue your questions?

SENATOR PATERSON: Mr. President, I'm also looking for the learned Senator. Since I think it's Senator Waldon, I'll yield.

ACTING PRESIDENT KUHL: All right, Senator Waldon. Senator Paterson yields to you. You have the floor.

SENATOR WALDON: And I thank the good Senator for doing that, Mr. President.

Senator Saland, have you had any consultations with the administrators of the Department of Correctional Services as to whether or not they support this measure?

SENATOR SALAND: I have not spoken with any of the superintendents of any of the facilities. I have not received anything either in favor or in opposition from Corrections Department or any of their representatives.

SENATOR WALDON: May I continue,

Mr. President, please.

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

SENATOR SALAND: Certainly, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR WALDON: Senator, have you recently visited any of the prisons and had any conversations with the inmates therein in regard to their need, their desire for educational opportunities?

SENATOR SALAND: I generally visit at least one facility a year. I have not done that yet this year, but I'm sure before this calendar year is out, I will have visited at least one and perhaps two or three of them.

SENATOR WALDON: If I may continue.

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

SENATOR SALAND: Yes, Mr.

President.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR WALDON: In your most recent visits to the prisons, whichever prisons they were, did you have any conversations with the inmates as to the benefits and/or negatives received from educational opportunities?

SENATOR SALAND: Senator, while I've been to numerous facilities and on many different occasions, this particular topic has not been one to that either I've initiated nor have any of the inmate groups or representatives that I've spoken with initiated with me.

My sense of the need for this legislation is that there is a vast population on the other side of the world, the same side that you and I are on, that are desperately in need of assistance in order to provide them with the kinds of educational opportunities that we would like them to have.

I view the $5 million currently serving some 5,000 inmates as being money we

could spend in a more appropriate fashion as taxpayer dollars, and I believe those taxpayer dollars would better go to middle class and - and struggling young students who are desperate for the opportunity to go to college, and I don't think I really have to -- to inquire of the inmate population as to whether they agree or disagree.

It may well be that, you know, that they have would very much like to have this opportunity, but in terms of priorities, I think there are others who priorities I think there are others who would better be served by having this opportunity.

SENATOR WALDON: Would the Senator continue to yield?

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

SENATOR SALAND: Yes, sir.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR WALDON: I thank you, Mr. President.

I'll try to be brief, Senator Saland. Are you aware of the current data in regard to the success ratios or rates of those who -

SENATOR SALAND: Sorry, Senator. Would you speak up? I just heard, are you aware of the current data and then I lost you.

SENATOR WALDON: Are you aware of the current information in the universe, the correctional service universe, in regard to reductions in recidivism rates amongst those who are afforded an opportunity for education versus those who are not?

SENATOR SALAND: Senator, I'm not proposing that those in the correction setting be denied the opportunity for education. Those who may need help, whether it's vocational, whether it's remedial, whether it's GED, by all means, I think they should be able to afford - afford themselves or avail themselves of that opportunity.

I draw the line at the college level. I draw the line at that level, because I

find it inequitable, to say the least, to have taxpayers funding college educations when they are having an extraordinarily difficult time and sometimes a virtually impossible time providing the means for their own children to attain college education, and I believe that that $5 million pool of money will better serve those who are under-served, whether it's in your district, in my district, or any one of the 61 Senate Districts throughout this state.

SENATOR WALDON: Senator Saland, if you would yield to just one or two more questions, Mr. President.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR WALDON: My dear colleague, you did not respond to the question or I think you did not respond. Maybe I'm wrong.

I asked, are you aware of the recent information in regard to the reduction of recidivism rates amongst those who are afforded an opportunity to be educated while in prison versus those who are not? If I'm not clear in the question, tell me so, and I'll rephrase it.

SENATOR SALAND: You're certainly clear, Senator, and I'm not sure if that's by way of study or anecdotal. I have heard of such barometers. I'm not sure again whether it's by way of study or just anecdotal information but, as I said to you prior in answer to your prior question, I'm not saying provide an education. I'm saying there are limits to what you can expect taxpayers to provide by way of education, and again, not to be repetitive, I think there are people in your district and mine who would be far better served by being able to access this pool of money than people behind the wall, some of whom may never get out, may never get out into society again and still have taxpayers fund their education. I do have a problem with that.

SENATOR WALDON: Last two questions, Mr. President, if I may.

ACTING PRESIDENT KUHL: Senator Saland, do you yield?

SENATOR SALAND: Yes, sir.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR WALDON: All right. Senator, what is the cost to the taxpayers of the state of New York of all of the TAP grants given to those who are in prison for this past year or what was the cost, I should say?

SENATOR SALAND: $5 million.

SENATOR WALDON: And what percentage -

SENATOR SALAND: Approximately $5 million.

SENATOR WALDON: I should have tagged that. And what percentage of the budget of the Department of Correctional Services is the $5 million?

SENATOR SALAND: I'm not sure if that's part of the Department of Corrections

budget. I would think that it's merely, as I said, a means-driven TAP grant that would not be part of the -- of the DOCS budget. If your question is, do I know how much TAP money -

SENATOR WALDON: The way I phrased it, I couched the question incorrect ly. Do -

SENATOR SALAND: Is the question, do I -- do you want to rephrase the question or how much TAP monies in total?

SENATOR WALDON: I apologize -- I apologize for the way it came out. The $5 million, if it were part of the Department of Correctional Services budget, what are the percentages or what proportion of it would it be?

I've heard that it's equal to one day of the Department of Correctional Services budget, its total budget.

SENATOR SALAND: I couldn't respond to that, Senator. I believe that the DOCS budget probably, and I'm -- I do this most guardedly, but I believe it's probably somewhere

in the billion dollar range, and I'm not quite sure if I'm -- how much I'm off but, you know, it's -- I believe it's a minimum a billion and probably maybe as much as 1.3, 1.4, but I -- I would not recommend that you rely on that number.

SENATOR WALDON: Last question, Mr. President, if I may.

ACTING PRESIDENT KUHL: Senator Saland, do you yield for one last question from Senator Waldon?

SENATOR SALAND: Yes, sir.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR WALDON: And I thank you, Senator Saland, for your indulgence.

Let me preamble my question with something. We all recall, I believe and I believe you do as well, Attica. I'm sure that you recall recently the uprising at Sing Sing and I'm sure being that you've visited many prisons over the course of your public life, and you certainly are here in the Senate, but you

are aware of how important it is to the administrators of the Department of Correctional Services, the superintendents and wardens and the staff, that there be peace, calm and tranquil prisons, and I would like to know on a gut level, on a gut check level, do you think that it's wise to create a potential or to create something which may foment a potential problem for those who staff the prisons by creating animosity from the prisoners by taking away this opportunity for education?

SENATOR SALAND: If I thought that somehow or other, as your question implies, that this was going to foment insurrection or instability in our correction system, I would be loathe to bring it before this house. I do not believe that to be the case.

There are, as I said earlier, a host of educational related tools that will be available within facilities as well as other types of programs or activities that are maintained at facilities. My problem with the current program is the fact that we are asking

taxpayers to pay some $5 million, people in your district are paying it, people in my district are paying it, people from every corner of this state are paying it, for inmates when, in fact, there are probably thousands of young people starving for the opportunity to avail this grant money to be able to obtain a college education.

I believe the emphasis should be, as I said earlier, on our side of the wall, not on the other side of the wall.

SENATOR WALDON: If I may speak on the bill.

ACTING PRESIDENT KUHL: Senator Waldon, on the bill.

SENATOR WALDON: One, let me thank you, Senator Saland, for responding as you did and taking the time and effort to attempt to answer my questions. I believe that this is another instance of being penny-wise and pound foolish. To ensure that just for the safety of the people who work in prisons, that the people there have opportunities which will, if not preclude, at least diminish the potential for

uprisings, I think, is a smart thing to do, but perhaps more intelligent is to allow people to turn their lives around.

We stack people like cord wood in prisons. We do not really rehabilitate in this nation and, if there is a rehabilitative effort, it's either through some religious occurrence in many instances -- the Muslims in prison do a good job -- or through somebody having an opportunity for education, and I'd like to cite Elisha, a young man from the Rockaways who achieved his Master's degree while in prison and is now an outstanding productive citizen in the city of New York. Would he have been such an outstanding productive citizen if not given the opportunity for education?

The money is de minimus. I think more accurately, the Department of Correctional Services total budget for instruction and operational services is in excess of $2 billion and someone can -- from staff can correct me on that if I'm wrong -- and so we're talking about pennies in the equation in terms of having an

opportunity to have a peaceful -- and I don't think we should buy peace, but it's important - a peaceful, calm existence for the correction officers as well as the prisoners.

I don't diminish the need for children to be educated. Our children in our immediate family were educated and my wife and I had to pay, so I understand, about $22,000 a year monies for education at a college in this country, and that's just the piece that doesn't include his clothes or her clothes or the travel to and from. So I am very cognizant of that, and I'm cognizant of the fact the educational budget is huge, but I think there are other ways we can deal with the educational budget both SUNY, CUNY and secondary schools, without diminishing this opportunity for the prisoners.

I think we should do it. I think it's judicious to do it. I would encourage my colleagues to do it and vote yes for prisoners but not yes for this bill.

ACTING PRESIDENT KUHL: Secretary will read the last section.

Senator Paterson. You wish to speak on the bill?

SENATOR PATERSON: I wish that Senator Saland would grant me the opportunity to ask a couple of questions.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Saland, do you yield? Senator yields. I might add most deferentially.

SENATOR PATERSON: Mr. President, I -- thank you.

I think that I have a philosophical problem with the whole process and it's not necessarily your bill. Let me try to explain it, and I just want to get your reflections on it.

What you're saying is, and it has to hit home with every taxpayer is that how can we be spending money on inmates when people who work for a living and are either trying to

sponsor their own children in higher education or the poor student who may apply and not get TAP is actually standing in line behind the inmate; and I want to ask you to comment on it because I would assume that that's how you feel and that's how I feel.

So at first blush, I think this is an area where there's total agreement. Do you think it would be better if we had a system where the entire education of inmates were sponsored through the Corrections budget so we don't even have to have that sort of adversarial nature, in other words, where we're comparing dollars as they would be distributed to students and inmates when there really -- when we're really doing two different things.

In one case, we're enhancing education and in the other case we're trying to effect some form of rehabilitation. Don't you think it would be a better idea if just structurally we did not have any money for prisoners coming out of any of the educational budgets whether it be TAP or Educational

Opportunity Program or any other Regents scholarship?

SENATOR SALAND: I'm not quite sure if you've asked me more than one question there, but to the extent that you're asking me whether I would want to see no state funds driven outside of the Correction budget by programs such as TAP or Regents into the Corrections system, I would say to you yes, the answer to that is yes.

I think there is another part to your question.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Well, that's exactly what I'm suggesting. In other words, I think that is what creates the sort of friction that's being addressed by your legislation is the fact that the students and the inmates are drawing money from the same hole in the first place, and so while we may disagree on how far we want to go in the education of the inmates I'm just saying that the point of contentious

ness doesn't arise from your legislation. I think it arises from the fact that we have this system right now which I don't think I'm in agreement with, where we are in a sense putting inmates either ahead or behind students, and I just think that they're drawing from the same hole, and I just think it's -- I just don't think it's right. I just don't think it's a good way to be educating students by having them competing in a sense with inmates for tuition assistance and in doing that, we're creating a situation where we're having to compare and we shouldn't be comparing because it's clear to everyone here that the student who does not have a criminal record should, as a society, be preferred over the inmate.

Wouldn't you say that's correct?

SENATOR SALAND: I would say so.

SENATOR PATERSON: Now, let me go on, and I just wanted to get that cleared up because maybe, if we can get that understood, we can go on and perhaps see what the point of disagreement is.

SENATOR SALAND: Patiently waiting for the other shoe.

SENATOR PATERSON: No, actually on that point, it's really not connected to the disagreements I may have with you. I think what I'm really just trying to point out to my colleagues and everyone else here is that it's the structure as it exists right now that has us in the position of having to have the sort of adversarial discussion where basically we all agree.

Now, I want to move the discussion to the rehabilitation of the actual inmates and ask you if we passed legislation as we have done and, if we put it into law, where the inmate has to pay back the monies that are distributed for education and now we are creating a situation where we're going to extinguish the possibility that they can receive TAP, how would the inmate actually get an education?

They wouldn't be able to pay the money back because they -- there's no funding

source to put the money up front; is that correct?

SENATOR SALAND: Well, I'm not sure, and I believe you're referring to what Senator Cook's bill contemplated, using TAP monies as a -- as a resource to draw on to pay back. I think Senator Cook's bill as distinguished from this bill basically said, if you've received help, you're going to wind up having to pay back, and this bill perhaps is a bit more severe, if not even more draconian than Senator Cook's bill inasmuch as it says we're not going to afford you that opportunity. We are just going to deny that funding stream in its entirety.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Just a quick point of clarification.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Saland continues to yield, Senator Paterson.

SENATOR PATERSON: Senator Saland, you said that this bill relates to TAP. Does it relate to all financial services? For instance, some of the financial services that used to exist, Regents scholarships and that kind of thing, things that we don't have right now. Is the spirit of your legislation that it would be more than just TAP but any kind of financial services to students?

SENATOR SALAND: I have -- I have spoken, and my comments on the floor have referred to the TAP program, but the bill itself talks in terms of any award or loan and makes reference back to the Education Law, so I would think that it could well be broader than merely TAP.

SENATOR PATERSON: Good. That's very clear. So now, I guess the final line of questioning I would ask you would relate to the kind of situation as we had in the case of the state Supreme Court case of the State v. Ciro in

the early '70s where they ruled that the New York City -- that the New York State correctional facilities were not rehabilitating; they were simply incarcerating and as a point of just simply philosophy, to what extent do you think inmates should be rehabilitated?

SENATOR SALAND: I think that to the extent possible, to the extent that resources permit programs that will assist in rehabilitation then we must to that extent avail ourselves of those resources. I think that there are a number of inmates who don't lend themselves to rehabilitation.

I think we have an obligation to make sure that those who are in need of obtaining the basic public and secondary school education are afforded that opportunity. I believe to the extent that there are entities such as Corcraft and vocational training that we should be enabling people to avail themselves of that as well.

I do, as I've mentioned in my comments both in response to Senator Waldon and

my opening remarks, Senator, and my comments to you, believe that that line should be drawn, the educational opportunity line should be drawn at the college level.

SENATOR PATERSON: Finally, if Senator Saland would yield for one further question?

SENATOR SALAND: Certainly, Senator.

SENATOR PATERSON: Do you have any further information, because I don't know where Council 82 of the Correction Officers stand on this type of legislation?

SENATOR SALAND: I have not received any either memo or any inquiry from them as far as I know, and I believe this is perhaps the third year that I've offered this bill. I'd be more than happy if I had one to share it with you, but I don't believe that I have received any.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President,

I'd like to thank Senator Saland very much. He's been most gracious in his answers, I think, if I can speak to the bill at this time.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: His answers indicate, I think, what would be the desire of all of us here, that we not give any preferen tial treatment to individuals who have violated their contract with society and have been incarcerated in correctional facilities due to violations of our criminal justice code, and I think that that is something that gets distorted in its perception when we start giving tuition assistance and Regents scholarships to individuals who are behind bars.

What I would prefer would be a system where we have had an educational entity built right into the corrections budget that would stand on its own, even if it gave grants to inmates which Senator Saland might oppose and I might support, but at the same time at least it would be clear what we're actually trying to

do.

The position, I think, that Senator Waldon was espousing in his remarks I think were well taken positions, that when we are incarcerating individuals we have to understand that in the great majority of cases, these individuals are coming back into society. When they come back into society, as far as I'm concerned, my point of view to them is you've paid your debt to society and we don't want to see you again. We don't want to have anything to do with you. So I regard the management of parolees as a business. What would be the best business procedure that we, the state, don't have to do business with these individuals in - in correctional facilities again?

I think the most effective treatment of this situation is the proliferation of education. Education, maybe not in all cases but certainly over the years, has proven to be a direct corollary response to criminal justice activity. The higher the educational level in schools, the further children go in schools, the

less involvement they seem to have in crime and so now that we have got individuals who have already put themselves in the position where they are a problem for society even when they come back out onto the streets, what we are suggesting is that the best preparation, particularly for those who reach out to them, would be to provide them with the best possible education.

Now, a high school education is not enough. Most jobs require an 11th grade education, and yet any job more advanced requires often two years of college. Even these days people who have clerical jobs have to have computer access. Messengers have to know how to read. Individuals who are often working what we used to consider to be rather menial tasks require a great deal of training and a great deal of personal knowledge to effect.

If individuals are coming out of incarcerational facilities and they are being denied the opportunity to work in youth services, they're being denied the opportunity

to work in correctional facilities themselves, if they're being denied the opportunity to work in schools or around children, then we have to ask ourselves, what kind of jobs can they actually hold? And what education are we giving them to hold those jobs?

I'm not saying this on behalf of the inmates. I think some of their situations are dire and it's unfortunate that they're in the position that they're in, but for purposes of this discussion, we don't care about the inmates. We care about society as a whole and mostly about individuals who can not not commit crimes. I don't want to see individuals who, by the desperation of the fact that they don't have any other alternative violating the laws of our society where they might otherwise have a choice if we would just provide them with some instrumentality or ability to go out and find themselves some jobs.

That's why I oppose this bill, but I think the spirit of the bill is well merited, which is that we should not have

students in our society standing in line behind inmates competing for tuition assistance that comes from taxpayer dollars.

ACTING PRESIDENT KUHL: Senator Abate.

SENATOR ABATE: Yes, Senator Saland. Would you yield to a question? It seems as though you haven't had the opportunity to answer enough questions over the last couple of days.

ACTING PRESIDENT KUHL: Senator Saland, do you yield?

SENATOR SALAND: Thank you, Senator. Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR ABATE: I want to assure you have sufficient opportunity to speak.

SENATOR SALAND: Thank you.

SENATOR ABATE: I want to point to the language of the bill and ask why you permit a distinction. You say you permit access to aid by persons on parole. Why do you -- why

do you make that decision in favor of parolees and not incarcerated inmates?

SENATOR SALAND: Because if someone is out of the facility and they are out on parole and they are in the community and they are otherwise eligible, they, in effect, served their time. They are endeavoring to try and abide by whatever it is that the parole program would impose upon them. If they're eligible, they're academically suited, we don't say that we're going to preclude them. They're outside, they're trying to get their lives together. They're trying to work and we believe that those two classifications are distinguishable.

SENATOR ABATE: But could you say that the same thing could be said about people who have been sentenced because of the crime, they are paying back their debt to society even in prison? They're beginning to try to put their life together and through education that speeds up on their ability to become productive citizens, couldn't you say the same thing about inmates as you just said about parolees?

SENATOR SALAND: I would make the distinction and feel it's a valid distinction. I certainly can appreciate your -- your point of view, but particularly I find troublesome the idea that taxpayers are being asked to fund those people who are serving time and often at the expense of people, as I've said several times here this afternoon, within each and every one of our districts who are struggling to try and obtain a college education and find that they can't access these grants.

I want to make this $5 million pool of money available for more TAP grants so that more young people can afford or have an opportunity for a college education.

SENATOR ABATE: Would Senator Saland yield to another question?

ACTING PRESIDENT KUHL: Senator Saland, do you yield to another question?

SENATOR SALAND: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR ABATE: Yes, Senator,

you've been very clear that you do not think it an appropriate expenditure of money because there are law-abiding citizens that should get this first dollar, but I suspect if you ask that parent of that student what they care about, clearly they care about access to education for their child, but I also believe they care about the safety of that child and, if you believe that education helps inmates while they're incarcerated so when they leave they're less angry, they're less prepared to commit the next crime and they're less prepared to victimize again, wouldn't you say that, by spending that money, you're addressing the concerns of that parent as vis-a-vis the education of their child and also the safety of their child?

SENATOR SALAND: Well, what I would have to say is, I think you put a little more store or stock in rehabilitation than perhaps I do. Given rates of recidivism, I'm not quite sure that you can make a connection between the fact that we're providing education within the current correctional system at a

college level and a reduction, a significant reduction, in the rate of recidivism. I'm not quite sure that happens, and I'm not quite sure how far you could distinguish without getting into equal protection problems between people who will never be getting out, never be getting out or getting out at such a stage in their life that they could never be productive people within our society, meaningfully returning those contributions that taxpayers have made to enable them to get that education and those who might get out at a point in time in which they might be able to make some meaningful contributions. I don't think you're capable of drafting anything that can make those distinctions.

SENATOR ABATE: But Senator Saland, you would agree -

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

SENATOR SALAND: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR ABATE: Thank you,

Senator.

Of course, you agree there are a huge number of people that do eventually get out of prison and, while I would not be one to be irresponsible, to say that every educated inmate will leave and not commit another crime there are a number, there's a subset of that population that will not commit crimes again and if we do something to educate that one inmate and we save one victim, wouldn't you say the money is well spent and wouldn't that parent agree with you if it was their child who was saved some harm down the road?

SENATOR SALAND: I would say -

SENATOR ABATE: If we saved one victim.

SENATOR SALAND: I would say to you, Senator, that in the scheme of some 68,000 people currently serving within our correction system, that if the standard becomes how we manage to focus or isolate on one case as being the measure of whether or not we've succeeded or failed within our correction system, then that

certainly would not be an accurate reflection of our correction system.

I am not going to tell you that somebody who receives an education may not somehow or other, because of that opportunity, find themselves following another career or another career path when they leave the correction facility. You're also not going to tell me, as your comments imply, that simply because they received that, we are going to know that they are going to travel down a path that you and I would hope that they would travel and one which would be more meaningful and more productive in our society.

Our rehabilitation at best over the course of the past decade and perhaps the two decades, has basically been shown to have at best checkered results. While in the '60s it was very much in fashion, very much in favor of receiving a great deal of favorable commentary the rates of recidivism, regardless of whatever the amounts of money that have been put into corrections, into programs have not, in fact,

stabilized, of not, in fact, gotten down. They generally continue to rise and they rise not at an imperceptible rate but at a relatively dramatic rate.

There is little evidence to show that rehabilitation as a philosophy has had really appreciable results. That's not to say that there won't be the one individual to whom you're -- to whom you've referred or others that are evidence of the fact that there are people who can be rehabilitated, but I don't believe that this bill -- passage of this bill is going to somehow or other deny opportunity to those who would like to pursue another life style or another career upon being released from a correction facility. I don't believe that.

I mean part of it, I believe, is the will of the individual, and the fact that that individual does not have the ability to access a college education at taxpayer expense while they're at a facility does not, I don't believe, make the difference between whether that person, much like any other person who

stares at enormous challenge and prevails over that enormous challenge, I don't believe that that person is going to be prejudiced if, in fact, they are determined to establish a success, not go back to the way -- a way of crime, but to try and become a meaningful member of society.

SENATOR ABATE: On the bill, very briefly.

ACTING PRESIDENT KUHL: Senator Abate, on the bill.

SENATOR ABATE: Senator Saland, I respectfully disagree. There are programs that have been evaluated that the more you teach inmates skills, increase their education levels, the more likely they will be to leave and not return again.

Again that's not a foolproof solution, but the converse is true, the more that inmates involve themselves in idle time, don't rethink their choices, they're more apt to commit and victimize again, and so we're talking about spending this money wisely, not just to

ensure that their opportunities for inmates, not just because we want to be humane for inmates, but we're doing it for the parent and that child on the street that wants to be protected.

Yes, we want to ensure that they have a quality education, so we spend millions of dollars and billions of dollars and most of our discussion in this chamber is around public safety. I am suggesting, and I've seen the programs that work and the valuable impact education has on inmates.

There is a direct correlation between public safety and education, and you were asked before and if I could address it from my experience, what would correction professionals say about this bill?

No responsible correction professional would say that, if you eliminate education, that would necessarily mean there would be riots. That's not the case. What they would say is the more you reduce idle time in the prisons, the more tension, the more violence you are going to see, the more violence between

inmates and inmates and officers and inmates, and so if you want to positively impact on the operation of the prisons, you need programs, educational programs, drug treatment, counseling, peer counseling, to foster a better environment for officers as well as inmates and to increase the likelihood when an inmate leaves prison they'll be more productive.

I think it's so bad whenever we use the excuse there's so many children out there that can't get an education when every day we talk about public safety and this will enhance public safety, maybe not a hundred percent, but in some measure. I think this is a very unwise and ill-conceived piece of legislation.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th 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 976 are Senators Abate, Connor, Espada, Leichter, Markowitz, Montgomery, Paterson, Smith and Waldon. Ayes 46, nays 9.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

Excuse me. Senator Montgomery, why do you rise? Just to stay hello. Thank you. Hello!

Senator Present, why do you rise?

SENATOR PRESENT: I'm saying hello too.

ACTING PRESIDENT KUHL: Thank you, and hello to you.

Senator Leichter wants to rise and say hello too. Senator Leichter.

SENATOR LEICHTER: And beyond that, Senator. If I may have unanimous consent to be recorded in the negative on Calendar 364, please.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Leichter will be recorded in the negative on Calendar Number 364.

Senator Present.

SENATOR PRESENT: Mr. President, can we return to reports of standing committees? I believe there's a report of the Rules Committee.

ACTING PRESIDENT KUHL: There is a report of the Rules Committee at the desk. We'll return to reports of standing committees. I'll ask the Secretary to read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 68, by Senator Holland, an act to amend the Criminal Procedure Law, in relation to the admissibility of evidence of criminal possession of a weapon;

259, by Senator Cook, an act to amend the Real Property Tax Law, in relation to certain state lands subject to taxation in

Sullivan County;

293, by Senator Cook, an act to amend the County Law, in relation to review of approval of names for rights of way;

667, by Senator Padavan, an act to amend the Penal Law, in relation to making citizenship documented fraud a Class E felony;

670, by Senator Padavan, an act in relation to making unlawful immigration a Class C felony;

1177, by Senator Sears, an act to amend the Criminal Procedure Law and the Education Law, in relation to appointment of security officers;

1378, by Senator Farley, an act to amend the Penal Law, in relation to restitution and reparation;

1396A, by Senator Sears, an act to amend the Penal Law, in relation to authorizing counties to impose and collect a drug penalty and mandatory surcharge;

1967, by Senator DeFrancisco, an act to amend the Criminal Procedure Law, in

relation to the collection of court-imposed financial obligations;

2352, by Senator Hoblock, an act to amend the Penal Law, in relation to increasing the penalties for sale of controlled substances;

2612, by Senator Hoblock, an act to amend the Penal Law, in relation to increasing the penalties for sale of controlled substances;

2650, by Senator Cook, an act to amend the General Municipal Law, in relation to authorizing the New York Planning Federation;

3065, by Senator Larkin, an act to amend the Criminal Procedure Law, the Penal Law and the Family Court Act, in relation to making persons 12 to 15 years of age eligible for juvenile offender treatment;

3331, by Senator Sears, an act in relation to authorizing the town of Lee, county of Oneida, to lease certain park lands;

3737, by Senator LaValle, an act to amend the Town Law, in relation to screening

facilities in the town of Southampton;

3867A, by Senator Hoblock, an act to amend the General Municipal Law, in relation to allowing for the use of fire training centers;

3960, by Senator Cook, an act in relation to authorizing the dissolution of the Fallsburgh Park District;

4169, by Senator Maziarz, an act to amend the Town Law, in relation to residency of the court clerk in the town of Hamlin, Monroe County;

4727, by Senator Stafford, an act authorizing the town of Dannemora, Clinton County, to discontinue use as park lands, certain lands heretofore acquired for park and other public purposes;

5214, Budget Bill, an act to provide postage funding to the Department of Motor Vehicles and making an appropriation therefor;

5215, Budget Bill, an act making an appropriation for the support of government;

5216, Budget Bill, an act to provide for payments to municipalities and to providers of medical services;

5217, Budget Bill, an act to provide for payments to vendors under the Women, Infants and Children programs and making an appropriation therefor;

5218, Budget Bill, an act making appropriations for the support of government; and

5219, Budget Bill, an act making an appropriation for the support of government.

All bills ordered directly for third reading.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Move we adopt the report of the Rules Committee.

ACTING PRESIDENT KUHL: The motion is to adopt the report of the Rules Committee. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The Rules report is adopted.

Senator Present.

SENATOR PRESENT: Can we take up Calendar Number 1008.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1008, Senate Bill 5215.

THE SECRETARY: Calendar Number 1008, Senate Bill 5215, Budget Bill, an act to provide postage funding to the Department of Motor Vehicles and making an appropriation therefor.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, is there a message of necessity at the desk on this bill?

ACTING PRESIDENT KUHL: There is, Senator Present.

SENATOR PRESENT: I move we accept it.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar 1008. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Take up Calendar 1009, please.

ACTING PRESIDENT KUHL: Secretary will read calendar Number 1009.

THE SECRETARY: Calendar Number

1009, Budget Bill, Senate Print, an act making appropriation for the support of government.

ACTING PRESIDENT KUHL: Senator Present.

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

ACTING PRESIDENT KUHL: There is.

SENATOR PRESENT: I move we accept the message.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar 1009. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.).

The message is accepted. 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 55.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, can we take up Calendar 1010.

ACTING PRESIDENT KUHL: Secretary will read the title of 1010.

THE SECRETARY: Calendar Number 1010, Budget Bill, Senate Bill 5216, an act to provide for payments to municipalities and to providers of medical services under the medical assistance program.

ACTING PRESIDENT KUHL: Senator Present.

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

ACTING PRESIDENT KUHL: There is, Senator Present.

SENATOR PRESENT: I move we accept the message.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar Number 1010. All those in favor signify by

saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

ACTING PRESIDENT KUHL: The message is accepted. 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 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, can we take up Calendar 1011.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar 1011.

THE SECRETARY: Calendar Number 1011, Budget Bill, Senate Print 5217, an act to provide for payments to vendors under the Women,

Infants and Children program and making an appropriation therefor.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, I move we accept the message of necessity which I hope is at the desk.

ACTING PRESIDENT KUHL: There is a message of necessity at the desk. The motion is to accept the message of necessity on Calendar Number 1011. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, can we take up Calendar 1012.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 1012.

THE SECRETARY: Calendar Number 1012 Budget Bill, Senate Bill 5217, an act making an appropriation for the support of government.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, I move we accept the message of necessity on Calendar 1012.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity at the desk on Calendar Number 1012. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes -

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

SENATOR PATERSON: Mr. President, upon information and belief, Senator Montgomery had some comment that she wanted to make about this bill, but she was urgently called out of the chamber and I would just like the record to reflect that Senator Montgomery, who is acting on this particular issue, had some statements that she had wanted to make.

ACTING PRESIDENT KUHL: The record will so reflect. Announce the results.

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, could we take up Calendar 1013.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar 1013.

THE SECRETARY: Calendar Number 1013, Budget Bill, Senate Print 5219, an act making an appropriation for the support of government.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, I move we accept the message of necessity which I hope is at the desk.

ACTING PRESIDENT KUHL: There is a message of necessity at the desk. The motion is to accept the message. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

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 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present, we do have a little housekeeping if you'd like to take care of that.

SENATOR PRESENT: Mr. President, I believe that there is a resolution at the desk presented by Senator Bruno. I ask that it be read in its entirety and acted upon.

ACTING PRESIDENT KUHL: Senator Present, there is a privileged resolution at the desk by Senator Bruno. I'll ask the Secretary to read it in its entirety.

THE SECRETARY: By Senator Bruno, Legislative Resolution commemorating Tax Freedom Day in the state of New York May 24, 1995.

WHEREAS it is the sense of this

legislative body that the positive and salutary definition of the communities of the state of New York remains of unparalleled importance to the discharge of our shared responsibilities; and

WHEREAS there is no substitute, no alternative to the full implementation of that prerogative; on the contrary, the safe, sure and prosperous definition of the communities of the state of New York dictates that the discretionary power inherent in governments must weigh in favor of that commitment;

Consistent with that pledged concern, it is the sense of this legislative body to commemorate Tax Freedom Day in the state of New York May 24, 1995;

This year Tax Freedom Day for New York State is May 24th, giving New Yorkers the longest wait for tax freedom in the nation;

Tax Freedom Day is a symbolic date on which all federal, state and local tax obligations should be satisfied and wage earners

begin working for themselves and their families instead of the government;

In 1995, National Tax Freedom Day is May 6th; and

WHEREAS the National Tax Foundation, a non-profit, non-partisan research and public education group based in Washington, D.C., began the practice many years ago when more and more Americans, especially New Yorkers, saw more of their hard earned dollars going to pay for government;

The tax obligations of the 50 states are calculated to determine a national average. The Tax Foundation determined the national -- the nation's "effective" tax rate or total taxes as a percentage of total income;

For 1995 the Tax Foundation estimates the national tax rate to be 34.4 percent. This means that the average American will forfeit 34.4 percent of his or her total income in 1995 for federal, state and local taxes. Using this calculation and the various tax rates of each state, the date of May 6th was

identified as National Tax Freedom Day;

It means that from the first workday of January, 1995 until May 6th, every cent of an American's earnings goes to pay his or her taxes for 1995. For example, a worker in Massachusetts works 128 days to reach his or her federal, state and local tax obligations while New York State wage earners must work 144 eight hour days in order to pay his or her total tax bill;

According to the Tax Foundation, the average person devotes two hours and 46 minutes of every eight-hour workday to earning enough to pay taxes;

In New York State, Tax Freedom Day occurs on May 24th, 1995 or 144 days from January 1st, 1995; it takes New York wage earners 18 days longer to meet their obligation than the average American. Only the residents of Connecticut share this dubious honor; yet it is Connecticut's high share of federal taxes that increases its burden;

The average wage earner in New

York State works three hours and nine minutes in an eight-hour day to meet his or her tax obligation. This amounts to one hour, 52 minutes of daily work for federal taxes and one hour and 17 minutes for state and local taxes;

New York State wage earners work longer than any other state in the nation on a daily basis to pay their state and local taxes; and

WHEREAS, fully cognizant of the oppressive implications of Tax Freedom Day, this legislative body is committed to offering relief to the taxpayers of the state of New York;

NOW, THEREFORE, BE IT RESOLVED that this legislative body pause in its deliberations to commemorate Tax Freedom Day in the state of New York, May 24, 1995; and

BE IT FURTHER RESOLVED that a copy of this resolution, suitably engrossed, be transmitted to the Honorable George E. Pataki, Governor of the state of New York.

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 Present, or Senator Mendez.

SENATOR MENDEZ: Mr. President, I wish to have unanimous consent to be recorded in the negative on Calendar Number 822 and Calendar Number 976.

ACTING PRESIDENT KUHL: Without objection.

SENATOR MENDEZ: Thank you.

ACTING PRESIDENT KUHL: And hearing no objection, Senator Mendez will be recorded in the negative on Calendar Number 822 and 976.

The Chair recognizes Senator Marcellino.

SENATOR MARCELLINO: Mr. President, on behalf of Senator Saland, I wish to call up bill Print Number 2113, recalled from

the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 425, by Senator Saland, Senate Print 2113, an act to amend the Family Court Act and the Criminal Procedure Law, in relation to authorizing the court to permit a petitioner.

ACTING PRESIDENT KUHL: Senator Marcellino.

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

ACTING PRESIDENT KUHL: Motion is to reconsider the vote by which the bill passed the house. Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr.

President, I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I ask unanimous consent to be recorded in the negative on Calendar Number 843.

ACTING PRESIDENT KUHL: Without objection and hearing no objection, Senator Nozzolio will be recorded in the negative on Calendar Number 843.

Senator Present.

SENATOR PRESENT: Mr. President, any other housekeeping?

ACTING PRESIDENT KUHL: I think we've taken care of everything, Senator Present. Nothing at the desk.

SENATOR PRESENT: Good. I'd like to announce that there will be a Majority Conference at 4:00 p.m. today in the conference room, and there being no further business, I move that we adjourn until tomorrow at 10:00

a.m.

ACTING PRESIDENT KUHL: There will be a Majority Conference in the Majority Conference Room Number 332 at 4:00 p.m., and without objection, the Senate stands adjourned until tomorrow, May 25th, at 10:00 a.m.

(Whereupon at 2:40 p.m., the Senate adjourned.)