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ALBANY, NEW YORK

May 30, 1995

3:00 p.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: Senate  
3 will come to order. Ask the members to find  
4 their chairs, staff to find their places.

5 Ask everybody in the chamber to  
6 rise with me and say the Pledge of Allegiance to  
7 the Flag.

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

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

13 (Whereupon, there was a moment of  
14 silence.)

15 Reading of the Journal.

16 THE SECRETARY: In Senate,  
17 Monday, May 29. The Senate met pursuant to  
18 adjournment. Senator Farley in the chair upon  
19 designation of Temporary President. The Journal  
20 of Sunday, May 28, was read and approved. On  
21 motion, Senate adjourned.

22 ACTING PRESIDENT KUHL: Hearing  
23 no objection, the Journal stands approved as

1 read.

2 Presentation of petitions.

3 Messages from the Assembly.

4 Messages from the Governor.

5 Reports of standing committees.

6 Reports of select committees.

7 Communications and reports from  
8 state officers.

9 Motions and resolutions.

10 Chair recognizes Senator Tully.

11 SENATOR TULLY: Thank you, Mr.  
12 President. On behalf of Senator Goodman, please  
13 place a sponsor star on Calendar Number 99.

14 ACTING PRESIDENT KUHL: At the  
15 request of the sponsor, Calendar Number 99 will  
16 be starred.

17 Senator Tully.

18 SENATOR TULLY: Yes, Mr.  
19 President. Again, on behalf of Senator Goodman,  
20 I wish to call up Calendar Number 98, Assembly  
21 Print Number 1700.

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

1 THE SECRETARY: Calendar Number  
2 98, by Senator Goodman, Senate Print 1367, an  
3 act to amend the Arts and Cultural Affairs Law,  
4 in relation to autographed sports collectibles.

5 ACTING PRESIDENT KUHL: Senator  
6 Tully.

7 SENATOR TULLY: I now move to  
8 reconsider the vote by which this Assembly bill  
9 was substituted for Senate Print Number 1367 on  
10 March 13.

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

13 (The Secretary called the roll on  
14 reconsideration.)

15 THE SECRETARY: Ayes 43.

16 ACTING PRESIDENT KUHL: The bill  
17 is before the house.

18 Senator Tully.

19 SENATOR TULLY: I now move that  
20 Assembly Bill Number 1700 be recommitted to the  
21 Committee on Investigations, Taxation, and  
22 Government Operations and Senator Goodman's bill  
23 be restored to the order of the Third Reading

1 Calendar.

2 ACTING PRESIDENT KUHL: The  
3 Assembly bill will be recommitted. The Senate  
4 bill will be restored to the Third Reading  
5 Calendar.

6 Senator Tully.

7 SENATOR TULLY: Mr. President. I  
8 now offer the following amendments.

9 ACTING PRESIDENT KUHL: The  
10 amendments are received and adopted.

11 Senator Tully.

12 SENATOR TULLY: Yes, Mr.  
13 President. On behalf of Senator Holland, I wish  
14 to call up his bill, Print Number 143, recalled  
15 from the Assembly, which is now at the desk.

16 ACTING PRESIDENT KUHL: Secretary  
17 will read the title.

18 THE SECRETARY: Calendar Number  
19 9, by Senator Holland, Senate Print 143, an act  
20 to amend the Penal Law, in relation to criminal  
21 possession of public assistance identification  
22 cards.

23 ACTING PRESIDENT KUHL: Senator

1 Tully.

2 SENATOR TULLY: Yes, Mr.  
3 President. I now move to reconsider the vote by  
4 which this bill was passed.

5 ACTING PRESIDENT KUHL: The  
6 motion is to reconsider the vote by which the  
7 bill passed the house. The Secretary will call  
8 the roll on reconsideration.

9 (The Secretary called the roll on  
10 reconsideration.)

11 THE SECRETARY: Ayes 43.

12 ACTING PRESIDENT KUHL: The bill  
13 is before the house.

14 Senator Tully.

15 SENATOR TULLY: Mr. President. I  
16 now offer the following amendments.

17 ACTING PRESIDENT KUHL: The  
18 amendments are received and adopted.

19 Senator Stachowski, why do you  
20 rise?

21 SENATOR STACHOWSKI: Mr.  
22 President. On behalf of Senator Gold, on page  
23 number 26, I offer the following amendments to

1 Calendar 748, Senate Print number 193A, and ask  
2 that said bill retain its place on the Third  
3 Reading Calendar.

4 ACTING PRESIDENT KUHL:  
5 Amendments are received and adopted.

6 Senator Sears.

7 SENATOR SEARS: Mr. President.  
8 Would you remove the star on Calendar Number  
9 894, Senate Print 1355B.

10 ACTING PRESIDENT KUHL: Star is  
11 removed on Calendar Number 894 at the request of  
12 the sponsor.

13 Senator Bruno, that brings us to  
14 the calendar.

15 SENATOR BRUNO: Mr. President.  
16 Can we at this time recognize Senator Kruger for  
17 some information that may be of interest to the  
18 membership here.

19 ACTING PRESIDENT KUHL: Chair  
20 recognizes Senator Kruger for I believe an  
21 announcement.

22 SENATOR KRUGER: Thank you,  
23 Senator Bruno.

1                   ACTING PRESIDENT KUHL:  Senator  
2                   Kruger, excuse me for just a minute, will you?  
3                   Let's get this chamber in order.  Let's quiet  
4                   down.  We won't proceed until it's quiet in the  
5                   chamber.

6                   Thank you for the indulgence,  
7                   Senator Kruger.

8                   Senator Kruger.

9                   SENATOR KRUGER:  Thank you, Mr.  
10                  President.

11                 I would like to announce that a  
12                 decision was rendered today in a lawsuit that  
13                 was filed by myself and Senator Montgomery and  
14                 other plaintiffs concerning the Governor's  
15                 denial of our legislative salaries.

16                 In a memorandum decision today,  
17                 Judge Gilbert Ramirez in Supreme Court in Kings  
18                 County directed the Governor that the next  
19                 appropriation bill that is sent to the  
20                 Legislature must include the salaries for the  
21                 members of the State Legislature.

22                 In making that memorandum  
23                 decision, Justice Ramirez pointed out that

1           today's ruling reaffirms a basic fact about  
2           state government, that there's a good reason why  
3           no governor is above the New York State  
4           Constitution.

5                         Without going into great detail,  
6           I think that it's important that we recognize  
7           today that this decision that was rendered  
8           speaks loud and clear of the overwhelming issue  
9           of not so much the question of whether or not  
10          legislators were paid their salaries but the  
11          interference of the Governor in what is the  
12          workings of the Legislature and our right as an  
13          independent body of government.

14                        I thank my other plaintiffs in  
15          joining me in this action, and we hope that this  
16          will set a precedent not only for now but for  
17          the future that Governor Pataki has a clear and  
18          compelling message, that the workings of this  
19          Legislature are independent of the Governor, and  
20          we will not be coerced by using our pocketbooks  
21          when the question of conscience and good  
22          judgment should be applied.

23                                 ACTING PRESIDENT KUHL:   Senator

1 Bruno.

2 SENATOR BRUNO: Mr. President.

3 Can we at this time go to the noncontroversial  
4 calendar.

5 ACTING PRESIDENT KUHL: Secretary  
6 will read the noncontroversial calendar.

7 THE SECRETARY: On page 6,  
8 Calendar 181, by Senator Volker, Senate Print  
9 2444A, an act to amend the Real Property Law, in  
10 relation to disclosure obligations.

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

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

15 ACTING PRESIDENT KUHL: Call the  
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 52.

19 ACTING PRESIDENT KUHL: The bill  
20 is passed.

21 THE SECRETARY: Calendar Number  
22 240, by Senator Lack, Senate Print 2405, an act  
23 to amend the Civil Rights Law, in relation to

1 prohibiting the state from imposing certain fees  
2 on persons who change their names.

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

5 THE SECRETARY: Section 2. This  
6 act shall take effect in 30 days.

7 ACTING PRESIDENT KUHL: Call the  
8 roll.

9 (The Secretary called the roll.)

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

12 THE SECRETARY: Ayes 51. Nays  
13 1. Senator Marcellino recorded in the negative.

14 ACTING PRESIDENT KUHL: The bill  
15 is passed.

16 THE SECRETARY: Calendar Number  
17 337, by Senator Rath, Senate Print 539A, an act  
18 to amend the Education Law, in relation to  
19 student refunds of certain financial aid grants.

20 SENATOR PATERSON: Lay it aside.

21 ACTING PRESIDENT KUHL: Lay the  
22 bill aside.

23 THE SECRETARY: Calendar 359, by

1 Senator Trunzo, Senate Bill 3661B, an act to  
2 amend the Civil Service Law, in relation to  
3 conforming the terminology and procedures with  
4 the existing practice for obtaining a guide dog.

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

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

9 ACTING PRESIDENT KUHL: Call the  
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes 52.

13 ACTING PRESIDENT KUHL: The bill  
14 is passed.

15 THE SECRETARY: Calendar Number  
16 445, by Senator Lack, Senate Print 2272A, an act  
17 to amend the Economic Development Law, in  
18 relation to enacting the Advanced Technology Act  
19 of 1995.

20 ACTING PRESIDENT KUHL: Secretary  
21 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                   ACTING PRESIDENT KUHL: Announce  
5 the results when tabulated.

6                   THE SECRETARY: Ayes 51. Nays  
7 1. Senator Libous recorded in the negative.

8                   ACTING PRESIDENT KUHL: The bill  
9 is passed.

10                  THE SECRETARY: Calendar Number  
11 630, by Senator Hannon, Senate Print 3468, an  
12 act to amend the Parks, Recreation, and Historic  
13 Preservation Law, in relation to certain  
14 payments to state park policemen.

15                  SENATOR PATERSON: Lay it aside.

16                  ACTING PRESIDENT KUHL: Lay the  
17 bill aside.

18                  THE SECRETARY: Calendar Number  
19 640, by Senator Levy, Senate Print 2883, an act  
20 to amend the Vehicle and Traffic Law, in  
21 relation to increasing penalties for leaving the  
22 scene of an accident without reporting.

23                  ACTING PRESIDENT KUHL: Secretary

1 will read the last section.

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

5 ACTING PRESIDENT KUHL: Call the  
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 52.

9 ACTING PRESIDENT KUHL: The bill  
10 is passed.

11 THE SECRETARY: Calendar Number  
12 681, by Senator Tully, Senate Print 3593A, an  
13 act to amend the Education Law, in relation to  
14 the definition of certified dental assisting.

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

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

19 ACTING PRESIDENT KUHL: Call the  
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes 52.

23 ACTING PRESIDENT KUHL: The bill

1 is passed.

2 THE SECRETARY: Calendar Number  
3 696, by Senator Kuhl, Senate Print 4010, an act  
4 to amend the Public Authorities Law, in relation  
5 to authorizing and establishing compensation for  
6 members of the Genesee Valley Regional Market  
7 Authority.

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

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

12 ACTING PRESIDENT KUHL: Call the  
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes 52.

16 ACTING PRESIDENT KUHL: The bill  
17 is passed.

18 THE SECRETARY: Calendar Number  
19 728, by Senator Levy, Senate Print 973B.

20 SENATOR PATERSON: Lay it aside.

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

1 THE SECRETARY: Calendar Number  
2 758, by Senator Sears, Senate Print 4313, an act  
3 to amend the Agriculture and Markets Law, in  
4 relation to unit pricing in fluid ounces for  
5 certain infant foods.

6 ACTING PRESIDENT KUHL: Secretary  
7 will read the last section.

8 THE SECRETARY: Section 3. This  
9 act shall take effect on the 180th day.

10 ACTING PRESIDENT KUHL: Call the  
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 52.

14 ACTING PRESIDENT KUHL: The bill  
15 is passed.

16 THE SECRETARY: Calendar Number  
17 761, by Senator Lack, Senate Print 1296,  
18 concurrent resolution of the Senate and  
19 Assembly, proposing amendments to Article 6 of  
20 the Constitution, in relation to the number of  
21 judicial departments and districts.

22 ACTING PRESIDENT KUHL: The  
23 question is on the resolution.

1 All in favor, signify by saying  
2 aye.

3 (Response of "Aye.")

4 Opposed, nay.

5 (There was no response.)

6 The resolution is adopted.

7 THE SECRETARY: Calendar Number  
8 792, by Senator Cook, Senate Print 4172A, an act  
9 to amend Chapter 942 of the Laws of 1990  
10 creating the Ethelbert B. Crawford Library  
11 District.

12 ACTING PRESIDENT KUHL: 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 52.

20 ACTING PRESIDENT KUHL: The bill  
21 is passed.

22 THE SECRETARY: Calendar Number  
23 812, by Senator Rath, Senate Print 1101A, an act

1 to amend the Civil Practice Law and Rules, in  
2 relation to the period of limitation for an  
3 action by a victim of a criminal offense.

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: Call the  
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 53.

12 ACTING PRESIDENT KUHL: The bill  
13 is passed.

14 THE SECRETARY: Calendar Number  
15 827, by Senator Volker, Senate Print 4381.

16 SENATOR BRUNO: Lay the bill  
17 aside for the day.

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

20 THE SECRETARY: Calendar Number  
21 851, by Senator Goodman, Senate Print 1867A, an  
22 act to amend the Transportation Law, in relation  
23 to penalties and forfeitures for violations

1 relating to motor carriers.

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

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

6 ACTING PRESIDENT KUHL: Call the  
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes 43 -- 53.

10 ACTING PRESIDENT KUHL: The bill  
11 is passed.

12 THE SECRETARY: Calendar Number  
13 853, by Senator Kuhl, Senate Print 2313, an act  
14 to amend the Vehicle and Traffic Law.

15 SENATOR BRUNO: Lay the bill  
16 aside for the day.

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

19 THE SECRETARY: Calendar Number  
20 855, by Senator Leibell, Senate Print 2562, an  
21 act providing for the exclusion of certain  
22 commercial motor vehicles from a portion of the  
23 Bear Mountain State Parkway.

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

3                   THE SECRETARY: Section 2. This  
4 act shall take effect on the 120th day.

5                   ACTING PRESIDENT KUHL: Call the  
6 roll.

7                   (The Secretary called the roll.)

8                   THE SECRETARY: Ayes 53.

9                   ACTING PRESIDENT KUHL: The bill  
10 is passed.

11                  THE SECRETARY: Calendar Number  
12 857, by Senator Maltese, Senate Print 3240, an  
13 act to amend the Vehicle and Traffic Law, in  
14 relation to increasing the penalty for  
15 obstructing access by a fire vehicle to a fire  
16 hydrant during time of emergency operation.

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

19                  THE SECRETARY: Section 3. 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 54.

3 ACTING PRESIDENT KUHL: The bill  
4 is passed.

5 THE SECRETARY: Calendar Number  
6 858, by Senator Goodman, Senate Print 3466, an  
7 act to amend the Transportation Law, in relation  
8 to disclosure by common carriers of liability  
9 and protection.

10 ACTING PRESIDENT KUHL: Secretary  
11 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 54.

18 ACTING PRESIDENT KUHL: The bill  
19 is passed.

20 THE SECRETARY: Calendar Number  
21 900, by Senator Present, Senate Print 471, an  
22 act to amend the Public Lands Law, in relation  
23 to state aid payments for certain state-owned

1 lands.

2 ACTING PRESIDENT KUHL: Senator  
3 Bruno, why do you rise?

4 SENATOR BRUNO: I would like to  
5 ask that a meeting of the Corporations Committee  
6 called off the floor in Room 332 immediately.

7 ACTING PRESIDENT KUHL: There  
8 will be an immediate meeting of the Senate  
9 Committee on Corporations in the Majority  
10 Conference Room, Room 332.

11 Secretary will read the last  
12 section.

13 SENATOR LEICHTER: Lay it aside.

14 ACTING PRESIDENT KUHL: Lay the  
15 bill aside.

16 THE SECRETARY: Calendar Number  
17 940, by Member of the Assembly Matusow, Assembly  
18 Print 6345A, an act to amend the Alcoholic  
19 Beverage Control Law, in relation to authorizing  
20 farm winery licenses.

21 ACTING PRESIDENT KUHL: Lay the  
22 bill aside.

23 THE SECRETARY: Calendar Number

1           963, by Senator Hoblock, Senate Print 3108, an  
2           act to amend the Civil Service Law and others,  
3           in relation to certain United States civilians  
4           serving in World War II.

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

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

9                         ACTING PRESIDENT KUHL: Call the  
10          roll.

11                        (The Secretary called the roll.)

12                        THE SECRETARY: Ayes 54.

13                        ACTING PRESIDENT KUHL: The bill  
14          is passed.

15                        THE SECRETARY: Calendar Number  
16          967, by Senator Cook, Senate Print 3961A, an act  
17          to amend the Insurance Law, in relation to motor  
18          vehicle insurance coverage for certain persons  
19          in the armed forces.

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

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

1                   ACTING PRESIDENT KUHL: Call the  
2 roll.

3                   (The Secretary called the roll.)

4                   THE SECRETARY: Ayes 54.

5                   ACTING PRESIDENT KUHL: The bill  
6 is passed.

7                   THE SECRETARY: Calendar Number  
8 972, by Senator Kuhl, Senate Print 3932A, an act  
9 to amend the Agriculture and Markets Law, in  
10 relation to milk control and to repeal certain  
11 provisions of such law relating thereto.

12                   SENATOR LEICHTER: Lay it aside.

13                   ACTING PRESIDENT KUHL: Lay the  
14 bill aside.

15                   THE SECRETARY: Calendar Number  
16 1014, by Senator Holland, Senate Print 68, an  
17 act to amend the Criminal Procedure Law, in  
18 relation to the admissibility of evidence of  
19 criminal possession of a weapon.

20                   SENATOR PATERSON: Lay it aside.

21                   ACTING PRESIDENT KUHL: Lay the  
22 bill aside.

23                   THE SECRETARY: Calendar Number

1 1018, by Senator Padavan, Senate Print 670, an  
2 act to amend the Penal Law, in relation to make  
3 unlawful immigration a Class C felony.

4 SENATOR LEICHTER: Lay it aside.

5 ACTING PRESIDENT KUHL: Lay the  
6 bill aside.

7 THE SECRETARY: Calendar Number  
8 1024, by Senator Hoblock, Senate Print 2612, an  
9 act to amend the Penal Law, in relation to  
10 increasing the penalties for sale of controlled  
11 substances.

12 SENATOR PATERSON: Lay it aside.

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

16 THE SECRETARY: Calendar Number  
17 1026, by Senator Larkin, Senate Print 3065, an  
18 act to amend the Criminal Procedure Law, the  
19 Penal Law and the Family Court Act, in relation  
20 to making persons 12 to 15 years of age eligible  
21 for juvenile offender treatment.

22 SENATOR PATERSON: Lay it aside.

23 ACTING PRESIDENT KUHL: Lay the

1 bill aside.

2 THE SECRETARY: Calendar Number  
3 1033, by Senator Rath, Senate Print 268, an act  
4 to amend the General Business Law, in relation  
5 to hotel rooms.

6 ACTING PRESIDENT KUHL: Secretary  
7 will read the last section.

8 THE SECRETARY: Section 2. This  
9 act shall take effect on the first day of  
10 November.

11 ACTING PRESIDENT KUHL: Call the  
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes 54.

15 ACTING PRESIDENT KUHL: The bill  
16 is passed.

17 THE SECRETARY: Calendar Number  
18 1034, by Senator Present, Senate Print 1218, an  
19 act to amend the General Municipal Law, in  
20 relation to municipal contingency and tax  
21 stabilization reserve funds.

22 ACTING PRESIDENT KUHL: Secretary  
23 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 54.

7 ACTING PRESIDENT KUHL: The bill  
8 is passed.

9 THE SECRETARY: Calendar Number  
10 1035, by Senator Sears, Senate Print 1354, an  
11 act to amend the General Business Law, in  
12 relation to barring discriminatory practices by  
13 consumer reporting agencies.

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

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

19 ACTING PRESIDENT KUHL: Call the  
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes 54.

23 ACTING PRESIDENT KUHL: The bill

1 is passed.

2 THE SECRETARY: Calendar Number  
3 1036, by Senator Skelos, Senate Print 2210, an  
4 act to amend the Tax Law, in relation to  
5 exempting from sales and use taxes receipts from  
6 sales of photocopies.

7 ACTING PRESIDENT KUHL: Secretary  
8 will read the last section.

9 THE SECRETARY: Section 2. This  
10 act shall take effect on the first day of  
11 December.

12 SENATOR LEICHTER: Lay it aside.

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

15 Senator Leichter, did you want  
16 the bill laid aside?

17 SENATOR LEICHTER: Yes.

18 ACTING PRESIDENT KUHL: The bill  
19 will be laid aside.

20 THE SECRETARY: Calendar Number  
21 1038, by Senator Leibell, Senate Print 2561, an  
22 act to amend the Tax Law, in relation to  
23 restoring the former corporate tax procedure for

1        refunding overpayments of tax.

2                    SENATOR LEICHTER: Lay it aside.

3                    ACTING PRESIDENT KUHL: Lay the  
4 bill aside.

5                    THE SECRETARY: Calendar Number  
6 1039, by Senator Velella, Senate Print 2664, an  
7 act to amend the General Business Law, in  
8 relation to price gouging.

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

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

13                   ACTING PRESIDENT KUHL: Call the  
14 roll.

15                   (The Secretary called the roll.)

16                   THE SECRETARY: Ayes 54.

17                   ACTING PRESIDENT KUHL: The bill  
18 is passed.

19                   THE SECRETARY: Calendar Number  
20 1041, by Senator Kuhl, Senate Print 3119, an act  
21 to amend the Environmental Conservation Law, in  
22 relation to the definition of angling.

23                   ACTING PRESIDENT KUHL: Secretary

1 will read the last section.

2 THE SECRETARY: Section 2. This  
3 act shall take effect on the 120th day.

4 ACTING PRESIDENT KUHL: Call the  
5 roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT KUHL: Announce  
8 the results when tabulated.

9 THE SECRETARY: Those recorded in  
10 the negative on Calendar 1041 are Senators  
11 Holland, Leibell, Leichter, Maltese, Maziarz,  
12 Montgomery and Sears, also Senator Padavan.  
13 Ayes 46. Nays 8.

14 ACTING PRESIDENT KUHL: The bill  
15 is passed.

16 THE SECRETARY: Calendar Number  
17 1042, by Senator Johnson, Senate Print 3233, an  
18 act to amend the General Business Law, in  
19 relation to limitations to certain contracts  
20 involving social referral services.

21 SENATOR PATERSON: Lay it aside.

22 ACTING PRESIDENT KUHL: Lay the  
23 bill aside.

1 THE SECRETARY: Calendar Number  
2 1043, by Senator Stafford, Senate Print 3989, an  
3 act to amend the Tax Law, in relation to  
4 investigating lottery sales agents.

5 SENATOR BRUNO: Lay it aside for  
6 the day.

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

9 THE SECRETARY: Calendar Number  
10 1044, by Senator Rath, Senate Print 4796, an act  
11 to incorporate the Volunteer and Exempt Fire  
12 Fighters Benevolent Association of the city of  
13 Tonawanda.

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

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

18 ACTING PRESIDENT KUHL: Call the  
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes 54.

22 ACTING PRESIDENT KUHL: The bill  
23 is passed.

1 THE SECRETARY: Calendar Number  
2 1046, by the Committee on Rules, Senate Print  
3 5179, an act to amend Chapter 590 of the Laws of  
4 1993, amending the Public Authorities Law,  
5 relating to the approval of the Public  
6 Authorities Control Board.

7 SENATOR LEICHTER: Lay it aside.

8 ACTING PRESIDENT KUHL: Lay the  
9 bill aside.

10 THE SECRETARY: Calendar Number  
11 1047, by Senator Nozzolio, Senate Print 5197, an  
12 act to amend the Penal Law, in relation to  
13 adjudication of an unlawful escape by a person  
14 under 16 years of age.

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

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

20 ACTING PRESIDENT KUHL: Call the  
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 54.

1                   ACTING PRESIDENT KUHL:  The bill  
2           is passed.

3                   Senator Bruno, that completes the  
4           noncontroversial calendar.

5                   SENATOR BRUNO:  Mr. President.  
6           Can we at this time recognize Senator Volker.

7                   ACTING PRESIDENT KUHL:  Chair  
8           recognizes Senator Volker.

9                   SENATOR VOLKER:  Mr. President.  
10          In the chamber upstairs to the left here is a  
11          group of officials from the Republic of China,  
12          from the Liaoning Province in China which is a  
13          province of China near the Korean border.

14                   These various officials who I  
15          will introduce in just a second -- I will do the  
16          best I can to introduce them -- are a group of  
17          people who are here in the United States, taking  
18          a tour of the United States, and have been  
19          discussing with a company called Ecology and  
20          Environment, which is a company that does  
21          environmental programs not only in the United  
22          States but throughout the world.

23                   Ecology and Environment is doing

1 an engineering program designed to improve the  
2 air quality in the Liaoning Province of China.

3 They were the guests today at a  
4 luncheon by the president of Ecology and  
5 Environment, who is up in the upstairs here  
6 also, Gerhard Neumaier, president of Ecology and  
7 Environment.

8 And let me give you the names of  
9 those people who are here who are officials from  
10 various parts of Liaoning Province:

11 Mr. Cong Zhenglong is Vice  
12 Governor of Liaoning Province.

13 Mr. Mu Suixin is Director of the  
14 Liaoning Planning Commission.

15 Mr. Zhang Heling is the Vice  
16 Director of the Liaoning Planning Commission.

17 Mr. Lu Xin is Vice Director of  
18 the Liaoning Finance Department.

19 Mr. Liu Shihe is the Vice Mayor  
20 of Anshan, which is a city in Liaoning Province.

21 Mr. Zhao Xiquan is Vice Mayor of  
22 Fushan, a city in the Liaoning Province.

23 Mr. Wu Zuozhang is Division Chief

1 of the Liaoning Finance Department.

2 Mr. Zeng Juegun is Director of  
3 Liaoning Urban Construction and Renewal Project  
4 Office.

5 Mr. Guan Caibin is Vice Director  
6 of the Urban Construction and Renewal Project  
7 Office.

8 Mr. Qiu Guangyu is Deputy  
9 Director of the Shengyang Construction  
10 Commission.

11 If these gentlemen to my left  
12 here will apologize, I'm sure I completely  
13 crucified their names, but I had Mr. Walsh, who  
14 is their representative in Ecology and  
15 Environment, try to do it phonetically so I  
16 could do a better job.

17 But I do want to have them  
18 recognized. I know that they speak very little  
19 English, but I do want to say that we're happy  
20 to have you here. We're happy that you are  
21 dealing with an American company, especially a  
22 company that happens to come from my hometown.  
23 In fact, its headquarters happens to be about

1 four or five blocks from where I live, and we're  
2 happy to have you here in Albany and the United  
3 States and good luck and we're happy to deal  
4 with you and congratulations.

5 (Applause.)

6 ACTING PRESIDENT KUHL: Chair  
7 recognizes Senator Bruno.

8 SENATOR BRUNO: Mr. President.  
9 Can we at this time take up the controversial  
10 calendar.

11 ACTING PRESIDENT KUHL: Secretary  
12 will read the controversial calendar beginning  
13 with Calendar Number 337.

14 THE SECRETARY: On page 10,  
15 Calendar 337, by Senator Rath, Senate Print  
16 539A, an act to amend the Education Law, in  
17 relation to student refunds of certain financial  
18 aid grants.

19 ACTING PRESIDENT KUHL: Senator  
20 Rath, an explanation of Calendar 337 has been  
21 asked for by the Acting Minority Leader, Senator  
22 Paterson.

23 SENATOR RATH: Thank you, Mr.

1 President.

2 Senator Paterson, you may recall  
3 last year there was a day that I came in  
4 outraged and passed around that morning's  
5 Buffalo News because we found that a woman who  
6 was a student at Buffalo State College had been  
7 engaging in illegal activities, in this case was  
8 part of a prostitution ring; came to find out  
9 after we looked at it a little further that the  
10 woman was receiving student aid.

11 As we pursued the activity in  
12 getting more information, we found that the  
13 Higher Education Services Corporation has a very  
14 difficult time singling out and getting  
15 information because there is no cooperation with  
16 the State's criminal justice system in this  
17 regard so that that information can flow back  
18 and forth, because it is our belief that such  
19 fraudulent activities take aid away from other  
20 students who are more deserving, and we've spent  
21 a lot of time on this floor talking about  
22 students who are very deserving.

23 The legislation covers felonies

1 and misdemeanors not violations.

2 If there are some further  
3 questions, I'd certainly be glad to answer them.

4 ACTING PRESIDENT KUHL: Senator  
5 Paterson, I assume because you rose that you had  
6 another question to ask Senator Rath, but I  
7 don't know how she would be able to hear the  
8 question with the noise that's going on in this  
9 chamber. I would ask the members if they are  
10 going to have a conversation to please take the  
11 conversations out of the chamber.

12 SENATOR PATERSON: Mr.  
13 President. If Senator Rath would yield for a  
14 brief question?

15 ACTING PRESIDENT KUHL: Senator  
16 Rath, do you yield?

17 SENATOR RATH: Sure.

18 ACTING PRESIDENT KUHL: Senator  
19 yields.

20 SENATOR PATERSON: Senator Rath,  
21 I think the position is well stated and the  
22 issue is well merited, and I think your outrage  
23 is quite justified.

1                   The question I have relates to an  
2                   ancillary situation that being that you included  
3                   in the legislation the spouse or the parents of  
4                   the student. In some cases, you might have a  
5                   situation where the student is technically  
6                   married but separated and then becomes culpable  
7                   under your legislation for the actions of the  
8                   spouse; and, in any event, the actions of the  
9                   spouse even if there isn't such a situation, or  
10                  the parent, might very well not be known or  
11                  recognized by the student, and I think this is  
12                  an unnecessary way to punish what may be exactly  
13                  what we are talking about protecting, which is  
14                  the deserving student.

15                   I wanted to know if you would  
16                   consider altering the legislation so that those  
17                   students who are deserving but are unfortunately  
18                   victimized by their association with criminals  
19                   might not be in any way hurt by the actions of  
20                   others?

21                   SENATOR RATH: It is my  
22                   understanding, Senator Paterson, that at the  
23                   time that the student applies for the tuition

1 assistance, they have to have had notification.  
2 There has to be information that they would have  
3 known that this was a circumstance that would  
4 have made them ineligible, and it is also my  
5 understanding that in relation to taxation,  
6 again, it is the same kind of provision that  
7 they have to be knowledgeable of it at the time  
8 that they make the statement that they are  
9 applying for the student aid.

10 ACTING PRESIDENT KUHL: Senator  
11 Paterson.

12 SENATOR PATERSON: Just to  
13 clarify, if Senator Rath would yield?

14 SENATOR RATH: Sure.

15 SENATOR PATERSON: So in other  
16 words, we're not talking about a situation where  
17 the student is unaware that the illegal activity  
18 existed and that either the student themselves  
19 or the spouse or the parent benefited and by the  
20 fact that they are contributing to the education  
21 of the student they are now in a sense accepting  
22 state aid where they have substituted criminal  
23 aid.

1                   SENATOR RATH: Yes, you are  
2 correct on that.

3                   ACTING PRESIDENT KUHL: Senator  
4 Paterson.

5                   SENATOR PATERSON: Thank you, Mr.  
6 President and Senator Rath.

7                   ACTING PRESIDENT KUHL: Secretary  
8 will read the last section.

9                   THE SECRETARY: Section 2. This  
10 act shall take effect on the 60th day.

11                   ACTING PRESIDENT KUHL: Call the  
12 roll.

13                   (The Secretary called the roll.)

14                   THE SECRETARY: Ayes 55.

15                   ACTING PRESIDENT KUHL: The bill  
16 is passed.

17                   THE SECRETARY: Calendar Number  
18 630, by Senator Hannon, Senate Print 3468, an  
19 act to amend the Parks, Recreation, and Historic  
20 Preservation Law, in relation to certain  
21 payments to state park policemen.

22                   ACTING PRESIDENT KUHL: Senator  
23 Paterson.

1                   SENATOR PATERSON: May we have an  
2 an explanation on that bill?

3                   ACTING PRESIDENT KUHL: Senator  
4 Hannon, an explanation of Calendar Number 620 -

5                   SENATOR HANNON: This legislation  
6 provides -

7                   ACTING PRESIDENT KUHL: Excuse  
8 me. -- 630 has been asked for by Senator  
9 Paterson.

10                  SENATOR HANNON: This legislation  
11 provides members of state park police force with  
12 the identical disability benefits and procedures  
13 and protections that other members of police  
14 agencies have in this state.

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

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

19                  ACTING PRESIDENT KUHL: Call the  
20 roll.

21                  (The Secretary called the roll.)

22                  THE SECRETARY: Ayes 55.

23                  ACTING PRESIDENT KUHL: The bill

1 is passed.

2 THE SECRETARY: Calendar Number  
3 728, by Senator Levy, Senate Print 973B, an act  
4 to amend the Vehicle and Traffic Law, in  
5 relation to operation of a motor vehicle by  
6 persons under the age of 21.

7 SENATOR BRUNO: Lay it aside at  
8 the request of the sponsor for one day.

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

12 THE SECRETARY: Calendar Number  
13 900, by Senator Present, Senate Print 471, an  
14 act to amend the Public Lands Law, in relation  
15 to state aid payments for certain state owned  
16 lands.

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

19 SENATOR PATERSON: Explanation.

20 ACTING PRESIDENT KUHL: Senator  
21 Present, an explanation of Calendar Number 900  
22 has been asked for by the Acting Minority  
23 Leader, Senator Paterson.

1                   SENATOR PRESENT: Thank you, Mr.  
2                   President. This applies to land known as the  
3                   West Valley Demonstration Project which was a  
4                   project dealing with low-level, high-level  
5                   radioactive waste. This will bring in to date  
6                   the assessed value of that property and cause  
7                   the state to pay the Town of Ashford, the West  
8                   Valley School District and the County of  
9                   Cattaraugus a fair amount of taxes in lieu of  
10                  taxes.

11                  ACTING PRESIDENT KUHL: Senator  
12                  Paterson.

13                  SENATOR PATERSON: Mr.  
14                  President. Would Senator Present yield for a  
15                  question?

16                  ACTING PRESIDENT KUHL: Senator  
17                  Present, do you yield for a question?

18                  SENATOR PRESENT: Yes.

19                  ACTING PRESIDENT KUHL: The  
20                  Senator yields.

21                  SENATOR PATERSON: Senator  
22                  Present, do you know why Senator Leichter laid  
23                  this bill aside?

1                   SENATOR PRESENT: No, I haven't  
2 talked to Senator Leichter.

3                   SENATOR PATERSON: Well, I  
4 haven't the slightest idea.

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

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

9                   ACTING PRESIDENT KUHL: Call the  
10 roll.

11                   (The Secretary called the roll.)

12                   THE SECRETARY: Ayes 55.

13                   ACTING PRESIDENT KUHL: The bill  
14 is passed.

15                   THE SECRETARY: Calendar Number  
16 940, by Member of the Assembly Matusow, Assembly  
17 Print 6345A.

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

21                   THE SECRETARY: Calendar Number  
22 972, by Senator Kuhl, Senate Print 3932A, an act  
23 to amend the Agriculture and Markets Law, in

1 relation to milk control and to appeal certain  
2 provisions of such law relating thereto.

3 SENATOR PATERSON: Explanation.

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

6 THE SECRETARY: Calendar Number  
7 1014, by Senator Holland, Senate Print 68, an  
8 act to amend the Criminal Procedure Law, in  
9 relation to the admissibility of evidence of  
10 criminal.

11 SENATOR HOLLAND: Star the bill.

12 ACTING PRESIDENT KUHL: Calendar  
13 Number 1014 will be starred at the request of  
14 the sponsor.

15 THE SECRETARY: Calendar Number  
16 1018, by Senator Padavan, Calendar Number 670,  
17 an act to amend the Penal Law, in relation to  
18 making unlawful immigration a Class C felony.

19 SENATOR PATERSON: Explanation.

20 ACTING PRESIDENT KUHL: Senator  
21 Padavan, an explanation has been asked for on  
22 Calendar Number 1018 by Senator Paterson.

23 SENATOR PADAVAN: Thank you, Mr.

1 President. This legislation would make alien  
2 smuggling a Class C felony and provide for the  
3 seizure of assets and instruments of that  
4 smuggling as part of our Asset Forfeiture Law.

5 ACTING PRESIDENT KUHL: Senator  
6 Paterson.

7 SENATOR PATERSON: Mr.  
8 President. On behalf of Senator Santiago, who  
9 is, as I explained last week, out of the chamber  
10 due to a family emergency and will not return  
11 until next week, I would like to advise the  
12 members that she will be voting no on this bill  
13 and probably off of the bill would like to  
14 explain why next week.

15 ACTING PRESIDENT KUHL: Thank you  
16 for your observation. The record will certainly  
17 note your remarks, Senator Paterson.

18 Secretary will read the last  
19 section.

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

23 ACTING PRESIDENT KUHL: Senator

1 Paterson.

2 SENATOR PATERSON: If it would be  
3 permitted, Senator Leichter had a couple of  
4 questions on this bill.

5 ACTING PRESIDENT KUHL:  
6 Certainly.

7 Secretary will withdraw the roll  
8 call. Chair recognizes Senator Leichter on  
9 Calendar Number 1018.

10 SENATOR LEICHTER: Senator  
11 Padavan, would you be so good as to yield  
12 please?

13 SENATOR PADAVAN: Yes.

14 ACTING PRESIDENT KUHL: Senator  
15 Padavan, do you yield? The Senator yields.

16 SENATOR LEICHTER: Senator, am I  
17 correct in understanding that the criminal  
18 offenses we're talking about are offenses under  
19 federal law?

20 SENATOR PADAVAN: Alien smuggling  
21 is a federal violation of law.

22 SENATOR LEICHTER: If you would  
23 be so good as to continue to yield?

1                   Is there a distinct and separate  
2                   state offense that we're talking about?

3                   SENATOR PADAVAN: We're  
4                   establishing an offense so that we can seize the  
5                   assets which are the basis of the financial  
6                   gain. As you know, we adopted in 1984 and '86 a  
7                   very comprehensive Asset Forfeiture Law dealing  
8                   with a whole range of criminal penalties from  
9                   drug sales to other commission of crimes. The  
10                  result of that allows district attorneys, either  
11                  during the course of a trial or in a separate  
12                  civil action, to cease the assets. We are now  
13                  establishing an identical prerogative in dealing  
14                  with those instruments that are used, planes,  
15                  boats, to smuggle aliens into this country, into  
16                  New York State, allowing our district attorneys  
17                  to seize those assets as parts of our forfeiture  
18                  law.

19                  SENATOR LEICHTER: Senator, isn't  
20                  it a fact that the federal government also has  
21                  as seizure law, forfeiture law?

22                  SENATOR PADAVAN: Yes.

23                  SENATOR LEICHTER: And the

1 offenses that you are talking about, or the acts  
2 that you are now going to make state crimes are  
3 already federal crimes and that federal  
4 prosecutors can seize the assets, the very  
5 assets that you are now authorizing state  
6 prosecutors to seize; isn't that correct?

7 SENATOR PADAVAN: It is correct  
8 and it should be -- in fully responding to you,  
9 we're after financial assets. I'd rather those  
10 assets stay in New York State where the costs  
11 associated with these illegal aliens exist  
12 rather than go to Washington where those costs  
13 are not being dealt with.

14 SENATOR LEICHTER: Senator, do  
15 you see this as an economic benefit to the State  
16 of New York; and is that why you are passing  
17 it?

18 SENATOR PADAVAN: Whenever we can  
19 seize assets that are used in the commission of  
20 a crime, and crimes can be federal or state -  
21 they can be both -- we obviously accrue revenues  
22 that can be used to enhance those  
23 responsibilities that we have.

1                   SENATOR LEICHTER: Well, Senator,  
2                   on that theory should we make, to the extent we  
3                   can, all federal crimes state crimes so that we  
4                   can try to seize the assets rather than the  
5                   federal government?

6                   (There was no response.)

7                   SENATOR LEICHTER: I mean on your  
8                   theory. Isn't that your theory?

9                   SENATOR PADAVAN: We're not  
10                  making this a federal crime. It already is.

11                  SENATOR LEICHTER: No, no, I'm  
12                  saying let's make all federal crimes that now  
13                  exist state crimes so that our prosecutors can  
14                  go and seize the assets.

15                  SENATOR PADAVAN: I wouldn't  
16                  accept that generalization, Senator.

17                  SENATOR LEICHTER: You would not.

18                  SENATOR PADAVAN: I would not.

19                  SENATOR LEICHTER: But you accept  
20                  in the field of immigration.

21                  SENATOR PADAVAN: Yes, and I  
22                  think you know why. We've spent considerable  
23                  amount of time discussing this issue on the

1 floor. We have in the City of New York alone  
2 almost half a million illegal aliens, many of  
3 whom have been smuggled into this country.

4 The Golden Venture, obviously,  
5 was one incident that was widely publicized, but  
6 if you read documents and reports from State  
7 Police, we have them being smuggled across the  
8 border from Canada by boat, by plane or by any  
9 other ways; and when they get here, the costs, a  
10 variety of costs, are ones that the state and  
11 the localities must absorb. It seems only  
12 appropriate that if we are able to apprehend  
13 these smugglers that the resources they use be  
14 seized and the gains, the economic gains, inure  
15 to the State of New York.

16 SENATOR LEICHTER: Senator, is it  
17 your view that this is a good money-making  
18 operation for the federal government -

19 SENATOR PADAVAN: For the federal  
20 government?

21 SENATOR LEICHTER: -- that out of  
22 that, that trying to deal with the smuggling of  
23 illegal immigrants that this is really a money

1 making proposition for the federal government  
2 because they can seize these -- like the rusty  
3 old boat, the Golden Venture, which I think was  
4 sold for scrap at that? I mean, are these the  
5 valuable assets that you want us to grab rather  
6 than the federal government?

7 SENATOR PADAVAN: I think your  
8 question is somewhat disingenuous, Senator.

9 SENATOR LEICHTER: I think the  
10 bill is disingenuous.

11 SENATOR PADAVAN: The fact  
12 remains that whatever the assets are, if it's an  
13 airplane, a boat or that rusty old ship that you  
14 referred to, if it arrives in New York and it's  
15 smuggling in people in here, I want our  
16 prosecutors to have the option of seizing those  
17 assets.

18 SENATOR LEICHTER: Senator  
19 Padavan, if you'd be good enough to continue to  
20 yield?

21 Isn't it a fact that in order to  
22 seize these assets, now you've got a whole new  
23 range of crimes that our prosecutors are going

1 to have to prosecute that were not crimes  
2 before? You are making this now a state crime,  
3 and prosecutors are going to have to hire more  
4 investigators. They're going to have to have  
5 people at the airports, people in the ports.  
6 They're going to have to have new not only  
7 investigators but they're going to have  
8 prosecutors to handle these cases. Isn't it a  
9 fact that if we get into this, this is going  
10 just to put a burden on the offices of the  
11 prosecutors?

12 SENATOR PADAVAN: First, Senator,  
13 I think what you are losing sight of is  
14 something that I keep repeating, and perhaps I'm  
15 not saying it loud enough.

16 The problem of illegal  
17 immigration is a tremendous cost to the city and  
18 the state. Whenever we can deter that activity  
19 by whatever means at our disposal, we obviously  
20 diminish that cost; and if there would be a  
21 hesitancy on the part of a smuggler to fly a  
22 plane or take a boat into one of our waterways  
23 because they are potentially going to lose that

1       asset, that's a gain.

2                   The fact -- I'm trying, Senator.  
3       Just give me the time to do it.

4                   The fact that there are certain  
5       costs that a local district attorney would incur  
6       in initiating such an action under this  
7       provision, proposed provision, would be more  
8       than offset by the benefits in terms of economic  
9       gain, which, if you read the bill, in the very  
10      first paragraph we make reference to.

11                   So the net result if you analyze  
12      the deterrent component of this legislation in  
13      how that would reflect itself in reduced costs  
14      for the cities and state in our case largely New  
15      York City and if you look at the assets that  
16      would inure to the benefit of the district  
17      attorneys, I think there is a decided plus to  
18      this issue.

19                   SENATOR LEICHTER:   Mr. President.

20                   ACTING PRESIDENT KUHL:   Senator  
21      Leichter.

22                   SENATOR LEICHTER:   Let me thank  
23      my good friend, Senator Padavan, and just try to

1 address the bill. I must say I find in many  
2 respects this bill sort of mind boggling.

3 For years, I think every elected  
4 official in this state has tried to get the  
5 federal government to take the responsibility of  
6 enforcing federal laws. Now, we have a bill  
7 where Senator Padavan volunteers the resources  
8 of the State of New York. We're going to go and  
9 we're going to prosecute this smuggling of  
10 illegal immigrants. We're going to take on the  
11 costs, the taxpayers of the State of New York;  
12 and in return for that, we get that small  
13 pittance which is the seizure of certain assets  
14 that are used.

15 I just ask you to think about the  
16 resources that we would have to commit to this.  
17 Now, Senator Padavan believes, and I guess most  
18 of us agree with him that the federal government  
19 is not doing an effective job of preventing  
20 illegal immigration, stopping the smuggling of  
21 people. I think we all understand the  
22 difficulties that are involved and we may differ  
23 on how much of a problem it is for our society

1 and specifically our state, but it is clear  
2 that, one, it is a federal responsibility, clear  
3 that it involves an incredible amount of  
4 resources, commitment of law enforcement  
5 officials, and to in any way picture this as a  
6 money making proposition is just totally wrong.

7 I don't know why we would  
8 volunteer the State of New York to take over  
9 these functions? And, mind you, while it may be  
10 very nice to say, "Oh, well, we're going to grab  
11 these planes and these boats and these cars,"  
12 but you can't do it unless you have all of the  
13 police effort and law enforcement effort that is  
14 going to capture people, prosecute the cases.

15 What are we going to do? Are we  
16 going to compete with the federal government on  
17 this? That makes absolutely no sense. The  
18 answer for the State of New York insofar as  
19 illegal immigration is a problem -- and I think  
20 it is a problem to some extent. I may differ  
21 with Senator Padavan about the extent of it, but  
22 it is to get the federal government to take on  
23 its responsibilities and commit more resources.

1                   The answer is not to say that New  
2                   York State is going to do it. I mean you take  
3                   our prosecutors -- a lot of this is obviously  
4                   going to be in the City of New York. You have  
5                   five of the busiest, most overworked prosecutors  
6                   offices in the whole country, and now you're  
7                   going to say to them, "Well, we want you to go  
8                   and get these assets," but you can't get the  
9                   assets unless you get the criminals and unless  
10                  you go into court against the criminals; and,  
11                  there, you'll be competing against the federal  
12                  government.

13                  So what are we really trying to  
14                  achieve here? I think if you look at it,  
15                  irrespective if you agree with Senator Padavan  
16                  on what he's trying to do on illegal  
17                  immigration -- let's for the sake of this bill  
18                  agree with him 1,000 percent. He's right.  
19                  Illegal immigrants are terrible; they're a  
20                  burden, and all that. But this bill doesn't  
21                  make sense.

22                  Just for a moment think of  
23                  whether you want your local prosecutors -- and

1           some of you are on the borders and you know that  
2           there is illegal immigration that goes through  
3           your borders. Do you want your district  
4           attorney involved in prosecuting these cases?  
5           By God, if there is a problem the answer is the  
6           federal government has got to do a better job  
7           and for one moment to picture this or to portray  
8           this, "Well, we're going to get money back which  
9           is going to compensate New York State not only  
10          for handling these cases but for the cost of  
11          illegal immigration, totally wrong.

12                           This is going to be a heavy  
13          financial burden on the people of this state and  
14          for us to go counter to what we've been trying  
15          to do for years, which is to have the federal  
16          government do its job, do it right, commit the  
17          resources to it, and now say, "No, we'll do it  
18          ourselves," as I say I think it's mind boggling.

19                           SENATOR PADAVAN: Mr. President.

20                           ACTING PRESIDENT KUHL: Senator  
21          Padavan.

22                           SENATOR PADAVAN: I don't want to  
23          lengthen the debate, but just -- just to assuage

1 some of the concerns Senator Leichter  
2 expressed.

3 First, there is a discretionary  
4 component. Senator Leichter, there is a  
5 discretionary component here. You are aware of  
6 the fact that the federal government has a heavy  
7 responsibility as it relates to smuggling of  
8 drugs. The federal government, as you know, has  
9 statutes that allow them to seize assets for  
10 drug smuggling. We have the very same. We have  
11 the very same statute. We put it into effect in  
12 1984.

13 ACTING PRESIDENT KUHL: Senator  
14 Onorato. Excuse me, Senator Padavan.

15 Senator Onorato, why do you rise.

16 SENATOR PADAVAN: When I'm  
17 through, I will be glad to respond to you.

18 We have the very same type of  
19 statute we adopted in 1984. As a matter of  
20 fact, we patterned it very closely along the  
21 lines of the Federal Assets Seizure Law. That  
22 statute over the past decade has produced  
23 hundreds of millions of dollars in assets going

1 to local law enforcement agencies as well as to  
2 other programs in this state.

3 So you have a perfect example  
4 with a fact where the federal government and the  
5 State of New York have parallel authority and  
6 do, indeed, work together, I might add, in many,  
7 many instances with regard to drug smuggling  
8 into this country into places like New York  
9 City.

10 This proposed statute would be  
11 similar in nature, and it is at the discretion  
12 of local prosecutor. If they chose to refer the  
13 matter to the federal government if they became  
14 aware of it first, they have that option to do  
15 so. But I would suggest to you that if I were  
16 the district attorney in Queens County and a  
17 plane landed somewhere in my jurisdiction, plane  
18 worth millions of dollars, smuggling in aliens,  
19 I would be disposed to seize it if I had the  
20 authority to do so, and you referred to that  
21 ship, the Golden Venture. Even for scrap, there  
22 are a couple of million dollars associated with  
23 its disposal.

1                   So, Senator, this is not a  
2                   solution to all our illegal immigration  
3                   problems. It is just one more tool we're trying  
4                   to put in place. One final point. When illegal  
5                   aliens come in here as newspaper reports and  
6                   criminal justice reports make us aware of, all  
7                   kinds of illegal activities are taking place.  
8                   There's the very highly publicized issue of  
9                   illegal prostitution setting up brothels in the  
10                  City of New York with illegally smuggled in  
11                  women from Thailand. When the district  
12                  attorneys have to deal with that, the cost is  
13                  entirely borne by them and there is very little  
14                  -- there is none, nothing in the way of assets  
15                  that they could possibly achieve when they are  
16                  dealing with that issue.

17                   So I just point those things out  
18                   to you for clarification.

19                   Senator Onorato.

20                   ACTING PRESIDENT KUHL: Senator  
21                   Onorato.

22                   SENATOR ONORATO: Senator  
23                   Padavan, I'm just a little confused. I like the

1       concept of the bill, but I'm just wondering what  
2       jurisdiction will New York State have if we pass  
3       this? Will the federal government if they see,  
4       as you indicated, a large airplane worth  
5       millions of dollars -- even though the district  
6       attorney's office may have been the one to make  
7       the arrest or the apprehension, now can the  
8       federal government come in and say, "Well, no,  
9       you can't handle that; I'll take care of this  
10      because it's worthwhile me prosecuting it now  
11      instead of you," and then somebody else comes in  
12      over the border with a jalopy that's broken  
13      down; we're going to have to pay the towing fees  
14      in order to bring it in, will we prosecute that  
15      guy?

16                    ACTING PRESIDENT KUHL:  Senator  
17      Padavan to answer Senator Onorato's question.

18                    SENATOR PADAVAN:  You just heard  
19      me outline for Senator Leichter this area of  
20      cooperation already exists as related to drug  
21      smuggling, and decisions are made and a lot of  
22      it is dictated by who makes the arrest, what law  
23      enforcement agency is involved in the first

1 instance as to who initiates seizure action and  
2 sometimes a decision is made directly by the  
3 district attorneys and the federal jurisdiction  
4 in their area.

5 It's not a cut and dried -- there  
6 is no cut and dried answer to your question, but  
7 it is something that there is a great deal of  
8 precedent in terms of resolving any conflict  
9 that might arise as to who is going to seize the  
10 asset.

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

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

16 ACTING PRESIDENT KUHL: Call the  
17 roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT KUHL: Announce  
20 the results when tabulated.

21 THE SECRETARY: Those recorded in  
22 the negative on Calendar 1018 are Senators  
23 Abate, Espada, Gonzalez, Leichter, Markowitz,

1           Montgomery, Smith, Solomon and Waldon. Ayes  
2           48. Nays 9.

3                           ACTING PRESIDENT KUHL: The bill  
4           is passed.

5                           Secretary will continue to call  
6           the controversial calendar.

7                           THE SECRETARY: Calendar Number  
8           1024, by Senator Hoblock, Senate Print 2612, an  
9           act to amend the Penal Law, in relation to  
10          increasing the penalties for sale of controlled  
11          substances.

12                          SENATOR PATERSON: Explanation.

13                          ACTING PRESIDENT KUHL: Senator  
14          Hoblock, an explanation of Calendar Number 1024  
15          has been asked for by Senator Paterson.

16                          SENATOR HOBLOCK: Mr. President.  
17          This amends Section 220 of the Penal Law, in  
18          relation to increasing the penalties for the  
19          sale of controlled substances within public  
20          housing projects, and it goes on to define a  
21          public housing project as one in or on or within  
22          any building structure, et cetera, contained  
23          within the real property boundary line of a

1 public housing project or within a thousand feet  
2 thereof. It increases the penalties for the  
3 sale of control substances within this area  
4 somewhat like we did when increasing the penalty  
5 for the sale of controlled substance on school  
6 grounds.

7 ACTING PRESIDENT KUHL: Senator  
8 Paterson.

9 SENATOR PATERSON: Mr. President,  
10 if the sponsor would yield?

11 ACTING PRESIDENT KUHL: Senator  
12 Hoblock, do you yield to Senator Paterson?

13 SENATOR HOBLOCK: Sure.

14 ACTING PRESIDENT KUHL: The  
15 Senator yields.

16 SENATOR PATERSON: Senator  
17 Hoblock, I do not object to the spirit of this  
18 legislation and even the type of legislation in  
19 the sense that we often will take the same crime  
20 and increase the penalties if the crime has a  
21 certain aspect to it that offends us as a  
22 society; and so as we have already done where  
23 drugs are sold near a playground, we have a

1 situation where we wanted to increase the  
2 penalties because other than the usual drug  
3 sales, the fact that this is going on where a  
4 number of young people are exposed is really an  
5 affront against society and there is an  
6 increased penalty.

7 When it comes to public housing  
8 facilities, we have the same problem. There are  
9 a lot of young people that can be exposed. But  
10 my question to you is why public housing  
11 facilities, which now increases by several fold  
12 the incidence of this crime being applied  
13 through your legislation? Why not just increase  
14 the penalties for the charge altogether?

15 SENATOR HOBLOCK: Well, that's a  
16 good point, Senator, and maybe that's the next  
17 step. Right now, we're dealing with this as  
18 public housing. This came as a request of  
19 administrators of public housing in this part of  
20 the state, particularly in my district, because  
21 they are experiencing some unusual problems  
22 based on the number of young people that reside  
23 in these projects and the fact that there is

1       such close quarters, and it seems to be a  
2       vulnerable society that these administrators are  
3       trying to protect. It seems that this is where  
4       a lot of these drug dealers are preying and  
5       taking advantage of the situation that exists;  
6       and in order to protect these young people as  
7       well as the residents, they feel that something  
8       like this is necessary, but I agree with you.  
9       Perhaps we just ought to expand it, and that  
10      should be the next step.

11                    SENATOR PATERSON: Thank you,  
12      Senator Hoblock. Thank you very much.

13                    On the bill, Mr. President.

14                    ACTING PRESIDENT KUHL: Senator  
15      Paterson on the bill.

16                    SENATOR PATERSON: At least in  
17      New York City, many of the public housing  
18      facilities and the use of this type of  
19      legislation I think sends a message that is  
20      confused. I wouldn't necessarily call it a bad  
21      message, but we do have a situation where public  
22      housing facilities are heavily populated with  
23      African-American and Latino-American citizens;

1 and because of that, what we would actually be  
2 doing is prosecuting these cases, where the  
3 occasion arises, through a change in our  
4 legislation where we are almost applying the  
5 legislation in some cases and applying the law  
6 more severely in some cases, when everybody is  
7 basically breaking the same law.

8           Senator Hoblock's point is  
9 well-taken. He has drafted this legislation due  
10 to complaints from public housing facilities,  
11 and there is no doubt that substance abuse is  
12 being promulgated on public housing by drug  
13 dealers who are very aware of the fact that  
14 there is a greater reaction among younger  
15 people.

16           However, drugs are a vile and  
17 vicious malady anywhere. They turn family  
18 members against each other. They have  
19 dismantled our society in many respects, and we  
20 are starting to find that substance abuse which  
21 was traditionally characterized as being in some  
22 places yesterday are now all over today, and  
23 we're finding that we have just as many drug

1 problems in Scarsdale and Groves Point as in  
2 Forest Hills as we have in the South Bronx and  
3 Central Harlem.

4 I don't really object to the  
5 nature of the legislation or even the spirit of  
6 it. It's just that when we expand it beyond  
7 playgrounds, we now are talking about housing  
8 facilities where, as I would imagine that the  
9 next step would be that the drugs will begin to  
10 pervade any housing facility that anybody lives  
11 in because substance abuse and the perpetuation  
12 of drugs for profit in this country really knows  
13 no boundary.

14 We have found in the past that  
15 drugs leap ghetto walls. You can not contain  
16 human misery, and I think that while this bill  
17 would apply and be somewhat effective today, I  
18 think the underlying problem is expanding and  
19 will certainly affect all of us tomorrow.

20 The exception for schools is a  
21 lot different because here you are specifically  
22 targeting younger people since they do attend  
23 school. I congratulate the sponsor for the

1 work. I don't know if I totally agree with the  
2 bill, but I wanted to rise to make these points  
3 at this time.

4 ACTING PRESIDENT KUHL: Chair  
5 recognizes Senator Montgomery.

6 SENATOR MONTGOMERY: Thank you,  
7 Mr. President. I want to just briefly respond  
8 to this legislation, because I have so much  
9 public housing in my district, and one of the  
10 major problems and issues and concerns for  
11 people who live in public housing is the illegal  
12 activity related to drug sales and use.

13 So on one hand, I really commend  
14 Senator Hoblock. I know what your intentions  
15 are, and you certainly have support here in  
16 terms of dealing with that issue. However, I  
17 just want to point out, Senator Hoblock, that we  
18 already have drug laws which are -- require, I  
19 believe, a mandatory sentence after a certain  
20 number of arrests and convictions, and this law  
21 will only add to the problem that we're now  
22 facing, I believe; and that is, overcrowding in  
23 our prisons, pressure for building more prisons

1 for which we don't have finances, and it does  
2 not solve the problem, obviously. I mean we  
3 have fed into this system over the last 15 or 20  
4 years, and it hasn't really done anything.

5 Now, what tenants in housing  
6 projects ask for in terms of relief on this  
7 issue is:

8 One, strong management; that we  
9 hold the housing authorities accountable for  
10 managing those projects; and

11 Tenants are really requesting  
12 that they be able to be involved in the  
13 screening of new tenants, because they believe  
14 that they have a right as residents in a similar  
15 fashion that others of us who live in multiple  
16 dwellings of various sorts participate to some  
17 extent in the process of screening so that there  
18 is some level, some standard involved in people  
19 living together, and that that is enforced, that  
20 a standard of living is enforced from within the  
21 development, preferably by management, and

22 Three, that there be the  
23 possibility of quickly evicting troublesome

1 families.

2 Those three things people have  
3 asked for over and over. They believe that it  
4 would very greatly improve their quality of life  
5 in those developments, and I certainly agree  
6 with that, and I think if we did more along  
7 those lines we would do much more to deal with  
8 this issue head on with the cooperation of the  
9 residents who live in the housing developments  
10 as opposed to continuing with a course that has  
11 not worked and that is going to cost us more  
12 money.

13 So I'm voting against this, Mr.  
14 President, but I wanted to be on record for  
15 Senator Hoblock's sake, for him to understand  
16 that I certainly agree with the intent, but I  
17 just don't agree with the method that he has  
18 chosen.

19 Thank you.

20 ACTING PRESIDENT KUHL: Chair  
21 recognizes Senator Mendez.

22 SENATOR MENDEZ: Mr. President.  
23 I do rise also to congratulate Senator Hoblock

1 for this bill. In fact, one of the big problems  
2 that I do have in my district is constant  
3 complaints of tenant associations and residents  
4 from the various projects complaining about the  
5 drug trafficking that occurs either at night or  
6 in the day. It's a constant work to be calling  
7 the police and having them observe what is  
8 occurring over there, so I think that this bill  
9 will help.

10 I want to mention, Mr. President,  
11 that in New York City there is a law that  
12 families who have a relative living in an  
13 apartment and is convicted of selling drugs, the  
14 families are evicted. It might sound very  
15 unfair; but since that law has been in place,  
16 many families made it their business to insure  
17 that if they have a son or a daughter who is a  
18 drug addict and sells drugs to maintain that  
19 habit, they try to deal with that problem and  
20 not to keep him in the apartment because they  
21 know that they could lose their -- the roof over  
22 their heads.

23 So I do support this legislation,

1 and I think that it will help at least in my  
2 district. It will help to keep controlling  
3 especially those people who do not live in those  
4 projects and they come from the outside to sell  
5 the drug.

6 Thank you, Mr. President.

7 ACTING PRESIDENT KUHL: Chair  
8 recognizes Senator Waldon.

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

11 Would the learned Senator from  
12 the Albany area yield to a question or two?

13 ACTING PRESIDENT KUHL: Senator  
14 Hoblock, would you yield?

15 SENATOR HOBLOCK: Yes, Mr.  
16 President.

17 ACTING PRESIDENT KUHL: Senator  
18 Hoblock yields.

19 SENATOR WALDON: Senator, in  
20 creating this legislation, was there any  
21 motivation or inspiration to and for you  
22 regarding projects which are in your district?

23 SENATOR HOBLOCK: I didn't hear

1 the last part of that.

2 SENATOR WALDON: I'm sorry about  
3 that. I'll speak louder.

4 In your creation of this proposed  
5 legislation, were you motivated or inspired by  
6 the goings on in projects within your district?

7 SENATOR HOBLOCK: Going on of  
8 progress?

9 SENATOR WALDON: Projects.

10 SENATOR HOBLOCK: Oh,  
11 "projects." That's correct, Senator.

12 SENATOR WALDON: Projects is  
13 synonymous with public housing.

14 SENATOR HOBLOCK: Yes. Yes.

15 SENATOR WALDON: I apologize.

16 SENATOR HOBLOCK: Various  
17 administrators of public housing projects in  
18 this area, not necessarily in my district did  
19 make the request.

20 SENATOR WALDON: May I continue,  
21 Mr. President?

22 ACTING PRESIDENT KUHL: Please  
23 do, Senator.

1                   SENATOR WALDON: Thank you.

2                   Senator, did you think perhaps of  
3                   having the legislation apply only to the housing  
4                   facilities in your district as opposed to -  
5                   meaning doing something that would apply only to  
6                   those housing facilities in your district  
7                   because that's where the problem is as you know  
8                   it as opposed to making it a statewide mandate?

9                   SENATOR HOBLOCK: I think the  
10                  thought had crossed; but, no, it was decided we  
11                  should make it statewide given what I had heard  
12                  from others about other projects across the  
13                  state that were experiencing similar problems.

14                  SENATOR WALDON: May I?

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

17                  SENATOR HOBLOCK: Yes, Mr.  
18                  President.

19                  ACTING PRESIDENT KUHL: Senator  
20                  continues to yield.

21                  SENATOR WALDON: Senator Hoblock,  
22                  are you aware of the number of people who reside  
23                  in New York City Housing Authority projects?

1                   SENATOR HOBLOCK:  No, I'm not.

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

4                   SENATOR HOBLOCK:  Yes.

5                   ACTING PRESIDENT KUHL:  Senator  
6                   continues to yield.

7                   SENATOR WALDON:  May I assume  
8                   then because you said you are not aware of the  
9                   number, which is in excess of 660,000, you are  
10                  not aware of the ethnic makeup of the people who  
11                  reside in the projects in the City of New York.

12                  SENATOR HOBLOCK:  No, I'm not  
13                  aware of that either, except for what I  
14                  experience here locally.

15                  SENATOR WALDON:  Mr. President?

16                  Thank you.

17                  Senator, are you aware of the  
18                  criminal statistics related to the New York City  
19                  Housing Authority projects, especially those at  
20                  Hammel's Houses, Red Fern Houses, Baisley Park  
21                  Houses, 41st Street, others in the Rockaway  
22                  areas as well as South Jamaica houses, and a  
23                  whole host of New York City Housing Authority

1 facilities which are in those areas which are  
2 typically African-American, Caribbean-American  
3 or Latino in the City of New York?

4 SENATOR HOBLOCK: No, I have not,  
5 Senator Waldon. I quite frankly didn't think it  
6 was relevant. I was trying to address an issue  
7 here that dealt with a certain geographical  
8 location, and it was for protection of all the  
9 people, regardless who they were or what the  
10 statistics were. It was a problem we were  
11 trying to address.

12 SENATOR WALDON: Thank you very  
13 much, Senator.

14 Mr. President, if I may on the  
15 bill.

16 ACTING PRESIDENT KUHL: Senator  
17 Waldon on the bill.

18 SENATOR WALDON: I applaud what  
19 you are trying to do, Senator Hoblock. I really  
20 do, because there has been an increase in drug  
21 activity to the detriment of all whose lives are  
22 impacted in and around housing projects and in  
23 and around the City of New York as I'm sure -

1 as you have alluded to in your area and if not  
2 in your area at least contiguous to people you  
3 represent.

4                   However, I think what will happen  
5 with this is that it will single out those  
6 people who are, for the most part, black and  
7 Latino for punitive measures.

8                   Most of the drug sales in the  
9 Housing Authority Projects are made to people  
10 who do not live in the projects; they don't look  
11 like the people who live in those projects.  
12 Clear example, South Jamaica houses, where one  
13 day in a police raid there were over \$500,000  
14 found in one of the apartments which had been  
15 sublet by the pusherman or pushermen, and this  
16 money was stacked so high that it touched the  
17 ceiling because the money was loose, and it was  
18 thrown into the room. The police reported that  
19 they recovered in excess of \$500,000, but the  
20 people who were purchasing the drugs from these  
21 pushers in South Jamaica houses, all too often,  
22 came from Connecticut, from Nassau and Suffolk  
23 County, and even from as far away as New Jersey;

1 and in that area, it's unusual to see Jaguars  
2 and Mercedes, Lincolns and Chrysler LeBarons,  
3 the convertible type cars.

4 The point I'm making is, as I  
5 understand this proposal, in its application it  
6 will not address the people who are actually the  
7 buyers, the purchasers of those drugs. It will  
8 only impact the people who live in those  
9 projects.

10 Now, I'm not condoning their  
11 behavior. Anybody who pushes drugs should be  
12 put under the jail, not in jail, in my opinion;  
13 but I think it is not broad enough. It does not  
14 address the problem as it truly exists, and it  
15 may be without intent something which will cause  
16 a disproportionate number of blacks and Latinos  
17 to be impacted by the criminal justice system  
18 simply because when this law is available to the  
19 police, people who are not necessarily dealing  
20 in drugs who happen to be in the wrong place at  
21 the wrong time, and my experience working in the  
22 Housing Authority Police Department over the  
23 years was that sometimes that did happen.

1                   So I encourage us not to support  
2                   it as you have prescribed it, but perhaps do  
3                   something which is broader in its scope and  
4                   which will impact everyone and certainly will  
5                   not single out those who are in my district who  
6                   are black and Latino for unnecessary punishment,  
7                   as I believe this will be.

8                   And I thank you very much, Mr.  
9                   President. I thank you, Senator Hoblock.

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

12                   THE SECRETARY: Section 4. This  
13                   action shall take effect on the first day of  
14                   November.

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

17                   SENATOR LEICHTER: Mr. President,  
18                   on the bill.

19                   ACTING PRESIDENT KUHL: Secretary  
20                   withdraw the roll call.

21                   Senator Leichter.

22                   SENATOR LEICHTER: I think  
23                   Senator Montgomery really made a lot of sense

1 and I hope people who heard her. She said she  
2 represents a lot of public housing projects, and  
3 I think she understands the problem. I used to,  
4 before the most recent reapportionment,  
5 represent a lot of public housing projects.

6 No question that there is a  
7 particular problem with the use of drugs or the  
8 sale of drugs in the public housing projects,  
9 but what I want to address and what I see as  
10 another problem with this bill is the whole  
11 underlying theory of this bill that if you  
12 increase penalties on the sale of drugs that  
13 that's going to deal with the problem.

14 We have tried that now for over  
15 20 years. I was here when the Rockefeller Laws  
16 were passed, and they were all premised on  
17 this: You increase the penalties, you are going  
18 to get people to stop.

19 It hasn't worked. I mean at what  
20 point do we admit failure? At what point do we  
21 say, "Wait a second, we can't handle this just  
22 through criminal laws; there has to be another  
23 approach."

1                   I mean this is essentially a  
2                   public health problem, and it has to be treated,  
3                   but to just continue to increase penalties and  
4                   think that's going to deal with it when it  
5                   hasn't worked for 25 years, why is this going to  
6                   work?

7                   But there is also a basic logical  
8                   fallacy in the bill.  If, in fact, by increasing  
9                   penalties, you are now going to substantially  
10                  deter the sale of drugs in public housing  
11                  projects -- and that has to be the premise under  
12                  which you are proceeding, Senator Hoblock -  
13                  then is it your intent -- I'm sure it's your  
14                  intent, but is it your belief that you are going  
15                  to see a decline in the actual overall sale of  
16                  drug -- in the overall sale of drugs, or are you  
17                  just pushing this problem into other buildings,  
18                  into other parts of the communities?

19                  I think this really goes to what  
20                  Senator Paterson was asking you.  I assume -  
21                  I'm not going to ask you the question because I  
22                  assume you are not going to get up here and say  
23                  "Oh, no, the sale of drugs is going to continue

1 but it's not going to be in the public housing  
2 projects. It's going to be in an apartment  
3 building, in a parking lot or other places."  
4 Obviously, that is not your intent. You are not  
5 trying to push it somewhere else.

6 What you are saying is this is  
7 going to deter it overall. Well, if it's going  
8 to deter it overall, then why limit this solely  
9 to a public housing project? Then, as Senator  
10 Paterson said, you'd want to apply this bill,  
11 increase the penalties overall for the sale of  
12 drugs, so logically the bill just doesn't make  
13 sense.

14 But it also doesn't make sense  
15 because we've seen that the Penal Law just isn't  
16 sufficient to deal with the problem of drugs.

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

19 Senator Montgomery? You want to  
20 vote in the negative? Okay.

21 ACTING PRESIDENT KUHL: Secretary  
22 will read the last section and announce the  
23 results when tabulated.

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

4 ACTING PRESIDENT KUHL: Call the  
5 roll.

6 (The Secretary called the roll.)

7 Those recorded in the negative  
8 are Senators Abate, Espada, Leichter,  
9 Montgomery, Paterson and Waldon. Ayes 51. Nays  
10 6.

11 ACTING PRESIDENT KUHL: The bill  
12 is passed.

13 THE SECRETARY: Calendar Number  
14 1026, by Senator Larkin, Senate Print 3065, an  
15 act to amend the Criminal Procedure Law, the  
16 Penal Law and the Family Court Act, in relation  
17 to making persons 12 to 15 years of age eligible  
18 for juvenile offender treatment.

19 ACTING PRESIDENT KUHL: Senator  
20 Larkin, an explanation of Calendar Number 1026  
21 has been asked for by Senator Paterson.

22 SENATOR LARKIN: Senator  
23 Paterson. This bill adds burglary of a dwelling

1 to the list of designated felony acts under the  
2 Family Court Act when a burglary is committed by  
3 a person between the ages of 12 and 15.

4 ACTING PRESIDENT KUHL: Senator  
5 Paterson.

6 SENATOR PATERSON: Mr.  
7 President. Would Senator Larkin be willing to  
8 yield for a question?

9 ACTING PRESIDENT KUHL: Senator  
10 Larkin, do you yield to Senator Paterson?

11 SENATOR LARKIN: Yes, Mr.  
12 President.

13 ACTING PRESIDENT KUHL: The  
14 Senator yields.

15 SENATOR LARKIN: You're cheating.

16 SENATOR PATERSON: With the help  
17 of Acting Majority Leader, I thought up some  
18 questions, Senator Larkin.

19 Senator Larkin, if this bill were  
20 to be enacted, this would be the only charge for  
21 which a 12-year-old would be able to be charged  
22 under the Penal Law, and I'm just trying to  
23 ascertain how you would rationalize that being

1           that there are other far more severe penalties  
2           for which we don't charge 12-year-olds under the  
3           penal system.

4                         SENATOR LARKIN:   Senator  
5           Paterson, what we're doing here is we're  
6           addressing an issue that is a problem across the  
7           State of New York, and what we're doing is we're  
8           saying we're giving the judge some discretion  
9           which today he doesn't have anything, and he  
10          can't punish those individuals, and what we're  
11          doing is we're including them in a specific  
12          area.

13                        SENATOR PATERSON:  Mr. President.

14                        ACTING PRESIDENT KUHL:  Senator  
15          Paterson.

16                        SENATOR PATERSON:  If Senator  
17          Larkin would continue to yield.

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

20                        SENATOR LARKIN:  Yes, sir.

21                        ACTING PRESIDENT KUHL:  The  
22          Senator continues to yield.

23                        SENATOR PATERSON:  Well, Senator

1 Larkin, under Penal Law 60-10, a burglary in the  
2 second degree could theoretically carry a  
3 penalties of up to seven years; whereas, if the  
4 same 12-year-old were to be convicted of rape  
5 under the youthful offender status, you would  
6 now have a penalty that would only last three  
7 years, conceivably, and that is just an  
8 illustration of the point that I'm trying to  
9 make to you, which is that this is the only  
10 charge that we would ever be able to find a  
11 12-year-old culpable under this legislation.

12 SENATOR LARKIN: Well, under this  
13 legislation, we're removing that -- what is now  
14 commonly talked about as the Person In Need Of  
15 Supervision and we put them into a Division For  
16 Youth, where he can have more restrictive  
17 observation, and this gives the Family Court  
18 that latitude.

19 ACTING PRESIDENT KUHL: Senator  
20 Paterson.

21 SENATOR PATERSON: Mr. President,  
22 if the Senator would yield?

23 ACTING PRESIDENT KUHL: Senator

1 Larkin, do you continue to yield?

2 SENATOR LARKIN: Yes, Mr.

3 President.

4 ACTING PRESIDENT KUHL: Senator  
5 continues to yield.

6 SENATOR PATERSON: Were there a  
7 number of burglaries in the second degree that  
8 were committed by 12-year-olds recently that  
9 brings us to this point? Because what I'm  
10 really asking you is what about murder in the  
11 second degree, rape, armed robbery? In other  
12 words, what about the other charges that just  
13 are not covered under this legislation. We  
14 don't have anything on the books right now to  
15 cover 12-year-olds.

16 SENATOR LARKIN: Senator  
17 Paterson, this bill talks about breaking into  
18 the home of another unarmed, and that's what  
19 we're talking about, and we're talking about an  
20 issue here -

21 ACTING PRESIDENT KUHL: Senator  
22 Paterson.

23 SENATOR PATERSON: Do you have,

1 Senator, any statistical data about 12-year-olds  
2 being involved in these types of crimes? The  
3 reason I'm wondering, and the reason I'm asking  
4 the question because I'm aware that that may be  
5 a little difficult to give the information as to  
6 what the data may be, but the reason I'm asking  
7 the question is what about the 12-year-old who  
8 might break into someone's home and kill  
9 someone? You don't have anything under this  
10 legislation that covers that.

11 SENATOR LARKIN: Well, in current  
12 law that is already taken care of. What we're  
13 talking about now is giving the judge some  
14 discretion. We're talking about a 12-year-old  
15 who commits a crime unarmed and breaks into  
16 somebody else's home.

17 SENATOR PATERSON: Senator, so  
18 therefore -- if -

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

21 SENATOR LARKIN: Yes, Mr.  
22 President.

23 ACTING PRESIDENT KUHL: Senator

1 continues to yield, Senator Paterson.

2 SENATOR PATERSON: So by  
3 instituting this legislation we're going to put  
4 this into the Criminal Law, am I not correct?

5 SENATOR LARKIN: Going to the  
6 Family Court.

7 SENATOR PATERSON: Am I in error,  
8 Senator? I thought the bill says it amends the  
9 Criminal Procedure Law.

10 SENATOR LARKIN: It does.

11 SENATOR PATERSON: And the Penal  
12 Law.

13 SENATOR LARKIN: It does.

14 SENATOR PATERSON: All right.  
15 What I want to ask you is where does the Penal  
16 Law or the Criminal Procedure Law address  
17 12-year-olds other than -- other than if this  
18 bill were passed, except for juvenile offender  
19 status.

20 SENATOR LARKIN: It doesn't.

21 SENATOR PATERSON: It doesn't.  
22 Mr. President, if the sponsor will continue to  
23 yield?

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

3                   SENATOR LARKIN:  Yes.

4                   ACTING PRESIDENT KUHL:  Senator  
5           continues to yield.

6                   SENATOR PATERSON:  Senator, this  
7           is my question.  We now in a sort of piecemeal  
8           way are addressing one offense; and without even  
9           commenting on whether or not I think this is the  
10          right thing to do, I'm just asking you why this  
11          one offense and we've left a book full of  
12          charges that we haven't addressed where  
13          12-year-olds are concerned?

14                   In other words, what I'm saying  
15           is if we want to lower the age of culpability in  
16           trying individuals as adults to 12, if we want  
17           to, as a society, make that determination, you  
18           and I might disagree as to whether or not we  
19           should make it.  You and I or might agree over  
20           it, but don't you think that the law should be  
21           consistent on the point of 12-year-olds versus  
22           13-year-olds?

23                   SENATOR LARKIN:  Mr. President.

1 Senator Paterson, this is being addressed under  
2 the Family Court because it's a matter today  
3 that is of a problem, and what we're doing is  
4 giving the Court some added authority in dealing  
5 with a problem that, without it, there's  
6 nothing. They can't do anything to a  
7 12-year-old under this category in Family  
8 Court. They can't do anything with him.

9 But by putting it in this manner,  
10 Family Court can address the issue. They can  
11 put him into the Division for Youth. The  
12 decision is left up to the Family Court under it  
13 -- judge.

14 ACTING PRESIDENT KUHL: Senator  
15 Paterson.

16 SENATOR PATERSON: Mr.  
17 President. I don't believe that the 12-year-old  
18 is -- under our existing Penal Law and under our  
19 existing Criminal Procedure Law, I don't believe  
20 that the 12-year-old is separated on any  
21 particular charge; whereas, the passage of this  
22 bill would set the 12-year-old apart when it  
23 comes to the charge of burglary in the second

1 degree. Am I wrong, Senator Larkin, in making  
2 that presumption?

3 SENATOR LARKIN: Senator, I think  
4 we're beating around a little bush about here.  
5 We're talking about addressing an issue for a  
6 12-year-old who has gone into somebody's house,  
7 even though unarmed, put the fear into the  
8 family. We're saying that under the  
9 designation, the individual can be designated so  
10 he can be dealt with, he or she can be dealt  
11 with, and it's strictly in the Family Court.  
12 It's not in the Criminal Courts.

13 SENATOR PATERSON: Mr.  
14 President.

15 ACTING PRESIDENT KUHL: Senator  
16 Paterson.

17 SENATOR PATERSON: So, Senator  
18 Larkin, and, again, we're just trying to clarify  
19 what the bill says.

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

22 SENATOR LARKIN: Yes, Mr.  
23 President.

1                   ACTING PRESIDENT KUHL:  Senator  
2           Larkin, could I ask you just to take about two  
3           steps back so that you're speaking into your  
4           mike.

5                   Thank you.

6                   SENATOR PATERSON:  Mr. President.

7                   ACTING PRESIDENT KUHL:  Senator  
8           Paterson.  Senator yields.

9                   SENATOR PATERSON:  Would you like  
10          me to go anywhere?

11                  ACTING PRESIDENT KUHL:  We will  
12          talk about that later, Senator.

13                  SENATOR PATERSON:  Senator  
14          Larkin, you are saying that under the juvenile  
15          offender status that you could not prosecute  
16          this defendant who happens to be 12 under the  
17          Penal Law?  Because if that's what you are  
18          saying, I just didn't understand it because the  
19          bill says it amends the Criminal Law and the  
20          Criminal Procedure Law.  That's where I'm  
21          drawing my presumption, just so that you can  
22          correct me.

23                  So I assume from your last answer

1 that you are not saying that.

2 SENATOR LARKIN: It amends the  
3 Criminal Procedure Law specifically for  
4 definition purposes. If you look on page 4 on  
5 the bill, "designated felony act" on line 22  
6 clarifies it.

7 ACTING PRESIDENT KUHL: Senator  
8 Paterson.

9 SENATOR PATERSON: Mr. President  
10 and to Senator Larkin.

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

13 SENATOR LARKIN: Yes, Mr.  
14 President.

15 ACTING PRESIDENT KUHL: Senator  
16 continues to yield.

17 SENATOR PATERSON: Because I saw  
18 the Juvenile Offender Law there, because I saw  
19 it there, I assumed that we could prosecute the  
20 12-year-old as if the 12-year-old were 13 under  
21 that legislation. If you're telling me that we  
22 can not, that clears up a great concern that I  
23 have.

1                   SENATOR LARKIN: Thank you very  
2 much.

3                   (Laughter.)

4                   ACTING PRESIDENT KUHL: Senator  
5 Paterson.

6                   SENATOR PATERSON: Mr. President,  
7 on the bill.

8                   ACTING PRESIDENT KUHL: Senator  
9 Paterson on the bill. At this point, Mr.  
10 President, it seems to be ambiguous because the  
11 use of the Juvenile Offender Law, in my opinion,  
12 designates the 12-year-old as becoming a part of  
13 the party, because it says 12-, 13-, 14- and  
14 15-year-olds, and I don't know if I would have  
15 really the objection if we were to set  
16 12-year-olds in the set of individuals who are  
17 culpable for this particular crime.

18                   Since we don't have any other  
19 crimes that 12-year-olds are culpable for, then  
20 I would assume that there is an argument that  
21 can be made, the argument that Senator Larkin is  
22 making; which is, that the 12-year-old is set  
23 aside because we don't have any other penal law

1 statutes that apply to the 12-year-old in this  
2 particular way, including rape and murder in the  
3 second degree.

4 But because of the way the law is  
5 written, it would seem to me that if we wanted  
6 to leave the 12-year-old out and not prosecute  
7 under the juvenile offender status, then we  
8 actually just wouldn't have put the words  
9 juvenile offender status in the law.

10 Senator Larkin assures me that  
11 the references to the Criminal Procedure Law and  
12 to the Penal Law are really for definitional  
13 purposes only, and I accept that.

14 ACTING PRESIDENT KUHL: Chair  
15 recognizes Senator Abate.

16 SENATOR ABATE: Yes, on the bill.

17 ACTING PRESIDENT KUHL: Senator  
18 Abate on the bill.

19 SENATOR ABATE: I understand the  
20 spirit of this legislation; and when you look at  
21 when the decisions were made -- I wasn't here;  
22 you all were -- what juveniles could be  
23 prosecuted as adults and you look at the types

1 of crimes, and they are very serious heinous  
2 crimes; and I understand why we would want to  
3 include burglary of a dwelling as a serious  
4 violent crime.

5 You talk to victims. It has as  
6 tremendous an impact on them as robbery on the  
7 street, because it effects them very  
8 personally. They don't want to go back into  
9 their homes.

10 The problem I have, though, with  
11 the bill is that they are treating the burglar  
12 of this home, this 12- and 13-year-old  
13 differently than you are treating a 12- and  
14 13-year-old that commits manslaughter,  
15 kidnapping, arson, rape, sodomy, robbery. Why  
16 are we treating more stringently the 12- and  
17 13-year-old that commits burglaries in a home  
18 than we are treating the rapist and the sodomist  
19 and the murderer and the robber? It just  
20 doesn't make sense; and I think if we are going  
21 to have a rational Penal Law and CPL law, we  
22 have to have something that makes sense.

23 I can support a bill that says

1 14- and 15-year-olds who are charged with  
2 burglaries of homes, of dwellings, and they can  
3 be prosecuted as adults under the Juvenile  
4 Offender Law, if that were the bill, it would  
5 make sense because there is some consistency.  
6 It's saying that burglaries of dwellings are  
7 commensurate and compatible and are as serious  
8 as the other laws on the statute. But we're  
9 singling out burglars now who are 12- and  
10 13-year-olds, and other than those people who  
11 have been charged with murder can they be  
12 prosecuted as juvenile offenders. All the other  
13 serious offenders can only be treated as such  
14 when they are 14 and 15 years old.

15 So I would ask the sponsor if he  
16 would consider amending this bill to eliminate  
17 the 12- and 13-year-old, make it consistent with  
18 your other section and only include 14- and  
19 15-year-olds. It would be consistent. It would  
20 make sense, and it would be rational.

21 If that can't be done, I can not  
22 support the bill.

23 ACTING PRESIDENT KUHL: Any other

1 Senator wishing to speak on the bill?

2 (There was no response.)

3 Hearing none, Secretary will read  
4 the last section.

5 THE SECRETARY: Section 7. This  
6 act shall take effect on the first day of  
7 November.

8 ACTING PRESIDENT KUHL: Call the  
9 roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT KUHL: Announce  
12 the results when tabulated.

13 THE SECRETARY: Those recorded in  
14 the negative on Calendar 1026 are Senators  
15 Abate, Montgomery, Paterson, Smith, and Waldon.  
16 Ayes 52. Nays 5.

17 ACTING PRESIDENT KUHL: Bill is  
18 passed.

19 THE SECRETARY: Calendar Number  
20 1036, by Senator Skelos, Senate Print 2210, an  
21 act to amend the Tax Law, in relation to  
22 exempting from sales and use taxes receipts from  
23 sales of photocopies.

1 SENATOR PATERSON: Explanation.

2 ACTING PRESIDENT KUHL: Senator  
3 Skelos, an explanation of Calendar Number 1036  
4 has been asked for by Senator Paterson.

5 SENATOR SKELOS: Senator  
6 Paterson, this bill would exempt photocopy  
7 vending machines from Section 1115 of the Tax  
8 Law in regard to collection of sales tax.

9 We'll wait for Senator Leichter,  
10 if you wish.

11 SENATOR LEICHTER: I have no  
12 questions.

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

15 Secretary will read the last  
16 section.

17 THE SECRETARY: Section 2. This  
18 act shall take effect on the first day of  
19 December.

20 ACTING PRESIDENT KUHL: Call the  
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 57.

1                   ACTING PRESIDENT KUHL: The bill  
2                   is passed.

3                   THE SECRETARY: Calendar Number  
4                   1038, by Senator Leibell.

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

7                   SENATOR LEICHTER: May I have  
8                   unanimous consent to be recorded in the negative  
9                   on Calendar 1026, please?

10                  ACTING PRESIDENT KUHL: Without  
11                  objection and hearing no objection, Senator  
12                  Leichter will be recorded in the negative on  
13                  Calendar Number 1026.

14                  Secretary will continue to call  
15                  the controversial calendar.

16                  THE SECRETARY: Calendar 1038, by  
17                  Senator Leibell, Senate Print 2561, an act to  
18                  amend the Tax Law, in relation to restoring the  
19                  former corporate tax procedure for refunding  
20                  overpayments of tax.

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

23                  THE SECRETARY: Section 3. This

1 act shall take effect on the 30th day.

2 ACTING PRESIDENT KUHL: Call the  
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 57.

6 ACTING PRESIDENT KUHL: The bill  
7 is passed.

8 THE SECRETARY: Calendar Number  
9 1042, by Senator Johnson, Senate Print 3233, an  
10 act to amend the General Business Law, in  
11 relation to limitations to certain contracts  
12 involving social referral services.

13 SENATOR PATERSON: Explanation.

14 ACTING PRESIDENT KUHL: Senator  
15 Johnson, an explanation of Calendar Number 1042  
16 has been asked for by the Acting Minority  
17 Leader, Senator Paterson.

18 SENATOR JOHNSON: Lay it aside.

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

22 THE SECRETARY: Calendar Number  
23 1046, by the Committee on Rules, Senate Print

1 5179, an act to amend Chapter 590 of the laws of  
2 1993, amending the Public Authorities Law,  
3 relating to the approval of the Public  
4 Authorities Control Board.

5 SENATOR LEICHTER: Mr. President.

6 ACTING PRESIDENT KUHL: Senator  
7 Leichter.

8 SENATOR LEICHTER: Yes, just  
9 briefly on the bill.

10 ACTING PRESIDENT KUHL: Senator  
11 Leichter on the bill.

12 SENATOR LEICHTER: This is an  
13 extension, I think, of a mistaken law that we  
14 passed which is, as I understand it, and in a  
15 form which gives UDC projects less of a scrutiny  
16 by the Public Authorities Control Board.

17 Now, the reason the Public  
18 Authorities Control Board was set up was because  
19 UDC projects -- essentially UDC projects and UDC  
20 financing had brought the state to a point where  
21 we had a very serious problem about meeting our  
22 obligations. These were the moral obligation  
23 bonds.

1                   So we set up the Public  
2           Authorities Board so that state authorities  
3           would not go out and commit the state to  
4           extensive obligations. I'm sure Senator Marchi,  
5           who was here with me at the time, will remember  
6           the crisis that we had in '75, and then we set  
7           up the Public Authorities Board.

8                   Now we're saying, well, for Urban  
9           Development projects, we will have a lesser  
10          scrutiny. I think that's a real mistake; and  
11          just to assure you that I'm not being partisan,  
12          I voted against that bill when it applied to the  
13          administration of Governor Cuomo and Vince Tese  
14          as the administrator -- or the chairman or  
15          president of the Urban Development Corporation.

16                   I think it is particularly a  
17          mistake because the Urban Development  
18          Corporation has gone into many projects  
19          throughout the state. It has issued bonds. I  
20          don't know the total amount of the bonds that it  
21          has outstanding, but they're certainly in the  
22          hundreds of millions of dollars, and most likely  
23          they're over a billion dollars. We use the

1 Urban Development Corporation to put out bonds  
2 to buy state prisons, to buy highways, all sorts  
3 of projects; and we really have an obligation to  
4 see that the credit worthiness of the State of  
5 New York is not adversely affected by its  
6 activities.

7 We have the Public Authorities  
8 Board. Why not have it apply as fully to the  
9 obligations of the Urban Development Corporation  
10 as to any other authority? I would hope very  
11 much that we would not extend that special  
12 exception that we gave the UDC.

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

15 Excuse me. Senator Dollinger, do  
16 you want to speak on the bill?

17 SENATOR DOLLINGER: No. I just  
18 have a question about explanation. I do not  
19 have a sponsor's memo attached to the bill. I'm  
20 just trying to clarify Senator Leichter's  
21 point. Is there perhaps someone from the Rules  
22 Committee that could perhaps explain the bill?

23 Does this exclude UDC from the

1 scope of the Public Authorities Control Board?

2 Senator Leichter, was that -

3 SENATOR LEICHTER: It limits it.

4 ACTING PRESIDENT KUHL: Senator

5 Leichter, would you like to yield to Senator

6 Dollinger for an explanation of the bill?

7 SENATOR LEICHTER: Mr.

8 President. I will try to answer, and I'm going

9 -- since there is no memo sponsor, and so on,

10 partly on memory and also having checked with

11 counsel. But there is, as I understand it, an

12 expedited review for an Urban Development

13 Corporation project. There is not the same

14 full, complete review as there is in the

15 instance where the MTA or some other authority

16 obligates the state by the issuance of bonds.

17 So, therefore, we're not getting the same sort

18 of monitoring, same sort of supervision that we

19 get in other instances where the credit

20 worthiness of the state is affected. Even

21 though it's not a full faith and credit bond,

22 nevertheless, it affects the credit of the

23 state; and I think all of us are very clear that

1           when the Urban Development Corporation goes out  
2           and issues bonds, that we have the -- that we  
3           have the obligation to see that those bonds are  
4           paid.

5                                 Since we have that obligation, we  
6           ought to apply the full scrutiny of the Public  
7           Authorities Board that we set up.

8                                 ACTING PRESIDENT KUHL:  Senator  
9           Dollinger, does that take care of your question?

10                                SENATOR DOLLINGER:  Does Senator  
11          Volker have additional illumination on this  
12          bill?

13                                ACTING PRESIDENT KUHL:  Senator  
14          Volker, do you yield to a question from Senator  
15          Dollinger?

16                                The Senator yields.

17                                SENATOR VOLKER:  Just, Senator  
18          Dollinger, these are small projects, and it was  
19          explained to us that this expedited process  
20          because there are a series of projects that are  
21          looked at, because these are small -- and I  
22          believe, my recollection, it was between 200,000  
23          and 500,000, whatever the small projects are.

1                   This doesn't mean that they don't  
2                   get the review of the Public Authorities Control  
3                   Board, which, as I assume you are aware, one  
4                   person, one of the members if they object to a  
5                   project, can stop the project; and this gets a  
6                   review. It's just that it doesn't get -- as  
7                   Senator Leichter said, it doesn't get the total  
8                   and full review; it gets the so-called expedited  
9                   review.

10                   The reason is that because some  
11                   of these projects which are extremely extensive  
12                   projects, which I'm well aware of and I suspect  
13                   you are well aware of too -- in fact, you may  
14                   have -- the Rochester area may have one of those  
15                   projects that may have some extensive review,  
16                   let's put it that way.

17                   This would not -- by the way, any  
18                   project that we were talking about would not be  
19                   eligible for expedited review because it would  
20                   be too big. The smaller projects -- I think  
21                   what they are trying to do is, frankly, set up  
22                   this expedited review -- or they were trying to,  
23                   so that they did -- they were able to have more

1 time to do an even more extensive review of the  
2 bigger projects and allow the Public Authorities  
3 Control Board to get more time for review of the  
4 bigger projects and -- because what can happen  
5 is, if you bring in one of these projects, let's  
6 say, with an expedited review and somebody on  
7 the Public Authorities Control Board said, "I  
8 want a full review," then they have to give a  
9 full review.

10 SENATOR DOLLINGER: So, again,  
11 Mr. President, if Senator Volker can just  
12 clarify this. In essence -

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

15 Senator continues to yield.

16 SENATOR DOLLINGER: This doesn't  
17 change scope of authority of the Public  
18 Authorities Control Board -

19 SENATOR VOLKER: No.

20 SENATOR DOLLINGER: -- to approve  
21 the projects?

22 SENATOR VOLKER: No.

23 SENATOR DOLLINGER: It simply

1 creates an expedited track -

2 SENATOR VOLKER: Exactly.

3 SENATOR DOLLINGER: -- for  
4 certain dollar amounts projects which would be  
5 considered a smaller amounts project?

6 SENATOR VOLKER: Exactly. In all  
7 honesty, we're doing this in a series of areas  
8 where on smaller projects or smaller type areas  
9 where the intensity of the scrutiny is getting  
10 so great -- and I'm sure you are aware, as  
11 you're a lawyer as I am -- the projects now, the  
12 paperwork on them has become unbelievable. I  
13 mean you've got so many federal approvals and  
14 state approvals and so forth, on the major  
15 projects, in particular; and even on some of the  
16 smaller projects, the approvals are enormous.  
17 That's why I think they're looking for a more  
18 expedited process on some of these smaller  
19 projects.

20 SENATOR DOLLINGER: Just one  
21 final question, through, Mr. President.

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

1 The Senator continues to yield.

2 SENATOR DOLLINGER: Does the  
3 Public Authorities Control Board report to this  
4 Legislature annually about the projects -

5 SENATOR VOLKER: Oh yeah.

6 SENATOR DOLLINGER: -- that it's  
7 approved -

8 SENATOR VOLKER: Absolutely.

9 SENATOR DOLLINGER: -- both  
10 projects on the bigger track, the extended  
11 review and -

12 SENATOR VOLKER: Oh, sure.

13 SENATOR DOLLINGER: -- those that  
14 would be on the expedited review?

15 SENATOR VOLKER: Public  
16 Authorities Control Board, if I'm not mistaken,  
17 reports to the Legislature -- I'm not sure if  
18 it's an annual report or a semi-annual report,  
19 but the Legislature is part of it. As I'm sure  
20 you are aware, we are part of the Public  
21 Authorities Control Board; and any time we want  
22 to, we can ask for a clarification or changes or  
23 whatever.

1                   SENATOR DOLLINGER: Thank you,  
2                   Mr. President.

3                   ACTING PRESIDENT KUHL: Senator  
4                   Leichter.

5                   SENATOR LEICHTER: Yes. Mr.  
6                   President, I ask Senator Volker to yield.

7                   ACTING PRESIDENT KUHL: Senator  
8                   Volker, do you yield to Senator Leichter?

9                   The Senator yields.

10                  SENATOR LEICHTER: You are  
11                  certainly right that we're talking about smaller  
12                  projects.

13                  SENATOR VOLKER: Right.

14                  SENATOR LEICHTER: Why are we  
15                  just exempting the UDC? How about smaller  
16                  projects of the Power Authority, of the MTA and  
17                  so on? Those are still subject to the full  
18                  review.

19                  SENATOR VOLKER: But, Senator,  
20                  the UDC is the primary generator of projects  
21                  when you think about it. In fact, I don't know  
22                  if we would really want -- there aren't that  
23                  many small projects, for instance, that the

1 Power Authority really does.

2 SENATOR LEICHTER: How about the  
3 MTA?

4 SENATOR VOLKER: The MTA, that's  
5 a good question. You probably would be more  
6 familiar with that than I would, but that's a  
7 good point, and maybe that's something that the  
8 new administration and this Legislature should  
9 take a really good look at, is that we should  
10 consider the possibility of expediting a lot of  
11 these projects for a whole series of agencies,  
12 and maybe it's something that can save us a good  
13 deal of money and a good deal of time.

14 Senator, as I know you are aware,  
15 the Public Authorities Control Board was set up  
16 while you and I have been here with a specific  
17 idea of trying to be sort of a backstop for the  
18 numbers of projects that have flowed through  
19 this place over the last 15 to 20 years, and it  
20 has worked for the most part, I think, pretty  
21 well; and I think what is being attempted to do  
22 here, what we're extending here, is something  
23 that was really set up to facilitate the

1 paperwork and to sort of drive the system,  
2 because so much of what we're doing is run  
3 through the UDC.

4 I think it's one of the first  
5 entities that we're looking at to do this kind  
6 of an expedited system, but I think you are  
7 absolutely right. I think it's something we  
8 should look at for a whole series of agencies.

9 SENATOR LEICHTER: Mr.  
10 President.

11 ACTING PRESIDENT KUHL: Senator  
12 Leichter.

13 SENATOR LEICHTER: Yes, if I may  
14 be just heard on the bill again.

15 ACTING PRESIDENT KUHL: Senator  
16 Leichter on the bill.

17 SENATOR LEICHTER: I think  
18 Senator Volker in his usual very generous way  
19 has tried to find a rationale for exempting the  
20 UDC. There is only one explanation.

21 The UDC happens to be an  
22 extremely political agency as we know, and the  
23 previous administration used that agency to try

1 to do things that very often skirted on the edge  
2 of what was permissible, and sometimes went over  
3 the edge.

4 I suspect the current  
5 administration will probably do the same thing.  
6 But if Senator Volker is correct that, well, it  
7 was done -- the reason we exempted the UDC was,  
8 first of all, because, well, these were small  
9 projects. There are small projects of the MTA,  
10 the Power Authority, of other agencies, that we  
11 didn't accept; and the MTA certainly has as many  
12 small projects -- well, I shouldn't say as many  
13 -- has a number of small projects.

14 The argument that, "Well, you  
15 know the paperwork involved, and this is going  
16 to give us more time to look at the bigger  
17 projects," Senator, a lot of small projects add  
18 up to a lot of money, and we are talking about  
19 the credit worthiness of the state; and I, with  
20 all due respect to you, and I realize you are  
21 not the prime mover behind this bill, but I  
22 think that's sort of sophistry, "Oh, we want to  
23 see that we can concentrate on the big items."

1                   We ought to concentrate on any -  
2                   any public lending that obligates the State of  
3                   New York. I think we have that obligation, and  
4                   I would finally say that if it's a small project  
5                   then it's going to require less scrutiny than  
6                   the big projects by its very nature, so there is  
7                   absolutely no reason for this expedited  
8                   procedure.

9                   This was done solely because this  
10                  was politically used by the Cuomo administration  
11                  as I'm sure it's going to be used politically by  
12                  the Pataki administration, and we as the  
13                  Legislature should not be doormats for the  
14                  executive in this respect and allow our  
15                  obligation to the people of the State of New  
16                  York to see that what is more sacred than  
17                  anything else, which is the credit of the State  
18                  of New York not be impaired in any respect.

19                  You and I, it's true, Senator  
20                  Volker, we voted for the Public Authorities  
21                  Board. There are a few old gray-haired people  
22                  here who did, and we did it and at that time we  
23                  didn't say, "Well, but if it's less than

1       500,000, we don't need a full review." We  
2       thought it was important enough to make any, any  
3       obligation that involves the credit of the State  
4       of New York subject to that review, and we ought  
5       to continue that practice and not accept this  
6       very political agency.

7                    SENATOR VOLKER: Mr. President.

8                    ACTING PRESIDENT KUHL: Senator  
9       Volker.

10                   SENATOR VOLKER: Very quickly.  
11       Senator Leichter, just a question, and I won't  
12       ask -- I was going to ask you the question, but  
13       I will use a rhetorical question.

14                    I guess the question I would ask  
15       is when this expedited review was passed under a  
16       Democratic governor, the previous governor,  
17       Governor Cuomo, I wonder if you raised the same  
18       objections.

19                    SENATOR LEICHTER: I did.

20                    SENATOR VOLKER: Then I concede  
21       to you, you have been absolutely consistent. I  
22       only point out that this bill, it's been pointed  
23       out to me, may have some difficulty because it

1       was all right to do it under the previous  
2       administration, but now that we've got a  
3       Republican administration, there's a great deal  
4       of concern in the Assembly that this might  
5       potentially be used for political purposes.

6                       I think -- Senator, I don't think  
7       that the initial reason for this bill really did  
8       have to do with political purposes, and I think  
9       that's why this house and both houses passed  
10      it. You can argue if you want to that UDC is a  
11      political operation, but I would also argue with  
12      you that a tremendous amount of good has come  
13      out of the UDC.

14                      In fact, there is a lot of  
15      complaint about building our prisons with the  
16      UDC. On the other hand, how would we build  
17      them? We couldn't build them anywhere near as  
18      efficiently and as rapidly as we have; and like  
19      it or not, you can say we don't need prisons,  
20      but obviously we do.

21                      I think the point I'm just going  
22      to make is that I don't think this was done for  
23      political purposes, and I think it's something

1       that just makes sense, and I think the problem  
2       with some people in the other house is it only  
3       makes sense when the right governor is on the  
4       second floor of this Capitol.

5                        SENATOR LEICHTER:  Mr. President.

6                        ACTING PRESIDENT KUHL:  The Chair  
7       would simply note that this is the last bill on  
8       the calendar.  There are no other speakers other  
9       than you two gentlemen.

10                      Senator Leichter.

11                      SENATOR LEICHTER:  Mr.  
12       President.  I just want to respond to Senator  
13       Volker.  I mean he asked a rhetorical question,  
14       but he didn't answer it, and the answer was that  
15       I not only voted against this bill, I debated  
16       against it, and I think I have been very  
17       consistent in pointing out to this chamber that  
18       we need much more monitoring and supervision of  
19       the Urban Development Corporation, and I was  
20       very critical of many of the things that the  
21       Urban Development Corporation did during the  
22       previous administration and acts that were done  
23       by its president.

1                   So I'm perfectly consistent on  
2                   that, Senator.

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

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

7                   ACTING PRESIDENT KUHL: Call the  
8                   roll.

9                   (The Secretary called the roll.)

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

12                  THE SECRETARY: Ayes 55. Nays  
13                  2. Senators Abate and Leichter recorded in the  
14                  negative.

15                  ACTING PRESIDENT KUHL: The bill  
16                  is passed.

17                  Senator Nozzolio.

18                  SENATOR NOZZOLIO: Mr.  
19                  President. Is there any housekeeping at the  
20                  desk?

21                  ACTING PRESIDENT KUHL: Yes, we  
22                  do have some housekeeping, Senator Nozzolio.  
23                  Can we return to motions and resolutions?

1                   We will return to motions and  
2                   resolutions.

3                   Chair recognizes Senator Present.

4                   SENATOR PRESENT: Mr. President.  
5                   On behalf of Senator Levy, on page 35, I offer  
6                   the following amendments to Calendar 876 and ask  
7                   that it retain its place.

8                   ACTING PRESIDENT KUHL:  
9                   Amendments to Calendar 876 will be received and  
10                  adopted. The bill will retain its place on the  
11                  Third Reading Calendar.

12                  Senator Present.

13                  SENATOR PRESENT: Mr. President.  
14                  On behalf of Senator Maltese, on page 9, I offer  
15                  the following amendments to Calendar 279, Senate  
16                  Print 3081.

17                  ACTING PRESIDENT KUHL:  
18                  Amendments to Calendar Number 279 are received  
19                  and adopted. The bill will retain its place on  
20                  the Third Reading Calendar.

21                  Senator Present.

22                  SENATOR PRESENT: Mr. President.  
23                  On page 33, on behalf of Senator Spano, I offer

1 the following amendments to Calendar 861, Senate  
2 Print 3975A, and ask that it retain its place.

3 ACTING PRESIDENT KUHL:  
4 Amendments to Calendar 871 are received and  
5 adopted. The bill will retain its place on the  
6 Third Reading Calendar.

7 Chair recognizes Senator Volker.

8 SENATOR VOLKER: Mr. President.  
9 On page 47, Calendar Number 1037, my bill,  
10 Senate Print 2365, would you star that bill,  
11 please?

12 ACTING PRESIDENT KUHL: Calendar  
13 Number 1037 will be starred at the request of  
14 the sponsor.

15 ACTING PRESIDENT KUHL: Senator  
16 Nozzolio, that completes the housekeeping for  
17 the day.

18 SENATOR NOZZOLIO: Thank you, Mr.  
19 President. There being no further business, I  
20 move we adjourn until Wednesday, May 31, at  
21 10:00 a.m. sharp.

22 ACTING PRESIDENT KUHL: Without  
23 objection, the Senate will stand adjourned until

1 tomorrow, Wednesday, May 31st, at 10:00 a.m.

2 Notice the time change, 10:00 a.m. sharp.

3 (Whereupon, at 4:58 p.m., Senate  
4 adjourned.)

5

6

7

8