

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

ALBANY, NEW YORK

May 25, 1995

10:00 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT KUHL: The
3 Senate will come to order. Members please find
4 their places, the staff their places. Ask the
5 members in the chamber to rise with me and say
6 the Pledge of Allegiance.

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

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

11 (A moment of silence was
12 observed.)

13 Reading of the Journal.

14 THE SECRETARY: In Senate,
15 Wednesday, May 24th. The Senate met pursuant to
16 adjournment, Senator Kuhl in the Chair upon
17 designation of the Temporary President. The
18 prayer by the Rabbi Cecil Walkenfeld, Spiritual
19 Leader of the Clearview Jewish Center,
20 Whitestone, New York. The Journal of Tuesday,
21 May 23rd, was read and approved. On motion, the
22 Senate adjourned.

23 ACTING PRESIDENT KUHL: Hearing

1 no objection, the Journal stands approved as
2 read.

3 Presentation of petitions.
4 Messages from the Assembly.
5 Messages from the Governor.
6 Reports of standing committees.
7 Reports of select committees.
8 Communications and reports from
9 state officers.

10 Motions and resolutions.

11 Senator Farley.

12 SENATOR FARLEY: Thank you, Mr.
13 President.

14 On behalf of Senator Levy, on
15 page 24, I offer the following amendments to his
16 bill, Calendar Number 728, Senate Print 973-A,
17 and I ask that that bill retain its place on the
18 Third Reading Calendar.

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

23 Senator Bruno, we have a couple

1 of substitutions. Would you like to take
2 those? The Secretary will read.

3 SENATOR BRUNO: Take the
4 substitutions, please.

5 ACTING PRESIDENT KUHL: The
6 Secretary will read.

7 THE SECRETARY: On page 30,
8 Senator Volker moves to discharge from the
9 Committee on Rules, Assembly Print 6592 and
10 substitute it for the identical Third Reading
11 807.

12 On page 47, Senator Cook moves to
13 discharge from the Committee on Local
14 Government, Assembly Print 3421, and substitute
15 it for the identical Calendar Number 1025.

16 ACTING PRESIDENT KUHL: The
17 substitutions are ordered.

18 Senator Bruno.

19 SENATOR BRUNO: Mr. President,
20 can we ask for an immediate meeting of Rules in
21 Room 332?

22 ACTING PRESIDENT KUHL: At
23 Senator Bruno's direction, there will be an

1 immediate meeting of the Rules Committee in the
2 Majority Conference Room, Room 332, an immediate
3 meeting of the Rules Committee.

4 Senator Bruno, that brings us to
5 the non-controversial calendar. What's your
6 pleasure?

7 SENATOR BRUNO: Mr. President,
8 can we at this time take up the non
9 controversial calendar?

10 ACTING PRESIDENT KUHL: The
11 Secretary will read the non-controversial
12 calendar.

13 THE SECRETARY: On page 4,
14 Calendar Number 79, by Senator Levy, Senate
15 Print 384-D, an act to amend the Vehicle and
16 Traffic Law, in relation to requiring school bus
17 and other motor vehicle drivers involved in
18 personal injury accidents involving school buses
19 to submit to a breath test.

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

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

1 September.

2 ACTING PRESIDENT KUHL: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 35.

6 ACTING PRESIDENT KUHL: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 254, by Senator Levy, Senate Print 1411, an act
10 to amend the Public Service Law, in relation to
11 utility rates.

12 SENATOR BRUNO: Lay it aside at
13 the request of the sponsor.

14 ACTING PRESIDENT KUHL: Lay it
15 aside for the day.

16 SENATOR BRUNO: Calendar Number
17 475, by Senator Cook, Senate Print 4140-A, an
18 act to amend the Education Law, in relation to
19 establishing a suspension period for students
20 determined to have brought a weapon to school.

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

23 THE SECRETARY: Section 4. This

1 act shall take effect immediately.

2 ACTION PRESIDENT KUHL: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 35.

6 ACTING PRESIDENT KUHL: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 589, by Senator Levy, Senate Print 327, an act
10 to amend the Vehicle and Traffic Law, in
11 relation to requiring suspension and revocation
12 of a driver's license.

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

15 THE SECRETARY: Section 2. This
16 act shall take effect on the first day of
17 November.

18 ACTING PRESIDENT KUHL: Call the
19 roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT KUHL: Announce
22 the results when tabulated.

23 THE SECRETARY: Ayes 34, nays 1,

1 Senator Kuhl recorded in the negative.

2 ACTING PRESIDENT KUHL: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 606, by Senator Leibell, Senate Print 3681-A, an
6 act to amend the Private Housing Finance Law, in
7 relation to the definition of a limited profit
8 mutual company.

9 SENATOR PATERSON: Lay it aside,
10 please, Mr. President.

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

14 THE SECRETARY: Calendar Number
15 683, by Senator Spano, Senate Print 1044, an act
16 to amend the Civil Service Law, in relation to
17 hearing officers for disciplinary hearings.

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

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

23 ACTING PRESIDENT KUHL: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 38.

4 ACTINGT PRESIDENT KUHL: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 700, by Senator Stafford, Senate Print 1261-B,
8 an act -

9 SENATOR PATERSON: Lay it aside.

10 ACTING PRESIDENT KUHL: Lay the
11 bill aside.

12 THE SECRETARY: Calendar Number
13 845, by Senator DeFrancisco, Senate Print 1146,
14 an act to amend the Vehicle and Traffic Law, in
15 relation to license plates of rental vehicles.

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

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

20 ACTION PRESIDENT KUHL: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 38.

1 ACTING PRESIDENT KUHL: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 884, by Senator Padavan, Senate Print 3091, an
5 act to amend the Executive Law, in relation to
6 cooperation between police agencies and the
7 United States Immigration and Naturalization
8 Service.

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

11 THE SECRETARY: Section 2. This
12 act shall take effect on the 30th day.

13 SENATOR PATERSON: Lay the bill
14 aside.

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

18 THE SECRETARY: Calendar Number
19 914, by Senator Bruno, Senate Print 1860, an act
20 to amend the Tax Law, in relation to the
21 inspection of tax records.

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

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

3 ACTING PRESIDENT KUHL: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes 40.

7 ACTING PRESIDENT KUHL: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 1014, by Senator Holland, Senate Print 68, an
11 act to -

12 SENATOR PATTERSON: Lay it aside.

13 ACTING PRESIDENT KUHL: Lay the
14 bill aside at the request of Senator Paterson.

15 THE SECRETARY: Calendar Number
16 1015, by Senator Cook, Senate Print 259, an act
17 to amend the Real Property Tax Law, in relation
18 to certain state lands subject to taxation in
19 Sullivan County.

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

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

1 ACTING PRESIDENT KUHL: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes 40.

5 ACTING PRESIDENT KUHL: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 1016, by Senator Cook, Senate Print 293, an act
9 to amend the County Law, in relation to review
10 and approval of names for rights-of-way.

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

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

16 ACTING PRESIDENT KUHL: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes 40.

20 ACTING PRESIDENT KUHL: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 1018, by Senator Padavan, Senate Print 670, an

1 act to amend the Penal Law -

2 SENATOR PATERSON: Lay it aside.

3 ACTING PRESIDENT KUHL: Lay the
4 bill aside at the request of Senator Paterson.

5 THE SECRETARY: Calendar Number
6 1019, by Senator Sears, Senate Print 1177, an
7 act to amend the Criminal Procedure Law and the
8 Education Law, in relation to the appointment of
9 security officers with peace officer status.

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

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

14 ACTING PRESIDENT KUHL: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 40.

18 ACTING PRESIDENT KUHL: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 1020, by Senator Farley, Senate Print 1378, an
22 act to amend the Penal Law, in relation to
23 restitution and reparation.

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

3 THE SECRETARY: Section 2. This
4 act shall take effect on the first day of
5 November.

6 ACTING PRESIDENT KUHL: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes 40.

10 ACTING PRESIDENT KUHL: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 1021, by Senator Sears, Senate Print 1396-A, an
14 act to amend the Penal Law, in relation to
15 authorizing counties to impose and collect a
16 drug penalty and mandatory surcharge.

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

19 THE SECRETARY: Section 2. This
20 act shall take effect on the first day of
21 November.

22 ACTING PRESIDENT KUHL: Call the
23 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes 40.

3 ACTING PRESIDENT KUHL: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 1022, by Senator DeFrancisco, Senate Print 1967,
7 an act to amend the Criminal Procedure Law, in
8 relation to the collection of court imposed
9 financial obligations.

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

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

14 ACTING PRESIDENT KUHL: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 40.

18 ACTING PRESIDENT KUHL: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 1023, by Senator Hoblock, Senate Print 2352, an
22 act to amend the Penal Law, in relation to
23 increasing the penalties for sale of controlled

1 substances.

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

4 THE SECRETARY: Section 6. This
5 act shall take effect on the first day of
6 November.

7 ACTING PRESIDENT KUHL: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 40.

11 ACTING PRESIDENT KUHL: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 1024, by Senator Hoblock, Senate Print -

15 SENATOR HOBLOCK: Lay it aside.

16 ACTING PRESIDENT KUHL: Lay the
17 bill aside.

18 THE SECRETARY: Calendar Number
19 1025, by Member of the Assembly Pordum,
20 substituted earlier today, Assembly Print 3421,
21 an act to amend the General Municipal Law, in
22 relation to authorizing the New York Planning
23 Federation to make purchases.

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

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

5 ACTING PRESIDENT KUHL: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 40.

9 ACTING PRESIDENT KUHL: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 1026, by Senator Larkin, Senate Print 3065 -

13 SENATOR LARKIN: Lay it aside for
14 the day.

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

18 SENATOR BRUNO: Also, Calendar
19 Number 1018, please, for the day.

20 ACTING PRESIDENT KUHL: Lay aside
21 Calendar Number 1018 at the request of the
22 Majority Leader, for the day.

23 THE SECRETARY: Calendar Number

1 1027, by Senator Sears, Senate Print 3331, an
2 act in relation to authorizing the town of Lee,
3 county of Oneida, to release certain parklands.

4 ACTING PRESIDENT KUHL: Lay it
5 aside for the day.

6 THE SECRETARY: Calendar Number
7 1028, by Senator LaValle, Senate Print 3737, an
8 act to amend the Town Law, in relation to
9 screening facilities in the town of Southampton
10 in the county of Suffolk.

11 ACTING PRESIDENT KUHL: There's a
12 home rule message at the desk. The Secretary
13 will read the last section.

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

16 ACTING PRESIDENT KUHL: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes 40.

20 ACTING PRESIDENT KUHL: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 1029, by Senator Hoblock, Senate Print 3867-A,

1 an act to amend the General Municipal Law, in
2 relation to allowing for the use of fire
3 training centers.

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

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

8 ACTING PRESIDENT KUHL: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 43.

12 ACTING PRESIDENT KUHL: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 1030, by Senator Cook, Senate Print 3960, an act
16 in relation to authorizing the dissolution of
17 the Fallsburg Park District.

18 ACTING PRESIDENT KUHL: There's a
19 home rule message at the desk. The Secretary
20 will read the last section.

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

23 ACTING PRESIDENT KUHL: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 42.

4 ACTING PRESIDENT KUHL: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 1031, by Senator Maziarz, Senate Print 4169, an
8 act to amend the Town Law, in relation to
9 residency of the court clerk of the town of
10 Hamlin, Monroe County.

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

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

15 ACTING PRESIDENT KUHL: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 44.

19 ACTING PRESIDENT KUHL: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 1032, by Senator Stafford, Senate Print 4217, an
23 act authorizing the town of Dannemora, Clinton

1 County, to discontinue use as parklands certain
2 lands.

3 ACTING PRESIDENT KUHL: There's a
4 home rule message at the desk. The Secretary
5 will read the last section.

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

8 ACTING PRESIDENT KUHL: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 44.

12 ACTING PRESIDENT KUHL: The bill
13 is passed.

14 Senator Bruno, that completes the
15 non-controversial calendar. What's your
16 pleasure, sir?

17 SENATOR BRUNO: Mr. President,
18 can we at this time take up the controversial
19 calendar?

20 ACTING PRESIDENT KUHL: The
21 Secretary will read the controversial calendar
22 beginning with Calendar Number 606.

23 THE SECRETARY: On page 18,

1 Calendar Number 606, by Senator Leibell, Senate
2 Print 3681-A, an act to amend the Private
3 Housing Finance Law, in relation to the
4 definition of a limited profit mutual company.

5 ACTING PRESIDENT KUHL: Senator
6 Hoblock, why do you rise?

7 SENATOR HOBLOCK: Mr. President,
8 I would like to request that Calendar Number
9 1023, my bill, Senate Bill 2352, be laid aside
10 for the day.

11 ACTING PRESIDENT KUHL: 1023,
12 Senator Hoblock, previously passed the house.
13 Do you want to reconsider the vote by which the
14 bill passed?

15 SENATOR HOBLOCK: I'm sorry. Oh,
16 I'm sorry, Mr. President.

17 ACTING PRESIDENT KUHL: You want
18 Calendar Number 1024 laid aside for the day?

19 (Senator Hoblock nods head.)

20 ACTING PRESIDENT KUHL: We'll do
21 that at your request, Senator Hoblock.

22 The Secretary has called the
23 title to Calendar Number 606, by Senator

1 Leibell.

2 SENATOR PATERSON: Explanation,
3 please.

4 ACTING PRESIDENT KUHL: Senator
5 Paterson has requested an explanation, Senator
6 Leibell, of Calendar Number 606.

7 SENATOR LEIBELL: Yes, Mr.
8 President. What this does is a -- is a -
9 current law is under subdivision 2(b) of Section
10 12 of the Private Housing Finance Law. That
11 provides for a mutual -- where there's a mutual
12 company, such a mutual as a Mitchell-Lama,
13 there's a requirement when there's going to be a
14 conversion that at least 80 percent of them, of
15 the tenants, agree to that conversion. The
16 provisions here will change that cap from 80
17 percent to 50 percent of the residents who would
18 like to own shares in the mutual company.

19 The purpose of this bill is to
20 encourage the conversion of the existing
21 Mitchell-Lama rental developments to cooperative
22 ownership. We have found that in implementing
23 that public policy, the 80 percent cap is just

1 too high, that the 50 percent cap is more
2 reasonable.

3 ACTING PRESIDENT KUHL: The Chair
4 recognizes Senator Paterson.

5 SENATOR PATERSON: Mr. President,
6 I have an amendment that has been served. I
7 would waive its reading if you would inform me
8 as to whether or not it has been received.

9 ACTING PRESIDENT KUHL: Senator
10 Paterson, there is -- your amendment is at the
11 desk. We'll waive the reading of that and you
12 are now afforded the opportunity to explain it.

13 SENATOR PATERSON: Actually, Mr.
14 President, first I want to thank Senator Leibell
15 for putting this bill over a couple of times to
16 accommodate those of us in the Minority. We
17 wanted to bring this amendment to ensure that
18 those individuals who do not purchase are still
19 protected from eviction or other circumstances.

20 So, in other words, we're just
21 asking for a non-eviction of those individuals
22 who do not purchase and are part of the new
23 threshold, which is 50 percent as opposed to 80

1 percent, where Section 12.2(b) is going to be,
2 in a sense, altered by Senator Leibell, and we
3 have no objection to that. We just want to make
4 sure that those remaining tenants are allowed to
5 stay, and the Commissioner of the Department of
6 Housing and Community Renewal will promulgate
7 these resolutions -- I mean, these regulations,
8 but we're not totally sure whether or not it
9 really covers those individuals, and that's why
10 we submit the amendment.

11 I know I've lost 16 in a row, Mr.
12 President, but it's a new day.

13 ACTING PRESIDENT KUHL: Senator
14 Leibell.

15 SENATOR LEIBELL: If I may
16 just -

17 ACTING PRESIDENT KUHL: Senator
18 Leibell on the amendment.

19 SENATOR LEIBELL: If I might just
20 respond briefly to Senator Paterson, and -- and
21 I -- I find I've had more success myself in -
22 in this chamber than I have in the other house,
23 but I would note, Senator Paterson, that we

1 share your concern in terms of those people who
2 are renters and would choose not to participate
3 in the ownership.

4 We feel, however -- and this
5 question was brought to us by your staff the
6 other day -- that this amendment is unnecessary
7 because the renters who are protected now with
8 the 80 percent cap will have the same protection
9 that will be under the new cap of 50 percent.
10 In other words, there will be no change in
11 protection because we're lowering the cap. The
12 renters who choose not to participate would be
13 just as protected as they would with the 80
14 percent cap, which is the current law, and for
15 that reason I would suggest that there's no need
16 for this amendment.

17 ACTING PRESIDENT KUHL: The
18 question is on the amendment. All those in
19 favor of the amendment signify by saying aye.

20 (Response of "Aye".)

21 All those opposed, signify by
22 saying no.

23 (Response of "No".)

1 Another tough one to determine,
2 but I think the noes have it. A very, very
3 close vote. The amendment is defeated.

4 Sorry, Senator Paterson. You'll
5 have to continue. You got what, 21 left now?

6 Continuing on the bill. The
7 Secretary will read the last section.

8 Senator Mendez on the bill.

9 SENATOR MENDEZ: If Senator
10 Leibell will yield for a question.

11 ACTING PRESIDENT KUHL: Senator
12 Leibell, do you yield to Senator Mendez? The
13 Senator yields.

14 SENATOR MENDEZ: It is my
15 understanding that today we have statutes that I
16 -- whenever there is a rental building that
17 wants to go into a co-op or a condominium, that
18 we have now non-eviction plans. If that's the
19 case, will that also -- also apply to
20 Mitchell-Lamas?

21 SENATOR LEIBELL: I'm not exactly
22 sure which plans you're referring to, but under
23 the current law with Mitchell-Lama and under the

1 bill we have in front of us here, those tenants
2 who would not participate would be protected.
3 They would receive the exact same protections
4 under this change in the cap, from 80 percent to
5 50 percent, as they had received previously.

6 SENATOR MENDEZ: I was wondering
7 about the protection that some tenants had
8 whenever a private building is going to be made
9 -- whenever a private building is going to be
10 converted into a condo or a co-op, there is
11 protection in the law for non-eviction. Would
12 that apply -- because that law is there. Would
13 it apply in the conversion process of the
14 Mitchell-Lama?

15 SENATOR LEIBELL: That's my
16 understanding.

17 SENATOR MENDEZ: Oh, I see.
18 Thank you.

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

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

23 ACTING PRESIDENT KUHL: Call the

1 roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT KUHL: Announce
4 the results when tabulated.

5 THE SECRETARY: Ayes 50, nays 5,
6 Senators Abate, Kruger, Mendez, Paterson and
7 Smith recorded in the negative.

8 ACTING PRESIDENT KUHL: The bill
9 is passed.

10 The Secretary will continue to
11 call the controversial calendar.

12 THE SECRETARY: Calendar Number
13 700, by Senator Stafford, Senate Print 1261-B,
14 an act to amend the Insurance Law and the
15 General Obligations Law, in relation to limiting
16 liability for property owners.

17 SENATOR PATERSON: Explanation.

18 ACTING PRESIDENT KUHL: Senator
19 Stafford, an explanation has been asked for of
20 Calendar Number 700, by Senator Paterson.

21 SENATOR STAFFORD: Thank you, Mr.
22 President.

23 I would add -- or not add. I

1 would say first that this is not really plowing
2 new turf. We now have this available for many
3 purposes. And what do we have available?

4 For owners of land who voluntar
5 ily agree to permit public recreational use of
6 their land and water, there is limited liabil
7 ity. This simply says for any recreational
8 use.

9 Now, for those of you who get
10 into the country, and I know all of you do, some
11 live there, and those who live there, many let
12 people come onto their land for recreational
13 use. Your speaker is one of them. We think it
14 makes sense to give them this limited
15 liability.

16 Mind you, people are coming onto
17 private land. They can post it but no one goes
18 on, and I will say that posting is becoming more
19 prevalent and when this happens, the average
20 person -- excuse me -- the public is not able to
21 have the advantage of this land for hunting, for
22 many -

23 ACTING PRESIDENT KUHL: Senator

1 Paterson.

2 SENATOR PATERSON: Mr. President,
3 I rise hopeful that Senator Stafford will yield
4 for a question.

5 ACTING PRESIDENT KUHL: Senator
6 Stafford, do you yield for a question from
7 Senator Paterson? The Senator yields.

8 SENATOR PATERSON: Senator, I was
9 thinking about a scenario where there might be a
10 bridge that the landowner constructed over a
11 pond, and over a period of time the bridge falls
12 into disrepair and then some individual who is
13 visiting on property goes across the bridge, the
14 bridge breaks and the person is injured.

15 You don't think that there's
16 limited liability there that, in a sense, could
17 inure to the detriment of the individual who's
18 on the property, even though the property is
19 owned by the individual that constructed the
20 bridge?

21 SENATOR STAFFORD: Anything that
22 would be covered under common law of negligence
23 -- if -- that, of course, goes to the heart of

1 the question. Part of the issue, Senator
2 Paterson, always is if it is something that the
3 landlord or the owner should know about and it
4 is -- could cause harm, it is covered under the
5 common law of negligence.

6 ACTION PRESIDENT KUHL: Senator
7 Paterson.

8 SENATOR PATERSON: Mr. President,
9 if Senator Stafford would yield, and I would
10 move into a different area.

11 ACTION PRESIDENT KUHL: The
12 Senator continues to yield.

13 SENATOR PATERSON: I'm moving to
14 a different area on the private property. In a
15 situation where there is a lessee, who is
16 covered between the lessee and the owner should
17 an action be taken by some visitor? What is the
18 relationship between the lessee and the owner in
19 terms of the protection that this legislation
20 provides?

21 SENATOR STAFFORD: This, of
22 course, is something that is considered every
23 day because, as many of you may know or not know

1 -- and it's always good in these debates that
2 we keep people informed -- these vast acres of
3 land that are owned by mostly corporations, but
4 some individuals, they have what they call
5 hunting and fishing clubs, and they pay the
6 taxes. That's what that -- but when a club has
7 it, it is then posted, so then the public cannot
8 go in and have the advantage that people have
9 here.

10 I would say this, that people who
11 go into these lands, in the wilderness or not in
12 the wilderness, you have to make sure yourself
13 that the situation is safe. Now, I would
14 suggest -- and I'm not by any means trying to be
15 anything other than very open -- anyone who goes
16 across a logging bridge in the woods and they
17 don't know whether it's safe or not, they better
18 not go across it. I never do. They'll go down
19 toward the river as the people did who went west
20 80 -- more than that -- many years ago.

21 ACTING PRESIDENT KUHL: Senator
22 Paterson.

23 SENATOR PATERSON: But, Senator,

1 it's -- things are not always as they seem.
2 That's how I would answer that. In other words,
3 I assume that people who understand the woods
4 would attempt to do that, but I don't know that
5 it's always successful.

6 I just have one last question.
7 The answers have been quite informative, and the
8 question relates to the duty -- comparing the
9 duties of the individual to post the sign as
10 opposed to the duty of the individual that
11 openly invites someone onto the property. It
12 seems to me that a person who openly invites
13 someone onto the property has a lesser duty than
14 the individual who posts the sign, is that
15 correct?

16 SENATOR STAFFORD: Well, this is
17 -- this is true. Again, this gets back -
18 again, your questions are very well taken and I
19 understand exactly what you mean, but I have to
20 emphasize, what we're doing here is we're trying
21 to keep more land open.

22 Now, I would suggest that there
23 are organizations supporting this, the memo. I

1 will not go into it but, you know, when it comes
2 to knowing -- hiking in the wilderness, going up
3 on one of the lakes, ponds, unless people are
4 experienced and unless they have been there and
5 unless they understand exactly what they're
6 doing, there's actually nothing more dangerous,
7 and I think everyone has to understand -- you
8 asked about the lessee and the lessor. It
9 depends on the lease, but I will tell you from
10 one who has leased over 4,000 acres for the past
11 30 years -- I can't believe it's 30 years -- the
12 landowner is the one who's responsible, no
13 matter how you look at it.

14 ACTING PRESIDENT KUHL: Senator
15 Paterson.

16 SENATOR PATERSON: Mr. President,
17 on the bill.

18 ACTION PRESIDENT KUHL: Senator
19 Paterson, on the bill.

20 SENATOR PATERSON: That's good
21 advice that Senator Stafford has -- has allowed
22 us to hear, and I'm glad to see that he's still
23 open to negotiation from the questions that I

1 asked.

2 It's clear that some of us feel
3 that the bill needs to be reworked a little bit,
4 but it is in negotiation and we're comfortable
5 that Senator Stafford will be -- will be willing
6 to review some of those procedures.

7 ACTING PRESIDENT KUHL: Senator
8 Dollinger.

9 SENATOR DOLLINGER: Mr.
10 President, will Senator Stafford yield to a
11 question?

12 ACTING PRESIDENT KUHL: Senator
13 Stafford, do you yield to Senator Dollinger?
14 The Senator yields.

15 SENATOR DOLLINGER: Senator, you
16 used the example about the bridge on the private
17 property and you pointed out that no one should
18 use the bridge; they should ford the stream. My
19 question is -- and I just read this bill at
20 length for the first time and I'm troubled by
21 part of it, but if you have a bridge on your
22 property and the bridge is there as an
23 invitation for someone to walk across it, does

1 the landowner have no liability to inform the
2 potential invited guest that the planks in the
3 middle of the bridge are 250 years old and are
4 maybe well rotted and may fall apart if they're
5 subject to human weight?

6 SENATOR STAFFORD: I would
7 suggest that someone on Braniff Parks -- the
8 owners who are supporting this from Rochester,
9 they're -- well, you know, it doesn't make any
10 -- you know, that's the same area. Again, I
11 have to emphasize, I'm not saying anyone even is
12 inviting people to come. Some people are still
13 generous enough, frankly, to let people come on
14 their land. I shared with you that if anyone
15 crosses a bridge, no matter how many times they
16 have been in the woods, and they don't know
17 exactly whether it's safe, hasn't been proven to
18 them, they better not cross it. They're just -
19 they're just there because they'd like to go on;
20 they're not necessarily invited.

21 Now, if we want to have more
22 posting of land, I suppose we can -- we can do
23 that. I suggest that that's a step in the wrong

1 direction but, you know, in this country -- in
2 this country, you know, people have the right to
3 own land and they have a right to say that other
4 people will not come on their property, and when
5 these people are allowing -- not inviting, but
6 allowing; you don't see any invitations -- but
7 allowing people to go on the property, then I
8 think this comes right into these -- the list of
9 exceptions we have, and do you know the -- do
10 you know what -- what they are when you go on
11 property and you -- the landlord has limited
12 liability?

13 SENATOR DOLLINGER: I'm generally
14 familiar with them under the common law and
15 under this section of the law. If you'd like to
16 provide me with further edification, I would
17 appreciate it.

18 SENATOR STAFFORD: Hunting,
19 fishing, organized gleaning, as defined in
20 Section 72 -- 71(y) of the Agriculture and
21 Markets Law, canoeing, boating, tracking,
22 hiking, cross-country skiing, tobogganing,
23 sledding -- now here's one, speleological

1 activities, horseback riding, bicycle riding -
2 it says "hang gliding". They missed there; it
3 should be h-a-n-d, hand gliding -- motorized
4 vehicle operation for recreational purposes,
5 snowmobile operation, cutting or gathering of
6 wood for non-commercial purposes, training of
7 dogs, and we're just saying "or for other
8 recreational uses".

9 So, as I said earlier, we're not
10 really plowing any new turf here.

11 SENATOR DOLLINGER: That's the
12 section of the law -- again through you, Mr.
13 President, if Senator Stafford will continue to
14 yield.

15 ACTING PRESIDENT KUHL: Senator
16 Stafford, do you continue to yield? The Senator
17 continues to yield.

18 SENATOR DOLLINGER: That's the
19 section of the law that says if they come on
20 your land without permission, he has no
21 liability for the following -- for all those
22 activities, but Section (b), which says "an
23 owner who gives permission to another does not

1 thereby extend any assurance that the premises
2 are safe," and it used to say -- or at least
3 under the current law it says "constitute the
4 person to whom is granted an -- is granted an
5 invitee to whom a duty of care is owed."

6 We -- your bill would change that
7 to say, in essence, that if you are given
8 permission to come on the land, there is no
9 liability of the landowner to the invited guest
10 on the property, none.

11 SENATOR STAFFORD: Well, Mr.
12 President, I think we've -- we've pointed this
13 out.

14 ACTING PRESIDENT KUHL: Senator
15 Stafford.

16 SENATOR STAFFORD: For the people
17 to have the advantage of open space, we are
18 saying that there will be limited liability
19 other than common law of negligence. I think it
20 makes a great deal of sense. I think that
21 anyone who is questioning this doesn't really
22 understand the situation and, as I say, people
23 aren't being invited; they're being allowed.

1 There are no invitations. If people are -- had
2 the opportunity to use your open space, then
3 they realize or they have to understand that the
4 owner has limited liability.

5 Now, I could go -- the hiking
6 clubs or clubs that are involved in this area
7 are supporting this. They understand this.
8 They know what it's like to have land posted.
9 Once it's posted, you don't go on it anymore.

10 SENATOR DOLLINGER: Mr.
11 President, on the bill.

12 ACTING PRESIDENT KUHL: Senator
13 Dollinger, on the bill.

14 SENATOR DOLLINGER: If this bill
15 provided some form of limited liability for
16 landowners, I could see the wisdom of Senator
17 Stafford's counsel. I read it, however, to
18 provide no liability, none, on the part of
19 landowners who allow people, with their express
20 permission, to use their land. That means if
21 there's a guy wire across the trail, they have
22 no liability. That means if the bridge is 150
23 years old and it looks perfectly okay -- and

1 Senator Stafford said, "Well, you should find
2 out whether the bridge is usable or not", how do
3 you find out? Someone goes out and starts to
4 tiptoe across the bridge to see whether it's
5 strong enough to hold your weight, no
6 requirement that the landowner post any of these
7 potential deficiencies.

8 What would happen if there were
9 mil... it was an old military firing range and
10 there were land mines or there were mines, there
11 were exploded -- unexploded shells on the
12 property, it had been a drop zone in a war? It
13 was up in Senator Wright's part of the world
14 where they practice at Fort Drum, and we're
15 going to let people walk around with no
16 obligation on the part of the landowner to tell
17 them or advise them of any deficiencies on the
18 land, the risk in the land. They have no
19 liability at all to post any information for
20 these invited guests.

21 While I think that perhaps some
22 additional protection, some additional limited
23 liability for landowners might be appropriate,

1 in this circumstance it goes too far because it
2 leaves landowners carte blanche and creates no
3 liability -- not limited liability, no liability
4 on the part of the landowner.

5 For that reason, I think we'd be
6 doing an injustice to those invited guests if we
7 made this bill into law.

8 ACTING PRESIDENT KUHL: The Chair
9 recognizes Senator Hoffmann.

10 SENATOR HOFFMANN: Would Senator
11 Stafford yield for a question, please?

12 ACTING PRESIDENT KUHL: Senator
13 Stafford, do you yield to Senator Hoffmann? The
14 Senator yields.

15 SENATOR HOFFMANN: Senator
16 Stafford, upon reading the bill, just as Senator
17 Dollinger was referring to the bill as
18 eliminating total liability -- I don't want to
19 misquote you, Senator Dollinger -- but I believe
20 in the original bill, the unamended print, if
21 you could clarify this for me, Senator Stafford,
22 that on line 35 there is a reference to -- well,
23 I'll read directly from the bill. "This shall

1 not be interpreted or construed as a limit on
2 liability for acts of gross negligence in
3 addition to those other acts referred to in
4 subdivision 2 and 3 of this section."

5 What would -- help me clarify
6 this, then. In the case that a landowner had a
7 bridge -- since we're talking bridges here -
8 was well aware of the fact that the bridge was
9 not in good condition and had not made any main
10 tenance on it over some period of time and that
11 bridge was readily accessible by the public,
12 either by invitation or without invitation,
13 would that constitute gross negligence?

14 SENATOR STAFFORD: I -- well,
15 yes, but you have pointed it out. I said
16 earlier -- and I said negligence, really -
17 really, gross negligence, if it's determined
18 it's there, obviously you're not limited and
19 you're certainly liable.

20 I would say this: Exactly what
21 gross negligence is, I didn't want to be -- make
22 any errors and say that I knew exactly what
23 would be determined as gross negligence. If

1 someone had a bridge on their property that they
2 had used only to -- used for logging and it was
3 done, you know, 40, 50 years ago, I suggest that
4 people who go on that property should make sure
5 that that's -- make sure that that's safe.

6 Now, it could be argued that
7 that's gross negligence. That would have to be
8 determined by a court, but you're exactly
9 right. Common law of negligence is still there
10 as far as liability is concerned for gross
11 negligence.

12 SENATOR HOFFMANN: Thank you,
13 Senator Stafford.

14 Mr. President, if Senator
15 Stafford would continue to yield.

16 ACTING PRESIDENT KUHL: Senator
17 Stafford, would you continue to yield? Senator
18 Stafford -

19 SENATOR HOFFMANN: I -- I'm
20 very -

21 ACTING PRESIDENT KUHL: Senator
22 Hoffmann, excuse me just a minute.

23 Senator Stafford, I'm sure that

1 the stenographer is having as hard a time as I
2 am hearing you. Could you just kind of slide
3 back so you can speak into that microphone?

4 Thank you.

5 SENATOR HOFFMANN: Thank you very
6 much, Mr. President.

7 Senator Stafford, I -- I appreciate your clarification on the issue of gross
8 negligence and I think that most property owners
9 would willingly accept their responsibility to
10 maintain their property for their own use and,
11 obviously, to prevent the possibility of any
12 lawsuits, they would not want to be guilty of
13 gross negligence. If we can make an assumption
14 that landowners in this state -- and I think I
15 would like to refer specifically to farmers -
16 are by and large not inclined toward gross
17 negligence, but there are unique circumstances,
18 and your bill has done an excellent job of
19 outlining those circumstances, under which
20 people do enter someone else's property with or
21 without invitation.

22 Now, I'd like to ask you to -- to
23

1 clarify for me if the following situation would
2 be covered under your bill. Bear with me one
3 second.

4 As you know, it's common practice
5 in hunting after -- after a hit, to track an
6 animal. Theoretically, someone could be hunting
7 on state-owned land during bow season, hit a
8 deer and have to track it a mile through the
9 woods, during the course of tracking enter
10 private property, possibly unknowingly, because
11 with thick woods it's not always possible to see
12 the posted signs and bearing in mind that the
13 person is more inclined to be watching the
14 ground for signs rather than trees -- for posted
15 signs, and well aware of impending dusk there
16 would be some -- some matter of urgency to move
17 quickly onto other land.

18 Under such a circumstance, it's
19 possible that a hunter might enter private
20 property unknowingly. That private property
21 could have been previously fenced and have over
22 grown barbed wire fence. It is a very frequent
23 type of accident and usually a relatively minor

1 one for a person to stumble over or be tripped
2 or hung up somehow on old wire in the woods.
3 Would such an in... such an occurrence be
4 considered gross negligence by the landowner or
5 would the landowner be absolved of responsi
6 bility to compensate a hunter tracking an animal
7 on private property under these circumstances?

8 SENATOR STAFFORD: First, Mr.
9 President, I would ask Senator Hoffmann whether
10 the land is posted they go on.

11 SENATOR HOFFMANN: The land could
12 theoretically be posted, but knowing how posted
13 signs come down, or in large amounts of property
14 the legal definition of posted may not have been
15 met. The intent may have been there at one
16 time, but I think for discussion's sake, I would
17 like to know the answer for both posted land and
18 non-posted land.

19 SENATOR STAFFORD: First, I would
20 say to you, as I'm sure Senator Sears would
21 agree, wounding that deer and going onto private
22 land is one of the old, old stories that
23 everyone always does when they want to do a

1 little hunting on some private property. I'd
2 say it's about 50-50, but if every deer had been
3 wounded that people have wounded so they could
4 go on private property, we wouldn't have many
5 deer left.

6 Now, if the property is posted,
7 the case law is such that you don't have to have
8 every single postmark there. It's in the
9 Conservation Law and it's what every -- how many
10 feet does it have to be? Somebody must know.
11 Anyway, there's a -- there's a law there where
12 you have to have the sign and you have to have
13 who owns it and the address of the owner.

14 SENATOR HOFFMANN: That's
15 correct.

16 SENATOR STAFFORD: And it's going
17 to be, from now on, you also have to have the
18 telephone number.

19 The interesting point is usually
20 people have some club that you have no idea who
21 the club is, or they post it in such a way that
22 it's going to take you a long time to find out
23 who it is, I guarantee you. I'm just trying to

1 be very open on this.

2 Getting near barbed wire, I would
3 say people better be very careful because a high
4 percentage of hunting acc... hunting accidents
5 are crossing fences. Over 50 percent are -
6 some are smiling at that, but I think that we're
7 discussing all of this, I think it's a good
8 thing to be mentioning.

9 Now, I would suggest in case law,
10 if that property is posted and it's known as
11 posted land, whether for agriculture or logging
12 -- and, of course, logging you and I know is
13 agriculture and we got to start getting logging
14 into reasonable -- into a reasonable area as far
15 as paying workmen's compensation and that type
16 -- it is not something just out there and -
17 and we have it at the present time, so it's
18 almost impossible for these people; but if it's
19 posted, I would suggest that the landowner
20 probably will be held not responsible because of
21 the land being posted.

22 Now, you see those of us who have
23 been involved in these issues -- you know,

1 what's a "reasonable man"? If I ask every
2 person -- pardon me?

3 SENATOR HOFFMANN: Reasonable
4 person, a reasonable man or woman, Mr.
5 President.

6 SENATOR STAFFORD: A reasonable
7 person.

8 SENATOR HOFFMANN: Thank you.

9 SENATOR STAFFORD: They taught it
10 incorrectly when I was in law school and your
11 point is very well taken, and I have been
12 corrected by members of my family on these
13 issues.

14 Now, what's a "reasonable
15 person"? Well, here we go again, barbed wire.
16 Are people responsible for going out and
17 clearing all the fences around their land? I'll
18 tell you one of the most dangerous -- it's worse
19 than barbed wire hunting, there are old stone
20 fences, because when you step on them, you know
21 there's moss around them and they -- I'm not
22 saying they've gotten smaller but they aren't
23 together anymore. These people could make these

1 things in an arch... they were good architects;
2 you know, they went a certain way and you could
3 walk on them. I think there are some poems
4 about that, but if you cross a stone fence, that
5 can be dangerous.

6 Would the person be responsible
7 for clearing all these stone fences? I don't
8 think -- I don't think they -- I don't think
9 they would, and I -- it's the issue of gross
10 negligence. I could see -- I could see cases
11 that you could take and even if -- even if a
12 property was -- even if the property was posted
13 -- see, I don't even like to use the word, I
14 mean, because it just cuts off all these
15 opportunities for people. I can see, even if
16 property was posted, if something was grossly
17 negligent -- if someone had gone and dug
18 something, say they were looking for certain -
19 certain things on their land and they dug a big
20 hole and it wasn't marked -- I mean, this is all
21 reasonable. This is all reasonable.

22 SENATOR HOFFMANN: Mr. President.

23 ACTING PRESIDENT KUHL: Senator

1 Hoffmann.

2 SENATOR HOFFMANN: I -- I -- I
3 appreciate Senator Stafford's response, and I
4 believe I understand the distinction between the
5 posted and the non-posted liability, and I would
6 compliment Senator Stafford and ask one
7 additional question, if Senator Stafford would
8 continue to yield.

9 ACTING PRESIDENT DeFRANCISCO:
10 Senator Stafford, will you continue to yield?

11 SENATOR STAFFORD: By all means.

12 ACTING PRESIDENT DeFRANCISCO: He
13 will.

14 SENATOR HOFFMANN: Senator
15 Stafford, following this -- this train of
16 thought, and I'm sure for many of our colleagues
17 who are not familiar with the joys of hunting
18 and the experience that one might have in
19 tracking a deer, or a bear in your district, not
20 too many in mine, that there are unique
21 circumstances that one would be aware of, and I
22 I want to make sure that we're clear on the
23 intent of the bill, the current status of law

1 and what ultimate negligence would be under
2 certain circumstances.

3 The intent of the bill, as I
4 understand it, is to encourage more public
5 participation with less risk to property owners,
6 is that correct?

7 SENATOR STAFFORD: Correct.

8 SENATOR HOFFMANN: Thank you,
9 Senator.

10 SENATOR STAFFORD: Correct, Mr.
11 President.

12 SENATOR HOFFMANN: Thank you.

13 The -- the risks to property
14 owners, of course, are many, and in this very
15 litigious society we have, all property owners,
16 whether they have many thousand acres or a few
17 hundred or a few acres that could, in fact, be
18 used by other people with -- with or without
19 invitation compels them to take some pains and
20 -- and recognize this, but the process of
21 maintaining one's land and having it adequately
22 posted is very burdensome, I'm sure you'll
23 agree.

1 If a property owner had at one
2 time posted land and decided that this law would
3 provide -- this bill, assuming it's passed into
4 law -- would provide some measure of protection,
5 then we would, in fact, have served a rather
6 significant public purpose here in increasing
7 public access.

8 ACTING PRESIDENT DeFRANCISCO: Do
9 you yield to that question, Senator?

10 SENATOR STAFFORD: Yes, and the
11 Senator is exactly right.

12 SENATOR HOFFMANN: Thank you.

13 On the bill, Mr. President.

14 Thank you, Senator Stafford -

15 ACTING PRESIDENT DeFRANCISCO:
16 Senator Hoffmann on the bill.

17 SENATOR HOFFMANN: -- for
18 clarifying these matters. There are many
19 property owners who, out of a sense of fear that
20 they are at risk for lawsuits, have taken
21 measures to prevent access from their land by
22 posting the land, by trying to maintain those
23 posted signs. Posted signs are darned

1 expensive. They have to be weatherproof because
2 there isn't a single type of ink that will last
3 more than a season, and after you write your
4 name and your address on a couple hundred posted
5 signs, go out and spend a few days -- and do I
6 mean a few days in many instances -- affixing
7 them onto trees on wooden backers so they will
8 stay up there, it's very frustrating to come
9 back a few months later and discover that half
10 of them are gone and almost all of them are
11 obliterated because the ink has washed away.

12 This means that a landowner is,
13 in fact, in violation of the law relative to
14 posted signs and, more importantly, is subject
15 to negligence standards under the existing
16 statute.

17 So it becomes a burden. I want
18 to emphasize that. It becomes another burden on
19 people engaged in agriculture in this state to
20 maintain posted land. So there is a tremendous
21 benefit to the public for greater access to the
22 land as well as a benefit in terms of peace of
23 mind to people who are engaged in agriculture.

1 Now, when you think of a farm,
2 it's very likely that some people in this
3 chamber think in terms of neatly plowed fields
4 and rows of corn and pastures and fields of hay,
5 but a farm can include much more. In fact,
6 under DEC definition, much of the wetlands that
7 are in the possession of agriculturalists or
8 waste land as it's often classified, is very,
9 very difficult to traverse. To top it off,
10 there are portions of this state -- Senator
11 Stafford's district is well-known, but mine as
12 well -- which include ravines, gullies,
13 mountainous areas. There are people in my
14 district who have to literally rappel down
15 ravines to traverse one side to another of a
16 gorge to legally affix the posted signs at the
17 distances required by the law.

18 So if we can provide some relief
19 for such individuals to avoid going through this
20 onerous burden and at the same time allow
21 hunters the satisfaction of knowing that they
22 can, in fact, track an animal following a hit so
23 they can successfully conclude the hunt, not

1 allow that animal to suffer and make sure they
2 have completed their task without risk of any
3 violation of law for covering private property,
4 we will have accomplished something very
5 worthwhile.

6 This is all necessary, sadly,
7 because of the lawsuits, in this very litigious
8 society. I'm a little disappointed to see that
9 there is some opposition from the Trial Lawyers
10 Association here, but I am confident that the
11 Trial Lawyers would be as ingenuous following
12 the passage of this bill as they are today in
13 determining gross negligence when, in fact,
14 gross negligence exists. This is simply a
15 matter of relieving property owners of yet
16 another onerous burden and creating greater
17 access for the common good.

18 So I would support the bill. I
19 will urge all of my colleagues to do the same.

20 ACTING PRESIDENT DeFRANCISCO:
21 Senator Marchi.

22 SENATOR MARCHI: Mr. President,
23 my understanding of this legislation is that

1 there would be no immediate effect and there
2 would be a requirement when the Superintendent
3 of Insurance -- to make recommendations within a
4 period of 18 months.

5 The fact that it has as its
6 objective the limitation of liability on people
7 utilizing the land not for a consideration,
8 there's a certain assumption of risk in anything
9 you do in life or -- unless -- I wouldn't even
10 characterize gross negligence, but wanton
11 negligence, where you put traps in or you create
12 deliberate hazards, and even a trespasser is, of
13 course -- if they walk into a pit and there's
14 spikes at the bottom of the pit, you have a
15 pretty bad situation.

16 The opposition of the New York
17 Trial Lawyers Association, I think, is a reflex
18 action of trial lawyers, negligence lawyers on
19 anything that might impede run-away judgments on
20 allegations of negligence. It would seem to me
21 that it's -- it's good public policy given a
22 study by the Superintendent of Insurance, which
23 presumably would include certain safeguards in

1 which we are free to accept or reject, to
2 introduce a climate that will allow for greater
3 utilization and encourage the disposition of the
4 landowner to allow this use, as is now the case
5 as Senator Stafford has informed us, and I don't
6 see how -- I don't really see that going much
7 further than that, other than really to invite
8 the owners of public property to post trespass
9 signs and to bring on a wholly negative attitude
10 on the use of land that's open for recreational
11 use, considerations on both sides, but I think
12 that the pendulum definitely swings towards
13 Senator Stafford's bill which provides, I think,
14 for the -- the protections that -- a modicum of
15 protections and the limitation of liability at
16 the end of a period of review which we are free
17 to accept or reject and at the same time not
18 lead to situations where increased use may take
19 place as the population increases and there's a
20 greater propensity for using open space.

21 I think this bill favors -
22 favors the kind of activity which is now taking
23 place and which is laudable, so I think it's a

1 reasonably safeguarded piece of legislation, and
2 I don't think we should go to the barricades
3 just when trial lawyers object because it may
4 interfere with some run-away judgment.

5 ACTING PRESIDENT DeFRANCISCO:
6 Senator Saland.

7 SENATOR SALAND: Thank you, Mr.
8 President.

9 Mr. President, I rise in support
10 of Senator Stafford's bill. I know Senator
11 Stafford's interest in Section 9103 certainly is
12 long-standing. He has introduced legislation
13 over the years attempting to expand the
14 categories covered by that particular section,
15 and I commend him for his continuing efforts and
16 I don't view this bill somehow or other as being
17 a ticking time bomb. I think, as the Senator
18 has pointed out, it's certainly something that
19 would be welcomed by the sportsman's community,
20 by the agriculture community; but let me also
21 suggest to you that recreational users, people
22 who want to access things such as the Hudson
23 Valley -- Hudson River Valley Greenway, would be

1 greatly pleased to have this legislation on the
2 books. It's -- it's an invitation to open land,
3 to permit others to have access to the land, and
4 while there are issues that may be raised by way
5 of litigation, there are issues for which this
6 bill certainly does not shut the door. It makes
7 it clear that issues of gross negligence are
8 still subject to a proceeding if, in fact,
9 someone believes that that particular type of
10 behavior has occurred.

11 So I don't view this as being
12 onerous; I view this as being welcomed. I view
13 this as opening land, giving people access to
14 land. I view it as people being encouraged,
15 owners of property, to let others come upon
16 their property for a multitude of recreational
17 purposes, and I think as time progresses and as
18 fewer and fewer people have access to the kinds
19 of beautiful parcels that -- and the types of
20 parcels that really give us the opportunity to
21 expand our quality of life, to enjoy the kinds
22 of things in our day to day life we're generally
23 denied, this bill sends the right message.

1 I wish Senator Stafford well in
2 his negotiations with the other house and we'll
3 certainly do everything I can to bring his
4 message back to my district as well.

5 Thank you, Senator Stafford.

6 ACTING PRESIDENT DeFRANCISCO:
7 Read the last section.

8 SENATOR STAFFORD: Mr. President,
9 very quickly.

10 ACTING PRESIDENT DeFRANCISCO:
11 Senator Stafford.

12 SENATOR STAFFORD: I would just
13 point out that -- I should have pointed out the
14 study which will be conducted by the Superin
15 tendent of Insurance, and I would point out that
16 that will be conducted and we would hope they
17 will review and assess ways for -- for instance,
18 group policies to limit the cost of such
19 property and liability coverage on these lands,
20 but I would point out this is concurrent. This
21 will take place along with the legislation.

22 Thank you.

23 ACTING PRESIDENT DeFRANCISCO:

1 Senator Dollinger.

2 SENATOR DOLLINGER: Mr.
3 President, would Senator Stafford yield to just
4 one more question?

5 ACTING PRESIDENT DeFRANCISCO:
6 Senator Stafford, would you yield?

7 SENATOR DOLLINGER: It's a
8 relatively easy one. My question through you,
9 Mr. President, is if you had a piece of land
10 owned by the state and you have a piece of land
11 owned by the state relatively adjacent but you
12 have a section, a strip in between, that's owned
13 by a private property owner, and the -- this
14 bill passes and there's a bridge that runs from
15 the state land to the other part of the state
16 land and goes over the property held by the
17 private property owner, isn't it a fact that, if
18 you pass this bill, if a person fell on the
19 state land because the bridge was defective,
20 they would have a claim against the state, but
21 if they fell on the land that is owned by the
22 private property owner under this bill, they
23 would proceed at their own risk and, therefore,

1 they would have no claim?

2 ACTING PRESIDENT DeFRANCISCO:

3 Senator Stafford.

4 SENATOR STAFFORD: Mr. President,

5 I for one -- and I hope everyone here in the
6 room and all within the sound of my voice, I
7 hope that they understand that state land is
8 different than private land. Now, if we don't,
9 I think we're in real trouble.

10 Now, I have stated continuously
11 here that this is private land and people are
12 allowing people to go on it, and it's much
13 different than the state land that I have in my
14 district. Some of the towns have 75 to 80
15 percent state land in their towns. That is much
16 different than private land. It can be used and
17 we all own it. We're talking about land here
18 that is owned by an individual or corporation or
19 it could -- it could be land that they're using
20 so that they can provide -- provide produce for
21 supermarkets. It could be used for anything in
22 the private sector, and private land is
23 different than state land, and I would suggest

1 that we have to -- have to understand that.

2 I would ask the Senator this, Mr.
3 President, if he would yield. Was he saying
4 that this was just a strip of land between two
5 -- between two private -- between two state
6 owned -

7 ACTING PRESIDENT DeFRANCISCO:
8 Senator Dollinger, would you care to restate the
9 question?

10 SENATOR DOLLINGER: I will
11 restate it. My point was you have a piece of
12 state land, you have another piece of state
13 land, you got a strip in between which is owned
14 by a property owner -- and I appreciate the
15 difference between those ownerships but as the
16 individual walks from the state land -- from one
17 part of the state land to the other part of the
18 state land, there's nothing necessarily telling
19 him that he's now on private land, so he assumes
20 that the protection that the state gives him on
21 its own property extends through private land
22 until he gets to the other piece of state land.
23 He's not put on notice, "Oh, wait a second. I'm

1 now on private land and I proceed entirely at my
2 own risk, and have no presumed protection for
3 the condition of the land as I would have on the
4 state property."

5 ACTING PRESIDENT DeFRANCISCO: Is
6 there -- Senator Dollinger, is there a question
7 there?

8 SENATOR DOLLINGER: I believe -
9 Mr. President, I believe I was simply asked to
10 clarify my question, so the other question
11 stands.

12 SENATOR STAFFORD: I will clarify
13 the question by stating, there are differences.
14 I would ask -- I will point this out and then I
15 will attempt to answer the question.

16 If one has damages -- is damaged
17 on state land, they can have a trial and there's
18 only a judge. If you're damaged on private
19 land, you can have a trial -- exactly -- and you
20 can have a judge and jury. We can point out
21 differences.

22 There are going to be situations
23 where, obviously, as I stated -- I stated this

1 earlier, that if this was a piece of land that
2 was there and people were going across it all
3 the time, even though it was private land, I
4 could see that you could probably get to the
5 point of gross negligence if certain things
6 weren't corrected. All I'm saying is we're
7 making it possible to open this land, and I'm
8 sure that all of us -- all of us can think of
9 reasons that possibly it isn't really the way it
10 should be. It could be this way; it could be
11 that way.

12 Again, if we want to have this
13 land just posted, that's one thing and that's
14 been pointed out here, but I suggest that also
15 on this strip of land that was being suggested,
16 you know, anybody -- anybody who has spent time
17 in the woods and knows an area at all, you know
18 where the state land is, you know where the
19 private land is, and if someone is out in the
20 woods without someone who understands that, they
21 shouldn't be there. They shouldn't be there,
22 but there are thousands and thousands of people
23 that like to hike, fish, hunt, camp and I would

1 say that it's -- certainly makes sense for us to
2 make this available, and I would again say
3 anything that can determine -- be determined
4 that it's gross negligence, it's covered under
5 the negligence common law.

6 ACTING PRESIDENT DeFRANCISCO:
7 Senator Dollinger.

8 SENATOR DOLLINGER: Just briefly
9 on the bill.

10 I think Senator Hoffmann brings
11 up many good points. I think Senator Stafford
12 brings up many good points, although I go back
13 to the position advocated by Senator Marchi,
14 which is this is a balance. It's a balance
15 between making the land available and immunizing
16 the landowner from possible litigation versus
17 the right of someone, first time -- the problem
18 with gross negligence is it may require the
19 first person to fall through the bridge before
20 the landowner could be accused of gross
21 negligence. The first person who gets hurt
22 won't have a claim, and I think that shifts the
23 balance in this state, which I think was

1 reasonably struck by this Legislature before,
2 shifts it in favor of the landowner and against
3 what could be an injured person, and I -- I -
4 although I understand the reasonableness in how
5 -- to quote another law school phrase, Senator
6 Stafford, that you and I are are familiar with.
7 This is one about which reasonable minds can
8 differ, I believe, and I think there's a
9 difference between the two of us on how this
10 balance should be struck and it's a very, very
11 finely tuned balance that we're dealing with.

12 So with all due respect, both to
13 -- Senator Hoffmann I thought had some good
14 points as well, I'm going to be voting in the
15 negative.

16 ACTING PRESIDENT DeFRANCISCO:
17 Read the last section.

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

20 ACTING PRESIDENT DeFRANCISCO:
21 Call the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT DeFRANCISCO:

1 Results when they're tabulated.

2 THE SECRETARY: Those recorded in
3 the negative on Calendar 700 are Senators
4 Babbush, Connor, Dollinger, Paterson and
5 Waldon. Ayes 43, nays -- also Senator Gold.
6 Ayes 42, nays 6.

7 ACTING PRESIDENT DeFRANCISCO:
8 The bill is passed.

9 Continue reading the
10 controversial calendar.

11 THE SECRETARY: Calendar Number
12 884, by Senator Padavan, Senate Print 3091, an
13 act to amend the Executive Law, in relation to
14 cooperation between police agencies and the
15 United States Immigration and Naturalization
16 Service.

17 SENATOR PATERSON: Explanation.

18 ACTING PRESIDENT DeFRANCISCO:
19 Explanation is requested.

20 Senator Padavan.

21 SENATOR PADAVAN: Thank you, Mr.
22 President.

23 This bill mandates that when a

1 person is arrested in this state, when there's
2 some indication of illegal status as an illegal
3 immigrant, that cooperation between that law
4 enforcement agency and the Immigration and
5 Naturalization Service should take place.

6 ACTING PRESIDENT DeFRANCISCO:
7 Senator Men... Senator Paterson.

8 SENATOR PATERSON: Mr. President,
9 would Senator Padavan yield for a couple of
10 questions?

11 SENATOR PADAVAN: I would.

12 SENATOR PATERSON: Thank you.

13 Senator Padavan, some years ago
14 Mayor Koch issued an executive order denying the
15 agencies in the city the opportunity to ask
16 vital questions relating to status. Under your
17 legislation, does it supervene any executive
18 order by the state legislation that would deny
19 any law that -- any laws to be enacted that
20 would actually diminish the thrust of your
21 legislation?

22 SENATOR PADAVAN: What you're
23 referring to, Senator Padavan, is Executive

1 Order 124 -- Senator Paterson.

2 SENATOR PATERSON: You're Senator
3 Padavan.

4 SENATOR PADAVAN: You're talking
5 about Executive Order 124 issued by Mayor Koch a
6 number of years ago, and there was a section of
7 that executive order that if literally
8 interpreted would preclude the police department
9 from inquiring of a person who is involved in a
10 criminal act anything relevant to his immigra...
11 or his immigration status.

12 During the course of our work
13 over the past two years, we've had a lot of
14 contact with the mayors's office, a lot of
15 correspondence, a lot of dialogue. He indicates
16 -- his office indicates that with regard to
17 criminal activity, that portion of Executive
18 Order 124 has been amended, so that if someone
19 is arrested or involved in a crime and there's
20 any indication of unlawful entry into this
21 country, contact with INS would take place.

22 The trigger for that
23 determination occurred approximately a year

1 ago. One illegal immigrant was arrested in the
2 Bronx for selling drugs. No inquiry was made at
3 that point in time relevant to the individual's
4 immigration status or anything else relevant to
5 that issue. He was allowed out on his own
6 recognizance. During the following two weeks,
7 he shot and killed a police officer. When he
8 was rearrested, it was determined that he was an
9 illegal immigrant, in this country unlawfully
10 and, of course, all of the things relevant to
11 that particular determination took place.

12 The issue became, if the police
13 department had done what the mayor's now
14 directing them to do, in that instance at the
15 very outset, that individual would not have had
16 the opportunity of killing the police officer,
17 who, by the way, anecdotally, parenthetically,
18 the police officer was a naturalized citizen
19 having at one time also been an immigrant. So
20 that is the genesis of this in one regard.

21 I could also share with you some
22 other things as well that might be pertinent,
23 but I hope I have answered your question.

1 ACTING PRESIDENT DeFRANCISCO:

2 Senator Paterson.

3 SENATOR PATERSON: Yes, Senator
4 Padavan has answered my question.

5 I was thinking in addition, I can
6 certainly understand the circumstances that
7 you're addressing, but what about schools and
8 the Health Department and that kind of thing?
9 Would those executive orders be overruled?

10 SENATOR PADAVAN: This particular
11 bill relates specifically and only to persons
12 arrested in the commission of a crime.

13 ACTING PRESIDENT DeFRANCISCO:
14 Senator Paterson.

15 SENATOR PATERSON: Thank you, Mr.
16 President.

17 If Senator Padavan would continue
18 to yield.

19 ACTING PRESIDENT DeFRANCISCO:
20 Will you continue to yield, Senator Padavan?

21 SENATOR PADAVAN: Yeah.

22 SENATOR PATERSON: Senator
23 Padavan, the other day Senator Espada asked you

1 something about xenophobia, which he described
2 as -

3 SENATOR PADAVAN: -- dialogue.

4 SENATOR PATERSON: Fortunate -

5 SENATOR PADAVAN: Unfortunate
6 dialogue.

7 SENATOR PATERSON: You thought
8 that was unfortunate dialogue? Well, you know,
9 it's one of those phobias like claustrophobia,
10 hydrophobia, agrophobia, which is fear of
11 heights -- what -- unfounded fear of strangers,
12 and there's agoraphobia, which we seem to have
13 here, fear of going outside.

14 Senator Paterson -- Senator
15 Padavan, did you know -- I really want to be
16 Senator Padavan, then I could really get rid of
17 this bill, but do you know what hotephobia is?

18 SENATOR PADAVAN: I'm sorry.

19 What?

20 SENATOR PATERSON: That's fear of
21 travel.

22 SENATOR PADAVAN: Travel. Okay.

23 SENATOR PATERSON: Then there's

1 Hi-de-phobia; that's fear of Cab Calloway, but
2 that's another issue.

3 What we are really trying to
4 avoid in this kind of legislation, Senator, is
5 the abuse, particularly the number of incidents
6 that have been documented by a number of organi
7 zations where individuals have been harassed at
8 our borders, feeling that the police are already
9 cooperating with Immigration not to have the
10 situation -- particularly farm workers who come
11 into this country that don't speak the
12 language.

13 It's often hard, as Senator
14 Leichter described the other day, to produce the
15 proper identification and, really, although
16 there's an understanding of trying to generate
17 better cooperation between our law enforcement
18 and our Immigration Service, we're really trying
19 to avoid the potential for abuse in that area.

20 Do you care to comment on that at
21 all?

22 SENATOR PADAVAN: Yes. I think
23 my response would be simply to read the bill,

1 the very beginning, the very first paragraph:

2 "Every police agency in this
3 state as defined in law shall fully cooperate
4 with the United States Immigration and
5 Naturalization Service regarding any person who
6 is arrested under state law."

7 Any person who is arrested under
8 state law. That is the focus of this bill and
9 the entire issue relevant to the bill. So this
10 person has committed a crime and has been
11 arrested, and what we're saying, from that point
12 forward, issues relevant to the legal status -
13 legal status in this country.

14 I might refer you to something
15 that we discussed yesterday that I brought up in
16 the President's address to the nation on May
17 6th. Much of his presentation dealt with the
18 issue of illegal immigrants in terms of
19 deportation and immigrants who have been
20 involved with criminal acts. One of the things
21 he said -- and I'll read it to you. This is the
22 President of the United States.

23 "If they're sentenced to jail,

1 they should go to jail, but after jail they
2 should be removed from the United States. And
3 when there is a plea bargain, I want deportation
4 to be part of the deal." That's the President.

5 Now, if there's no contact
6 between the law enforcement agencies that have
7 jurisdiction and INS, I don't see how the
8 President's admonition and request could ever
9 take place.

10 SENATOR PATERSON: Senator -
11 ACTING PRESIDENT DeFRANCISCO:
12 Senator Paterson.

13 SENATOR PATERSON: The
14 President's edict, I think, is well taken and
15 I'm glad that that you cited it, but specific to
16 your legislation and -- as reflected in the
17 Supreme Court case of Filer v. Dow in 1982,
18 don't you think that -- I don't think this
19 particular legislation does this, but don't you
20 think some of this legislation that we're
21 looking at that relates to immigration is going
22 beyond the scope of the state's authority?

23 ACTING PRESIDENT DeFRANCISCO:

1 Senator Padavan.

2 SENATOR PADAVAN: This particular
3 bill certainly does not. If, by virtue of
4 administrative directive or simply by virtue of
5 inaction, any local jurisdiction, police in the
6 state of New York, that fails to cooperate, one,
7 when it is appropriate to do so, in my view, is
8 negligent, and this bill would seek to address
9 that. Certainly it's within our authority to
10 ensure that if someone who has committed a crime
11 and is in this country illegally, they're
12 referred to any other jurisdiction. In this
13 case INS, so that whatever can take place,
14 particularly with regard to deportation, should
15 take place, and if there's any plea bargaining
16 that goes on that INS is involved in, and so on
17 -- and in reading what the President said, I'm
18 simply attempting to highlight the simple fact
19 that, if we are to accomplish what he wishes to
20 have accomplished, then cooperation between
21 states and the federal government is essential
22 as it is in many other areas, investigations of
23 drug activity, and so on, and so on.

1 So, therefore, to answer your
2 question directly, it certainly not only is
3 within our authority, but I think it's part of
4 our responsibility to do this.

5 SENATOR PATERSON: Mr. President.

6 ACTING PRESIDENT DeFRANCISCO:
7 Senator Paterson.

8 SENATOR PATERSON: Would Senator
9 Padavan be willing to define for us the use of
10 the term "appropriate"? I know it's subjective,
11 but I think it's very important. It is his
12 bill, and what we're really addressing is the
13 fact that people are getting arrested. People
14 are getting held over. Often they don't have
15 any legal services, and in the end it's actually
16 determined that they're not illegal immigrants.

17 ACTING PRESIDENT DeFRANCISCO:
18 Senator Padavan.

19 SENATOR PADAVAN: The word is
20 subjective and, if they're not illegal
21 immigrants, then the bill doesn't apply.

22 SENATOR PATERSON: Senator
23 Padavan, what I'm trying to eliminate is for a

1 large number of people who would maybe be
2 released later having to go through the
3 humiliation, if you will, of being American
4 citizens, for instance, and at the same time
5 being challenged every place they go because
6 they seem to resemble individuals who may be
7 illegal aliens.

8 Now, it's a difficult situation.
9 I understand that we're really trying to address
10 this issue, the President is, you are, and it's
11 probably a good time for us to actually do that,
12 but what I'm saying is that, at the same time,
13 we have citizens in this country who are
14 certainly perceiving that many of the laws that
15 we're enacting are going to be applied
16 specifically to their situation and they are
17 either legal permanent residents or one of the
18 other 13 categories of legal residency or they
19 are American citizens. I just hope you're
20 sympathetic to the problem that they feel.

21 SENATOR PADAVAN: I am very
22 sympathetic, but I have to bring you back to
23 where we began, Senator. The only place that

1 the people covered by this bill have been
2 brought to is to a jail. They have been
3 arrested for committing a crime. We're not
4 talking about other things and other venues,
5 people being inappropriately denied because of
6 perceptions and things we talked about
7 yesterday, no point to go over all of it again.
8 We're talking about somebody who has been
9 arrested, is in jail, the district attorney's
10 involved. Certainly it's very easy, on making a
11 referral to INS if that person himself can't
12 produce documentation, to determine whether
13 they're here legally in this country.

14 Now, if they're not, then the
15 kind of cooperation that the President is
16 calling for -- and I think serves us well if it
17 were implemented. Florida is doing it very
18 effectively. Last year they deported over 1,000
19 illegal immigrants who were in their criminal
20 justice system. I needn't remind you of the
21 cost savings involved, to say nothing of other
22 issues.

23 And so that kind of cooperation,

1 I think, serves us well and should be -- should
2 be facilitated, it should be encouraged and, in
3 this particular case by virtue of this bill, be
4 mandated.

5 ACTING PRESIDENT DeFRANCISCO:
6 Senator Padavan -- excuse me, Paterson.

7 SENATOR PADAVAN: You too?

8 ACTING PRESIDENT DeFRANCISCO:
9 You got me doing it.

10 SENATOR PATERSON: He's doing it
11 too. I -- as I said, really aspire to be
12 Senator Padavan one day.

13 Actually, Senator Padavan raises
14 some very relevant issues. We are beset with a
15 number of economic problems in this state. We
16 don't need them exacerbated by the presence of
17 illegal aliens who are driving up costs for
18 taxpayers who reside in this state, and yet at
19 the same time we think that some of the
20 proposals that Senator Padavan is making are
21 actually causing a number of American citizens,
22 people who are proud to live in this country, to
23 pay a very high price because, as American as

1 they may be, they may in some respects resemble
2 those who are not.

3 ACTING PRESIDENT DeFRANCISCO:
4 Senator Mendez.

5 SENATOR MENDEZ: Mr. President, I
6 wonder if Senator Padavan would yield for a
7 couple of questions.

8 ACTING PRESIDENT DeFRANCISCO:
9 Senator Padavan, will you yield?

10 SENATOR PADAVAN: Yes.

11 SENATOR MENDEZ: Senator Padavan,
12 last year during the summer we conducted some
13 hearings pertaining to the situation of -- of
14 the agricultural workers, the farm workers, and
15 I was very interested in one situation that is
16 happening in some counties, upstate New York,
17 and that is, it was reported to me and the task
18 force that there are some towns where you might
19 find that four or five farm workers, they get on
20 a car and they go to the village to buy, or
21 whatever, and that without there being any
22 reasonable cause for them to be stopped by a -
23 by an officer -- a police officer. In fact,

1 they have been stopped; they have been
2 questioned what are they doing; they have been
3 demanded documentation to prove that they are
4 citizens, and on top of that, some of them have
5 been taken to local jails where they have paid
6 or stayed for two or three days.

7 Now, my question to you is the
8 following: I know what you're trying to do and
9 I agree with you that -- that people -- first of
10 all, people who are illegal, they shouldn't be
11 here. Secondly, people who are illegal and
12 commit a crime, I mean that's a little bit too
13 much for anybody to stomach, but my concern is
14 in your bill the process of finding out when
15 that person is an illegal alien will be when
16 that person is inside the jail? Is that the
17 point, when the local authorities will be
18 finding out if that person is an illegal alien,
19 once that person is arrested and in that jail?

20 SENATOR PADAVAN: That's the only
21 time you could do it, Senator.

22 SENATOR MENDEZ: I'm sorry?

23 SENATOR PADAVAN: I can't think

1 of any other way to accom.... let me respond to
2 you. You gave this -- this dissertation or you
3 shared with us your views by virtue of
4 experience. I would tell you that we are under
5 a federal mandate to some degree right now to do
6 this.

7 As a matter of fact, in a report
8 that I got not too long ago, the Justice
9 Department has submitted an amendment to the
10 omnibus crime bill, you recall, that was adopted
11 lowering funding to cities, and I quote -- this
12 is a quote -- "That you have a policy of
13 non-cooperation with INS." So they're saying to
14 us, "You want to participate in this -- these
15 funds for crime prevention and criminal justice,
16 you're going to have to cooperate with us."

17 Now, that amendment was not
18 adopted at that time, but it still represents, I
19 think, an expression on the part of the Justice
20 Department as well as the President to say that
21 everywhere in this country we should cooperate
22 to whatever extent possible.

23 ACTING PRESIDENT DeFRANCISCO:

1 Senator Mendez.

2 SENATOR MENDEZ: I have a meeting
3 of the minds with you in terms of what you want
4 to do in this bill. What bothers me is that at
5 present in today's world there are areas in New
6 York State where people are being apprehended,
7 maybe because they look different or for
8 whatever reasons, and taken to jail, so that I
9 have -- although I agree with the need to do
10 this and your bill does, I am trying to find
11 some way whereby innocent people who are minding
12 their own business and that they are either
13 legal residents like most farm workers are -
14 excuse me.

15 SENATOR PADAVAN: Let me -- let
16 me make some -

17 SENATOR MENDEZ: Excuse me.
18 Excuse me.

19 ACTING PRESIDENT DeFRANCISCO:
20 Excuse me, Senator Padavan.

21 Continue, Senator Mendez.

22 SENATOR MENDEZ: Thank you.
23 Thank you. Thank you both of you -- and that

1 they're minding their own business and they
2 might be citizens.

3 See, farm workers, 15 percent of
4 the farm workers are Puerto Ricans like me. 60
5 percent are Central and South American and
6 Mexicans and other Hispanics and they come from
7 Central or South America or Mexico, and then the
8 rest of the percentage, they could be African
9 Americans or of African descent from the
10 islands, you know, from the Caribbean, so -- but
11 if they're farm workers, as a bill, they are -
12 because of immigration rules, they are legal
13 residents.

14 So in your bill, since this
15 situation is occurring now, what -- then this
16 will legitimize something that is illegal,
17 occurring now because of the good cause that you
18 want to, don't you think?

19 ACTING PRESIDENT DeFRANCISCO:
20 Senator Padavan.

21 SENATOR PADAVAN: That was a long
22 question, ending with the question, "Don't you
23 think?"

1 What I think is basically,
2 Senator, with all due respect -- and you realize
3 I have a great deal of respect -- everything you
4 said is not applicable. The bill says very
5 specifically -- listen to me -- persons who are
6 arrested in violation of state law. So the
7 person had to commit some type of criminal act.

8 SENATOR MENDEZ: My question is
9 that at present there are some people that they
10 have not committed a crime, and yet because they
11 look different, they have been searched, the
12 clothes have been searched. They have been
13 taken to jail and wait two or three days when
14 they have not committed any crime. This is what
15 I'm trying to -- I see the merits of your bill,
16 but already because of this existing situation,
17 I have to be concerned.

18 SENATOR PADAVAN: Mr. President.

19 ACTING PRESIDENT DeFRANCISCO:
20 Senator Padavan.

21 SENATOR PADAVAN: In response to
22 your question, Senator, that is wrong. It would
23 be wrong without this bill. It would be wrong

1 on the face of it.

2 SENATOR MENDEZ: Correct.

3 SENATOR PADAVAN: This bill
4 doesn't encourage that nor does it exacerbate
5 that. It is totally irrelevant to that problem
6 which should be addressed in other ways, and to
7 say, however, because of that kind of abuse that
8 occurs, whenever it occurs, we should not do
9 what this bill says is -

10 SENATOR MENDEZ: Senator Padavan.

11 SENATOR PADAVAN: Excuse me.
12 Just to finish answering your question -- is to
13 suggest that a negative justifies not doing a
14 positive, and I don't agree.

15 SENATOR MENDEZ: Mr. President.

16 ACTING PRESIDENT DeFRANCISCO:
17 Senator Mendez.

18 SENATOR MENDEZ: That is the
19 wrong interpretation, Senator Padavan, about the
20 wrong -

21 SENATOR PADAVAN: Let me answer.

22 SENATOR MENDEZ: Hold it.

23 That's the wrong interpretation.

1 What really should be done is that maybe your
2 bill -- you yourself could amend your bill to
3 include something to the effect that officers
4 are not -- that people who are unjustly
5 apprehended or with no relationship to a crime
6 or something, that somebody will be fined or to
7 prohibit that other harassment that is totally
8 unnecessary, to find a way to protect that
9 situation, to do something about that situation
10 so that I wouldn't be -

11 SENATOR PADAVAN: Will the
12 Senator yield?

13 SENATOR MENDEZ: Yes.

14 SENATOR PADAVAN: Senator, is
15 that not already in our laws, that if someone is
16 arrested by a police officer inappropriately for
17 reasons that are not allowed by law, that
18 penalties would be imposed, both administrative
19 and other? Are these not part of our laws in
20 the state of New York already?

21 ACTING PRESIDENT DeFRANCISCO:
22 Senator Mendez.

23 SENATOR MENDEZ: Thank you.

1 Senator Padavan, you are from New
2 York City. I am from New York City. There are
3 many laws -- many laws that are in the books and
4 that yet are not followed by the office -- are
5 not enforced by the criminal justice system, and
6 there are others unfortunately that are being
7 enforced when they -- it's against the law to do
8 that, and in this instance, what's happening to
9 some of these farm workers is a reality and, by
10 law, they should -- that shouldn't happen.

11 So I have no problems with what
12 the President said in terms of as part of the
13 plea bargaining, to have deportation for illegal
14 aliens. No problems at all, Mr. President, with
15 the issue of -- illegal aliens shouldn't be
16 here, because illegal aliens shouldn't be here,
17 and on top of if, it that illegal alien commits
18 a crime, why should we pay for his
19 incarceration? But I do have great problems
20 with the kinds of injustices and denial of
21 rights that are being done today, in today's
22 world, with people that are just workers who are
23 trying to make a living and that many of them

1 don't even speak the language and they don't
2 have any interpreters. They are stunned when
3 they are stopped in a car, and the car is
4 searched. All that is against individuals'
5 rights or because of that concern that I have, I
6 think, in a way, this will be -- this bill,
7 which you are not directing at that situation
8 because it's not your purpose to do so, but this
9 bill will, in fact, as I see it, legitimize that
10 -- those wrongdoings that are occurring at the
11 present time.

12 Thank you.

13 ACTING PRESIDENT DeFRANCISCO:
14 Senator Dollinger.

15 SENATOR DOLLINGER: Mr. President,
16 will Senator Padavan yield for one question?

17 ACTING PRESIDENT DeFRANCISCO:
18 Senator Dollinger.

19 SENATOR DOLLINGER: Mr.
20 President, will Senator Padavan yield to a
21 question?

22 ACTING PRESIDENT DeFRANCISCO:
23 Senator Padavan, will you yield?

1 SENATOR PADAVAN: Yes.

2 SENATOR DOLLINGER: Senator, is
3 it currently a crime to give the people alien in
4 this state or in this country some penalty?

5 SENATOR PADAVAN: Senator, people
6 illegally in this country, the penalty is de
7 portation.

8 SENATOR DOLLINGER: So under your
9 bill, as you say, you simply haven't linked what
10 they can do to every other address. That
11 determines whether they can -- what they can
12 do.

13 SENATOR PADAVAN: Says it right
14 here.

15 SENATOR DOLLINGER: So what this
16 says, if I understand it, that the police says
17 if this burglar had attempted to burglarize
18 other houses, they would attempt to determine if
19 he was that other house burglar. Your bill says
20 if they're arrested for burglary and you think
21 they may be violating the immigration laws, that
22 they would simply go out and determine that
23 those laws have been violated.

1 SENATOR PADAVAN: That's correct,
2 and it says that word or words in paragraph two
3 of the bill, in violation of the laws.

4 SENATOR DOLLINGER: A question,
5 Mr. President. What happens, Senator Padavan,
6 after the notification to the INS occurs, the
7 deportation process would be commenced if there
8 was evidence?

9 SENATOR PADAVAN: Those would
10 vary with the circumstance. That will vary with
11 the circumstance, certainly, and if you had the
12 benefit of various situations that we've
13 collected over a period of a year or so, you
14 would see that the circumstances vary.

15 One case we talked about a police
16 officer being killed; another we found
17 situations of cooperation that eventually took
18 place involving exploitation of illegal
19 immigrants where they were violating the labor
20 laws, all kinds of things, health and safety
21 laws, federal and state, and it was through
22 cooperation between all law enforcement agencies
23 and INS, bringing everybody else into the act,

1 that action was finally taken. So it would
2 depend on what the arrest was for, the
3 circumstances surrounding the individual, as to
4 what the final outcome would be, and I really
5 can't give you any definitive answer.

6 ACTING PRESIDENT DeFRANCISCO:
7 Senator Dollinger.

8 SENATOR DOLLINGER: On the bill,
9 Mr. President.

10 I think this bill, as Senator
11 Padavan correctly describes it, simply alerts
12 the police agencies in this state to the fact
13 that, if there's reasonable suspicion of the
14 illegal entry into this country, that they
15 should check out and determine whether this
16 accused is an illegal alien.

17 I see that as something that we
18 should be doing in this state. I see it as
19 something that we want our police authorities to
20 do, which is when someone is arrested for Crime
21 A, and there's reasonable suspicion that they
22 are committing Crime B, that we should require
23 them to determine whether Crime B has been

1 committed or not; so I don't see this bill as a
2 significant departure from what we're doing
3 currently, although I do think it has value
4 because it alerts our police agencies to be
5 aware of the illegal immigration problem and
6 people who are arrested, if there's reasonable
7 suspicion, should be required to produce
8 evidence that they are in this country legally.

9 We talked yesterday when we did
10 the immigration bill with respect to education,
11 that I think the concern is of many people in
12 this chamber about what constitutes reasonable
13 suspicion. I believe that if you've got someone
14 who's arrested, reasonable suspicion has to be
15 based on more than just surnames. It has to be
16 based on more than just color, but I think our
17 Constitution provides standards under which
18 reasonable suspicion can be analyzed legally.

19 We have constitutional
20 protections even for illegal aliens that would
21 protect them and allow them to both assert the
22 defense of probable cause when they're arrested
23 and assert the defense of reasonable suspicion

1 at the time they are held over or investigated
2 for violation of the immigration laws.

3 So I see this bill as a good
4 step. I'm going to vote in favor of it. As we
5 continue to try to deal with this difficult
6 problem of illegal immigration, it seems to me
7 this is a good step.

8 ACTING PRESIDENT FARLEY: Anybody
9 else on the bill?

10 Senator Waldon, I guess I got you
11 on the list, and did you, Senator Abate, did you
12 want to -

13 SENATOR ABATE: Yes.

14 ACTING PRESIDENT FARLEY: Senator
15 Waldon.

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

18 Senator Padavan, would you yield
19 to a question, please.

20 ACTING PRESIDENT FARLEY: Senator
21 Padavan, would you yield to a question from
22 Senator Waldon?

23 SENATOR WALDON: Senator, are you

1 familiar with the arrest cards -- I don't know
2 about the state, but are you familiar with the
3 arrest cards of the city of New York?

4 SENATOR PADAVAN: I'm sorry. I
5 didn't hear you.

6 SENATOR WALDON: Are you aware of
7 the arrest card form utilized by the New York
8 City Police Department?

9 SENATOR PADAVAN: I know such a
10 thing exists.

11 SENATOR WALDON: Thank you very
12 much. On the bill.

13 ACTING PRESIDENT FARLEY: On the
14 bill, Senator Waldon.

15 SENATOR WALDON: The arrest card
16 that I asked Senator Padavan about basically
17 requires the officer to seek the information
18 which would codify what this bill is attempting
19 to do. You must tell -- you must try to find
20 out the person's name, birth place, citizenship,
21 et cetera.

22 On its face, at first blush, this
23 bill is not -- is not a danger, but in the city

1 of New York under the current administration,
2 police brutality charges are up in excess of 40
3 percent.

4 Many of these police brutality
5 situations are the result of illegal stops,
6 illegal searches and seizures, and I can speak
7 definitively about this because I've witnessed
8 two of them personally. I just happened to be
9 at a place where they occurred, but I can tell
10 you, my colleagues, that literally hundreds of
11 people are coming to my office and to the
12 offices of Senator Smith and the Assembly people
13 and Congress people who represent Southeast
14 Queens, to complain that the police are now
15 taking license to do whatever they want to do in
16 terms of stopping people. All too often and
17 most regrettably, the people they stop look like
18 me. The people they stop are from the
19 Caribbean. The people they stop speak Spanish
20 and are from Puerto Rico or Venezuela or another
21 Spanish speaking nation in the western
22 hemisphere, and I think that is abhorrent, and
23 so my fear about this legislation that it will

1 extend -- and I will conclude momentarily -- it
2 will extend the opportunity for police
3 departments to illegally stop -- illegally
4 search and find something after they've done
5 this to someone, and make an arrest and
6 exacerbate this problem and, for that reason,
7 I'm extremely troubled by this legislation and,
8 therefore, will vote against it.

9 ACTING PRESIDENT FARLEY: Senator
10 Abate.

11 SENATOR ABATE: Yes. Will
12 Senator Padavan yield to a question?

13 ACTING PRESIDENT FARLEY: Senator
14 Padavan, would you yield to a question from
15 Senator Abate?

16 SENATOR ABATE: This is a point
17 of clarification.

18 ACTING PRESIDENT FARLEY: I think
19 he will.

20 SENATOR ABATE: Clearly, in order
21 to arrest someone, clearly an officer must have
22 probable cause, and then the burden that you
23 outline in this legislation to go further is

1 reasonable suspicion that someone may be an
2 illegal alien.

3 Why not, because we're talking
4 about a separate crime, it's not incident to the
5 first crime -- let's say I'm a defendant. I'm
6 arrested for burglary. I'm searched, clearly
7 incident to that burglary charge, and now you're
8 saying I'm in custody that all the police need
9 is reasonable suspicion. Why can you not drop
10 the probable cause to believe?

11 SENATOR PADAVAN: Because,
12 Senator, the issue relates only to reporting.
13 There's no penalty. There's no other further
14 action under our penal code. The reasonable
15 suspicion only relates to the requirement of
16 reporting to INS, nothing more. So there is no
17 law in the way you've outlined.

18 SENATOR ABATE: So there's
19 obviously a lesser burden on the police -

20 SENATOR PADAVAN: It's purely an
21 administrative one.

22 SENATOR ABATE: All right. Now,
23 how would they get this information? Is there

1 anything indicated by the statute that the
2 defendant is required to give or provide this
3 information?

4 SENATOR PADAVAN: I'm sorry.

5 SENATOR ABATE: I'm sorry. Is
6 there anything in the statute that compels the
7 defendant to give this information?

8 SENATOR PADAVAN: No, no, nothing
9 that compels them other than what existing law
10 provides for already. I don't know how we could
11 go beyond what existing law indicates. You
12 know, I was disturbed by the previous question,
13 I'd like to, in answering your question use it
14 as a vehicle to do so, when we talked about
15 abuse.

16 You may have heard about this
17 terrible tragedy recently uncovered where 30
18 young women from Thailand were smuggled into
19 this country, the idea, of course, of their
20 being here and benefiting as immigrants, but
21 when they got here, they were put into slavery
22 as prostitutes. They were told they had to have
23 sex at least 400 times before they could be

1 released.

2 Now, here's the part of the story
3 I'd like to read to you. It says, The brothel
4 was discovered when one of the alleged captives
5 told investigators from the Mayor's Task Force
6 on Midtown Enforcement that she was being held
7 against her will. A three-month investigation
8 followed, involving INS agents, officers from
9 the Police Department's Public Morals Division
10 and Downtown Manhattan 5th Police Precinct.

11 That is an example of what we
12 want to see done. If INS hadn't been involved
13 -- and the whole story here goes into great
14 detail how they then determine who the people
15 were who were also illegal immigrants who are
16 running this, operating this venture, and so on,
17 and so on. So these -- these situations become
18 very involved, very, very convoluted, but there
19 has to be a starting point.

20 The starting point here was
21 contacting INS after the local police were given
22 information by one of the victims.

23 SENATOR ABATE: There's just one

1 other question that I have. You may not be
2 aware, but there is a practice in certain cases
3 by the police, I mean obviously we need to
4 ensure speedy arraignments, and the arraignment
5 time does not begin, that someone has to be,
6 under the law, arraigned within 24 hours of the
7 arrest, but sometimes the police -- and I'm
8 afraid there could be abuse here and you may -
9 we may need to refine this down the road or, if
10 you amend this, is that this should not delay
11 the speedy arraignment because I would not like
12 to see as an excuse that someone is arrested and
13 then the police say they have to continue to
14 investigate, to keep someone down at central
15 booking for many, many hours, maybe days, before
16 they bring them over to arraignment, investigat
17 ing whether someone is an illegal alien, and
18 that would be, I think, an abuse of the intent
19 of this statute.

20 Now, do you think this -- the way
21 it's written -

22 SENATOR PADAVAN: This statute,
23 in no way, offends, contradicts, subverts,

1 undermines any existing statute such as the ones
2 you outline. Nor could it, so it's not a
3 question of interpretation. It's a matter of
4 law. The requirements you properly articulated
5 remain in law and are not at all affected by
6 this required procedure involving federal
7 notification.

8 SENATOR ABATE: May I suggest, if
9 this bill is ever amended, that there would be
10 language that would say that no defendant for
11 the purposes of investigation should be
12 unnecessarily detained in order to get this
13 information, and I think that's very important
14 to be included in the legislation.

15 I ask you, Senator, to maybe
16 consider that, if this does not pass, become law
17 this year.

18 SENATOR PADAVAN: I'm not
19 quarreling with you; I'm just saying it's
20 already law, but keep one thing in mind. If,
21 after notification to a federal authority, it's
22 determined that person is here illegally, then
23 the federal law is kicked in automatically in

1 terms of detention which, as you remember the
2 story I told you earlier about the policeman
3 that was killed, if that had taken place he
4 wouldn't have been killed, so I think we have to
5 be careful when we deal with that issue but, to
6 restate existing law, I have no problem with it
7 except that I'd want to make it clear that this
8 does not in any way violate existing law.

9 SENATOR ABATE: Maybe, let me
10 just clarify. What happens now is the police
11 will say, we did not make an arrest at 1100
12 hours because we were still investigating. We
13 made the arrest later, so the clock does not run
14 on the 24 hours, and I would hate to see that,
15 as the officers are doing their continuing
16 investigation, the arrest occur much later,
17 maybe days later, when people are necessarily
18 helped for long periods of time.

19 SENATOR PADAVAN: Mr. President,
20 to answer your question. If you read the bill,
21 everything required here takes place after the
22 arrest, so the clock is ticking.

23 SENATOR ABATE: That's -- O. K.

1 Thank you very much.

2 ACTING PRESIDENT KUHL: Secretary
3 will read the last section.

4 THE SECRETARY: Section 2. This
5 act shall take effect on the 30th day.

6 ACTING PRESIDENT KUHL: Call the
7 roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT KUHL: Announce
10 the results when tabulated.

11 THE SECRETARY: Those recorded in
12 the negative on Calendar 884 are Senators
13 Connor, Gold, Paterson, Smith and Waldon. Ayes
14 -- also Senator Mendez. Ayes 43, nays 6.

15 ACTING PRESIDENT KUHL: The bill
16 is passed.

17 Senator Abate, why do you rise?

18 SENATOR ABATE: Yes. I'd like to
19 be recorded -- I ask for unanimous consent to be
20 recorded in the negative on Calendar 700.

21 ACTING PRESIDENT KUHL: Without
22 objection. Hearing no objection -

23 SENATOR GOLD: Mr. President.

1 ACTING PRESIDENT KUHL: -
2 Senator Abate will be recorded in the negative
3 on Calendar Number 700.

4 Senator Gold, why do you rise?

5 SENATOR GOLD: Yes. I got
6 confused on the last bill because of the
7 sponsorship. Could I be recorded in the
8 affirmative, please.

9 ACTING PRESIDENT KUHL: Senator
10 Gold will be recorded in the affirmative on the
11 last calendar calling, on Calendar Number 884.

12 Senator Paterson, why do you
13 rise?

14 SENATOR PATERSON: Mr. President,
15 the house just passed Number 884. Senator
16 Santiago, who was excused today due to the
17 unfortunate illness of her son and will not be
18 back with us for about ten days -- and we extend
19 our best wishes to Senator Santiago and her
20 entire family for the speedy recovery for her
21 son -- but I just wanted to explain why she will
22 explain why she would have voted in the negative
23 on Calendar Number 884. Just want to make a

1 record of that.

2 ACTING PRESIDENT KUHL: All
3 right. We will make a record of that. We'll
4 look forward to her comments when she returns.
5 Our best wishes to her son.

6 Senator Libous.

7 SENATOR LIBOUS: Would you call
8 on Senator Holland, please.

9 ACTING PRESIDENT KUHL: Senator
10 Holland.

11 SENATOR HOLLAND: Yes, I would
12 request that the sponsor's star be removed from
13 Calendar Number 727.

14 ACTING PRESIDENT KUHL: Sponsor's
15 star will be removed from Calendar Number 727 at
16 the request of the sponsor.

17 Senator Libous.

18 SENATOR LIBOUS: Would you please
19 bring up Calendar Number 1027.

20 ACTING PRESIDENT KUHL: Secretary
21 will read the title of Calendar Number 1027.

22 THE SECRETARY: Calendar Number
23 1027, by Senator Sears, Senate Print Number

1 3331, an act in relation to authorizing the town
2 of Lee, county of Oneida, to lease certain park
3 lands.

4 ACTING PRESIDENT KUHL: Secretary
5 will read the last section.

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

8 ACTING PRESIDENT KUHL: There is
9 a home rule message at the desk. Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes 49.

13 ACTING PRESIDENT KUHL: The bill
14 is passed.

15 Senator Libous.

16 SENATOR LIBOUS: Mr. President,
17 is there a Rules report at the desk?

18 ACTING PRESIDENT KUHL: Senator
19 Libous, I'm informed by the Secretary there is.

20 SENATOR LIBOUS: Could we have it
21 read, please.

22 ACTING PRESIDENT KUHL: Would you
23 like it read? We'll return to reports of

1 standing committees. Secretary will read the
2 Rules report at the desk.

3 THE SECRETARY: Senator Bruno,
4 from the Committee on Rules, reports the
5 following bills:

6 Senate Print 2678, by Senator
7 Rath, an act to amend the General Business Law,
8 in relation to hotel rooms;

9 1218, by Senator Present, an act
10 to amend the General Municipal Law, in relation
11 to municipal contingency and tax stabilization
12 reserve funds;

13 1354, by Senator Sears, an act to
14 amend the General Business Law, in relation to
15 barring discriminatory practices by consumer
16 reporting agencies;

17 2210, by Senator Skelos, Senate
18 -- an act to amend the Tax Law, in relation to
19 exempting from sales and use taxes receipts from
20 sales of photocopies;

21 2365, by Senator Volker, an act
22 to establish a moratorium on requiring any
23 disconnection from the Letchworth State Park

1 water line;

2 2561, by Senator Leibell, an act
3 to amend the Tax Law, in relation to restoring
4 the former corporate tax procedure for refunding
5 overpayments of tax;

6 2664, by Senator Velella, an act
7 to amend the General Business Law, in relation
8 to price gouging;

9 3077, by Senator Kuhl, an act to
10 amend the Environmental Conservation Law, in
11 relation to permitting the discharge of a fire
12 arm for the purpose of killing certain rabid
13 animals;

14 3119, by Senator Kuhl, an act to
15 amend the Environmental Conservation Law, in
16 relation to the definition of angling;

17 3133, by Senator Johnson, an act
18 to amend the General Business Law, in relation
19 to limitations to certain contracts involving
20 social referral services;

21 3989, by Senator Stafford, an act
22 to amend the Tax Law, in relation to
23 investigating lottery sales agents and

1 applicants for lottery sales agent licenses;

2 4796, by Senator Rath, an act to
3 incorporate the Voluntary and Exempt
4 Firefighters Benevolent Association of the city
5 of Tonawanda, Incorporated;

6 5069, by Senator Present, an act
7 authorizing the county of Chautauqua to
8 discontinue for reforestation purposes the use
9 of certain lands;

10 5179, by the Committee on Rules,
11 an act to amend Chapter 590 of the Laws of 1993,
12 amending the Public Authorities Law;

13 And 5197, by Senator Nozzolio, an
14 act to amend the Penal Law, in relation to
15 adjudication of an unlawful escape for -- by a
16 person under 16 years of age.

17 All bills ordered directly for
18 third reading.

19 ACTING PRESIDENT KUHL: Without
20 objection, all bills reported directly to third
21 reading.

22 Senator Libous.

23 SENATOR LIBOUS: Mr. President, I

1 move to accept the Rules report.

2 ACTING PRESIDENT KUHL: Motion is
3 to accept the Rules report.

4 All those in favor signify by
5 saying aye.

6 (Response of "Aye.")

7 Opposed nay.

8 (There was no response.)

9 The Rules report is accepted.

10 Bills reported directly to third reading.

11 Senator Libous.

12 SENATOR LIBOUS: Mr. President,
13 is there any housekeeping?

14 I believe Senator Marchi maybe.

15 ACTING PRESIDENT KUHL: Chair
16 recognizes Senator Marchi.

17 SENATOR MARCHI: Thank you, Mr.
18 President.

19 I wish to call up my bill Print
20 772 recalled from the Assembly which is now at
21 the desk.

22 ACTING PRESIDENT KUHL: Secretary
23 will read the title.

1 THE SECRETARY: Calendar 770, by
2 Senator Marchi, Senate Print 74, an act to amend
3 the Real Property Law, in relation to modifying
4 the real estate continuing education
5 requirement.

6 ACTING PRESIDENT KUHL: Senator
7 Marchi.

8 SENATOR MARCHI: I now offer the
9 following amendments, Mr. President.

10 ACTING PRESIDENT KUHL: Do you
11 want to reconsider the vote by which that bill
12 passed the house, Senator? Motion is to
13 reconsider the vote by which the bill passed the
14 house. Secretary will call the roll on
15 reconsideration.

16 (The Secretary called the roll on
17 reconsideration.)

18 THE SECRETARY: Ayes 49.

19 ACTING PRESIDENT KUHL: Bill is
20 before the house.

21 Senator Marchi. Want to offer up
22 the amendments?

23 SENATOR MARCHI: I offer the

1 amendments.

2 ACTING PRESIDENT KUHL:

3 Amendments are received and adopted.

4 Chair recognizes Senator Marchi.

5 SENATOR MARCHI: On page number
6 33, Calendar Number 860, Print Number 3499, I
7 offer the following amendments and ask that it
8 retain its place on the Third Reading Calendar.

9 ACTING PRESIDENT KUHL:

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

12 Senator Marchi.

13 SENATOR MARCHI: And on page 28,
14 I offer the following amendments to Calendar
15 Number 779, Senate 4853, and ask that said bill
16 retain its place on the Third Reading Calendar.

17 ACTING PRESIDENT KUHL:

18 Amendments to Third Reading 779 received and
19 adopted. Bill will retain its place on the
20 Third Reading Calendar.

21 Senator Libous.

22 SENATOR LIBOUS: Mr. President,
23 is there any other housekeeping?

1 ACTING PRESIDENT KUHL: That
2 completes the housekeeping, Senator Libous.

3 SENATOR LIBOUS: Mr. President, I
4 have a couple of announcements.

5 There will be a Majority
6 Conference at 2:00 p.m. in Room 332 and, there
7 being no further business, Mr. President, the
8 Senate will be at ease until 2:30.

9 ACTING PRESIDENT KUHL: There
10 will be a Majority Conference in the Majority
11 Conference Room at 2:00 p.m. Senator DiCarlo
12 will not be taking attendance.

13 Senate will stand in recess until
14 2:30.

15 (Whereupon at 12:10 p.m., the
16 Senate recessed until 2:30 p.m.)

17 (The Senate reconvened at 2:50
18 p.m.)

19 ACTING PRESIDENT NOZZOLIO:
20 Senator Libous.

21 SENATOR LIBOUS: Mr. President,
22 there being no further business, I move that we
23 adjourn until Tuesday, May 30th, at 3:00 p.m.,

1
2
3
4
5
6
7
8
9
10

intervening days to be legislative days.

ACTING PRESIDENT NOZZOLIO:

Adjourned until Tuesday, May 30th, at 3:00 p.m.

(Whereupon, at 2:51 p.m., the
Senate adjourned.)