ALBANY, NEW YORK

May 30, 1995

3:00 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

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

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

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

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

(Whereupon, there was a moment of silence.)

Reading of the Journal.

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

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

read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Chair recognizes Senator Tully.

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

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

Senator Tully.

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

ACTING PRESIDENT KUHL: Secretary will read the title.

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

ACTING PRESIDENT KUHL: Senator Tully.

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

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator Tully.

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

Calendar.

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

Senator Tully.

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

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Tully.

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

ACTING PRESIDENT KUHL: Secretary will read the title.

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

ACTING PRESIDENT KUHL: Senator

Tully.

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

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator Tully.

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

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Stachowski, why do you rise?

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

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

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Senator Sears.

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

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

Senator Bruno, that brings us to the calendar.

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

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

SENATOR KRUGER: Thank you, Senator Bruno.

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

Thank you for the indulgence, Senator Kruger.

Senator Kruger.

SENATOR KRUGER: Thank you, Mr. President.

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

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

In making that memorandum decision, Justice Ramirez pointed out that

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

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

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

ACTING PRESIDENT KUHL: Senator

Bruno.

SENATOR BRUNO: Mr. President. Can we at this time go to the noncontroversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the noncontroversial calendar.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

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

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

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

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar 359, by

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

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

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

ACTING PRESIDENT KUHL: Secretary

will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill

is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR PATERSON: Lay it aside.

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

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: The question is on the resolution.

All in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is adopted.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

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

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR BRUNO: Lay the bill aside for the day.

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

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

relating to motor carriers.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43 -- 53.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR BRUNO: Lay the bill aside for the day.

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

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

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

lands.

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

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

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

Secretary will read the last section.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

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

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

SENATOR PATERSON: Lay it aside.

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

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the

bill aside.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill

is passed.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

SENATOR LEICHTER: Lay it aside.

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

Senator Leichter, did you want the bill laid aside?

SENATOR LEICHTER: Yes.

ACTING PRESIDENT KUHL: The bill will be laid aside.

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

refunding overpayments of tax.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Secretary

will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

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

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

SENATOR BRUNO: Lay it aside for the day.

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

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, that completes the noncontroversial calendar.

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

ACTING PRESIDENT KUHL: Chair recognizes Senator Volker.

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

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

Ecology and Environment is doing

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

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

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

Mr. Cong Zhenglong is Vice Governor of Liaoning Province.

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

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

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

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

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

Mr. Wu Zuozhang is Division Chief

of the Liaoning Finance Department.

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

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

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

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

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

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

(Applause.)

ACTING PRESIDENT KUHL: Chair recognizes Senator Bruno.

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

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

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

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

SENATOR RATH: Thank you, Mr.

President.

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

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

The legislation covers felonies

and misdemeanors not violations.

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

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

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

ACTING PRESIDENT KUHL: Senator Rath, do you yield?

SENATOR RATH: Sure.

ACTING PRESIDENT KUHL: Senator yields.

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

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

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

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

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

ACTING PRESIDENT KUHL: Senator Paterson.

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

SENATOR RATH: Sure.

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

SENATOR RATH: Yes, you are correct on that.

ACTING PRESIDENT KUHL: Senator Paterson.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Senator Paterson.

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

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

SENATOR HANNON: This legislation provides -

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

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill

is passed.

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

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

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

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

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

SENATOR PATERSON: Explanation.

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

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

ACTING PRESIDENT KUHL: Senator Paterson.

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

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

SENATOR PRESENT: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

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

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

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

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

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

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

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

SENATOR PATERSON: Explanation.

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

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

SENATOR HOLLAND: Star the bill.

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

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

SENATOR PATERSON: Explanation.

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

SENATOR PADAVAN: Thank you, Mr.

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

ACTING PRESIDENT KUHL: Senator Paterson.

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

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

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Senator

Paterson.

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

ACTING PRESIDENT KUHL: Certainly.

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

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

SENATOR PADAVAN: Yes.

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

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

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

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

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

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

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

SENATOR PADAVAN: Yes.

SENATOR LEICHTER: And the

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

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

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

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

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

(There was no response.)

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

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

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

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

SENATOR LEICHTER: You would not.

SENATOR PADAVAN: I would not.

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

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

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

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

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

SENATOR PADAVAN: For the federal government?

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

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

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

SENATOR LEICHTER: I think the bill is disingenuous.

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

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

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

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

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

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

asset, that's a gain.

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

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

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

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

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

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

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

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

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

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

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

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

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

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

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

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

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT KUHL: Senator Padavan.

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

some of the concerns Senator Leichter expressed.

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

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

Senator Onorato, why do you rise.

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

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

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

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

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

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

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

Senator Onorato.

ACTING PRESIDENT KUHL: Senator Onorato.

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

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

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

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

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

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

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

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

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call the controversial calendar.

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

SENATOR PATERSON: Explanation.

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

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

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

ACTING PRESIDENT KUHL: Senator Paterson.

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

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

SENATOR HOBLOCK: Sure.

ACTING PRESIDENT KUHL: The Senator yields.

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

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

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

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

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

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

On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson on the bill.

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT KUHL: Chair recognizes Senator Montgomery.

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

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

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

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

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

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

Three, that there be the possibility of quickly evicting troublesome

families.

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

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

Thank you.

ACTING PRESIDENT KUHL: Chair recognizes Senator Mendez.

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

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

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

So I do support this legislation,

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

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Waldon.

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

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

ACTING PRESIDENT KUHL: Senator Hoblock, would you yield?

SENATOR HOBLOCK: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Hoblock yields.

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

SENATOR HOBLOCK: I didn't hear

the last part of that.

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

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

SENATOR HOBLOCK: Going on of progress?

SENATOR WALDON: Projects.

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

SENATOR WALDON: Projects is synonymous with public housing.

SENATOR HOBLOCK: Yes. Yes.

SENATOR WALDON: I apologize.

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

SENATOR WALDON: May I continue, Mr. President?

ACTING PRESIDENT KUHL: Please do, Senator.

SENATOR WALDON: Thank you.

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

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

SENATOR WALDON: May I?

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

SENATOR HOBLOCK: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

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

SENATOR HOBLOCK: No, I'm not.

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

SENATOR HOBLOCK: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

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

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

SENATOR WALDON: Mr. President?

Thank you.

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

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

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

SENATOR WALDON: Thank you very much, Senator.

Mr. President, if I may on the bill.

ACTING PRESIDENT KUHL: Senator Waldon on the bill.

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

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

SENATOR LEICHTER: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Secretary withdraw the roll call.

Senator Leichter.

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT KUHL: The bill is passed.

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

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

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

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

ACTING PRESIDENT KUHL: Senator Paterson.

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

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

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LARKIN: You're cheating.

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

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

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

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

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: If Senator Larkin would continue to yield.

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

SENATOR LARKIN: Yes, sir.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PATERSON: Well, Senator

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

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

ACTING PRESIDENT KUHL: Senator Paterson.

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

ACTING PRESIDENT KUHL: Senator

Larkin, do you continue to yield?

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

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

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

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Do you have,

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

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

SENATOR PATERSON: Senator, so therefore -- if -

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

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator

continues to yield, Senator Paterson.

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

SENATOR LARKIN: Going to the Family Court.

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

SENATOR LARKIN: It does.

SENATOR PATERSON: And the Penal Law.

SENATOR LARKIN: It does.

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

SENATOR LARKIN: It doesn't.

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

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

SENATOR LARKIN: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

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

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

SENATOR LARKIN: Mr. President.

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

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

ACTING PRESIDENT KUHL: Senator Paterson.

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

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

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

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

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

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

SENATOR LARKIN: Yes, Mr. President.

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

Thank you.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson. Senator yields.

SENATOR PATERSON: Would you like me to go anywhere?

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

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

So I assume from your last answer

that you are not saying that.

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

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President and to Senator Larkin.

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

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

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

SENATOR LARKIN: Thank you very much.

(Laughter.)

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, on the bill.

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

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

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

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

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

ACTING PRESIDENT KUHL: Chair recognizes Senator Abate.

SENATOR ABATE: Yes, on the bill.

ACTING PRESIDENT KUHL: Senator Abate on the bill.

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

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

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

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

I can support a bill that says

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

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

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

ACTING PRESIDENT KUHL: Any other

Senator wishing to speak on the bill?

(There was no response.)

Hearing none, Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

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

ACTING PRESIDENT KUHL: Bill is passed.

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

SENATOR PATERSON: Explanation.

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

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

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

SENATOR LEICHTER: I have no questions.

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

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1038, by Senator Leibell.

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

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

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

Secretary will continue to call the controversial calendar.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR PATERSON: Explanation.

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

SENATOR JOHNSON: Lay it aside.

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

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

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

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Yes, just briefly on the bill.

ACTING PRESIDENT KUHL: Senator Leichter on the bill.

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

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

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

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

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

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

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

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

Does this exclude UDC from the

scope of the Public Authorities Control Board?

Senator Leichter, was that -

SENATOR LEICHTER: It limits it.

ACTING PRESIDENT KUHL: Senator Leichter, would you like to yield to Senator Dollinger for an explanation of the bill?

SENATOR LEICHTER: Mr. President. I will try to answer, and I'm going -- since there is no memo sponsor, and so on, partly on memory and also having checked with counsel. But there is, as I understand it, an expedited review for an Urban Development Corporation project. There is not the same full, complete review as there is in the instance where the MTA or some other authority obligates the state by the issuance of bonds. So, therefore, we're not getting the same sort of monitoring, same sort of supervision that we get in other instances where the credit worthiness of the state is affected. Even though it's not a full faith and credit bond, nevertheless, it affects the credit of the state; and I think all of us are very clear that

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

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

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

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

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

The Senator yields.

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

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

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

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

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

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

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

Senator continues to yield.

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

SENATOR VOLKER: No.

SENATOR DOLLINGER: -- to approve the projects?

SENATOR VOLKER: No.

SENATOR DOLLINGER: It simply

creates an expedited track -

SENATOR VOLKER: Exactly.

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

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

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

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

The Senator continues to yield.

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

SENATOR VOLKER: Oh yeah.

SENATOR DOLLINGER: -- that it's approved -

SENATOR VOLKER: Absolutely.

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

SENATOR VOLKER: Oh, sure.

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

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

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

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

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

The Senator yields.

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

SENATOR VOLKER: Right.

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

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

Power Authority really does.

SENATOR LEICHTER: How about the MTA?

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

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

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

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

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

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

ACTING PRESIDENT KUHL: Senator Leichter on the bill.

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

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

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

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

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

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

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

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

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

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT KUHL: Senator Volker.

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

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

SENATOR LEICHTER: I did.

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

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

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

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

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

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

SENATOR LEICHTER: Mr. President.

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

Senator Leichter.

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

So I'm perfectly consistent on that, Senator.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

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

ACTING PRESIDENT KUHL: The bill is passed.

Senator Nozzolio.

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

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

We will return to motions and resolutions.

Chair recognizes Senator Present.

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

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

Senator Present.

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

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

Senator Present.

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

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

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

Chair recognizes Senator Volker.

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

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

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

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

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

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

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

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