ALBANY, NEW YORK

June 6, 1995

10:00 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: Senate will come to order. Ask the members to take their chairs; staff to find their places. I would ask everybody to rise in the chamber and join me in saying the Pledge of Allegiance.

(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, June 5. The Senate met pursuant to adjournment, Senator Hoblock in the Chair upon designation of the Temporary President. Prayer by The Reverend Father Peter G. Young, Blessed Sacrament Church, Bolton Landing. The Journal of Sunday, June 4, 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.

Senator Bruno.

SENATOR SKELOS: I believe there is a report from the Rules Committee. Can we have it read, please.

ACTING PRESIDENT KUHL: You are absolutely correct, Senator Skelos. I will ask the Secretary to read the report from the Rules Committee.

THE SECRETARY: Senator Bruno from the Committee on Rules reports the following bills:

Senate Print 523A, by Senator Skelos, an act to amend the Executive Law, the Tax Law and the Finance Law, in relation to missing children;

1015, by Senator Cook, an act to amend the Highway Law, in relation to bridges in

the County of Delaware;

1310, by Senator Farley, an act to amend the Real Property Tax Law, in relation to permitting senior citizens to pay taxes in installments;

2187, by Senator Johnson, an act to amend the Vehicle and Traffic Law, in relation to strengthening the standards regulating excessive noise;

2350A, by Senator Cook, an act to amend the Executive Law, in relation to reports by registered charitable organizations;

2402, by Senator Johnson, an act to amend the Real Property Tax Law, in relation to granting partial exemption;

3110, by Senator Hoblock, an act to amend the Labor Law, in relation to the amount of unemployment benefits;

3625, by Senator Santiago, an act authorizing the City of New York to reconvey its interest in certain real property;

3662, by Senator Trunzo, an act to amend the Retirement and Social Security Law,

in relation to individuals who make application for ordinary and accidental disability retirement benefits;

3830A, by Senator Kuhl, an act to amend the Public Officers Law and the Town Law, in relation to eliminating the residency requirement;

3857, by Senator Libous, an act to amend the Executive Law, in relation to authorizing the Office of Advocate for Persons with Disabilities;

3897A, by Senator Libous, an act to amend the Mental Hygiene Law and Chapter 744 of the Laws of 1992, amending the Mental Hygiene Law;

3956A, by Senator Trunzo, an act to amend the Retirement and Social Security Law, in relation to establishment of retirement programs;

4130, by Senator Trunzo, an act to amend the Executive Law, in relation to benefits provided;

4435, by Senator Maziarz, an act

to amend the Vehicle and Traffic Law, in relation to fees received by county clerks;

4440, by Senator Libous, an act to amend the Education Law, in relation to vocational rehabilitation, creating the New York State Office for the Blind and Visually Impaired;

4442, by Senator Libous, an act to amend the Public Health Law, in relation to requiring consent;

4519, by Senator Libous, an act to amend the Mental Hygiene Law, in relation to periodic orientation;

4584, by Senator Hoblock, an act to amend the Labor Law, in relation to developing a policy and a report;

4631, by Senator Libous, an act to amend the Mental Hygiene Law, in relation to memberships of the boards of visitors;

4634A, by Senator Holland, an act to amend the Agriculture and Markets Law, the State Finance Law and Chapter 115 of the Laws of 1894, relating to the better protection of lost

and strayed animals;

4849, by Senator Trunzo, an act to amend the Retirement and Social Security Law, in relation to retirement allowance options;

5044A, by Senator Wright, an act to amend the Public Authorities Law, in relation to the powers and duties of the Port of Oswego Authority;

5062A, by Senator Levy, an act to amend the Public Authorities Law, in relation to the acquisition of real property;

5120, by Senator Farley, an act to amend the Banking Law, in relation to establishing limitations;

5205, by Senator Farley, an act to authorize certain participating employers to elect to provide the retirement incentive provided;

5250, by Senator Sears, an act to legalize, validate, ratify and confirm the acts and proceedings of the board of trustees of the Village of Vernon, Oneida County;

All bills ordered directly for

third reading.

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

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

SENATOR RATH: Mr. President.

ACTING PRESIDENT KUHL: Senator Rath.

SENATOR RATH: On page 34, I'd like to put a sponsor star on Calendar 947.

Thank you.

ACTING PRESIDENT KUHL: Without objection, a sponsor star is placed on Calendar Number 947.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President. On behalf of Senator Stafford, I wish to call up his bill, Print Number 1551A, which was recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 350, Budget Bill, Senate Print 1551A, an act making appropriations for the support of government.

ACTING PRESIDENT KUHL: Senator Farley.

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

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator Farley.

SENATOR FARLEY: Mr. President. I now offer the following amendments to that bill.

ACTING PRESIDENT KUHL:

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

SENATOR FARLEY: On behalf of Senator Libous, on page 12, I offer the following amendments to Calendar 500 -

SENATOR LIBOUS: Thank you.

SENATOR FARLEY: You're welcome. -- Senate Print 2617, and I ask that that bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 500 are received and adopted; and the bill, despite Senator Libous, will retain its place on the Third Reading Calendar.

SENATOR FARLEY: Mr. President. On behalf of Senator DiCarlo, on page 42, I offer the following amendments to Calendar 449, Senate Print 4014, and I ask that that bill retain its place.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 449 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President. There will be an immediate meeting of the Finance Committee in Room 332 of the Capitol.

ACTING PRESIDENT KUHL: An immediate meeting of the Senate Finance Committee in the Majority Conference Room, Room 332. An immediate meeting of the Senate Finance Committee in the Majority Conference Room, Room 332.

Senator Skelos.

SENATOR SKELOS: Mr. President. I move we adopt the Resolution Calendar with the exception of Resolutions Number 1529, 1530 and 1513.

ACTING PRESIDENT KUHL: The motion is to adopt the resolution calendar with the exception of Resolutions Number 1513, 1529 and 1530. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President. I believe there is a Resolution 1529, sponsored by Senator Libous, at the desk. I ask that it be read in its entirety and adopted and that you recognize Senator Libous for some comments.

ACTING PRESIDENT KUHL: Senator Skelos, there is a privileged resolution by Senator Skelos at the desk. I will ask the Secretary to read Resolution 1529 in its entirety.

THE SECRETARY: By Senator Libous, Legislative Resolution commemorating Tuesday, June 6, 1995 as Legislative Disability Awareness Day in the State of New York.

Whereas, the New York State Senate Select Committee on the Disabled in conjunction with the New York State Assembly Task Force on People with Disabilities is sponsoring the 15th Annual Legislative Disability Awareness Day; and

Whereas, it is the sense of this Legislative Body that persons with disabilities merit our recognition as they realize the goals of inclusion and equality in our communities and society at large; and

Whereas, it is the intent of this Legislative Body to recognize persons with disabilities, accentuating, in turn, the benefit to New York State of their contributions to our economic, educational, and social growth;

Legislative Disability Awareness Day so clearly labors for the positive and salutary definition of the communities of the State of New York;

Legislative Disability Awareness Day will conclude with this Legislative Body considering legislation significant to persons with disabilities; and

Whereas, Legislative Disability Awareness Day provides individuals with an opportunity to acknowledge and understand the legislative process; now, therefore, be it

Resolved, that this Legislative

Body pause in its deliberations to commemorate Tuesday, June 6, 1995, as Legislative Disability Awareness Day at the State Capitol, Albany, New York, fully confident that such procedure mirrors our shared commitment to the efflorescence of human dignity; and be it further

Resolved, that copies of this resolution, suitably engrossed, be transmitted to selected representatives of persons with disabilities.

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

SENATOR LIBOUS: Thank you, Mr. President.

As was stated by the clerk, today is the 15th Annual Legislative Disability Awareness Day that the Senate and the Assembly are sponsoring together. The day kicks off a little bit different today.

Right now in the Senate chamber, because we've changed the time of session, we will honor the people that are involved, and

we're also going to do a special resolution honoring Wendy Petzold, who is with me here today who is Ms. Wheelchair America.

And then we'll go downstairs at 11:00 o'clock, and Wendy will give a speech. We will also meet with a number of the exhibitors, and the purpose of today's ceremony is to make people in New York State, my colleagues here in the Legislature, aware of the concerns of people with disabilities.

You know, Mr. President, every year we've had this day. I am extremely proud to be chairman of the Select Committee on the Disabled and find that each year a few more of my colleagues come up to me after the ceremony and ask me a few questions about dealing with people with disabilities and the different kinds of laws that we need to change to make their lives a little bit more easier and making access for them much more easier.

This is an education process, Wendy and I were talking about it earlier this morning, as she does her crusade throughout the

United States as Ms. Wheelchair America and talking about people with disabilities and what things can be changed in state legislatures like here in New York State.

It's an awareness process. It's a process that we as individuals take for granted. Those of us who lead a regular physical life that does not have any of us mentally or physically challenged, we take for granted that people have to live in wheelchairs, that people have physical and mental disabilities that do not allow them accessibility, that do not allow them the everyday occurrences that we take for granted.

So today's day is Legislative Disability Awareness Day, and the resolution that was just read on the floor is one to make you and I a little bit more aware that people with disabilities do have a challenge and that it is up to us to work with them as state legislators and change those laws, and that we will continue to move forward with legislation and resolutions such as this as we continue to

do what we can in New York State to help people with disabilities.

So, Mr. President, I would ask that we pass this resolution, and then I would ask if you could call on me again for another brief statement.

ACTING PRESIDENT KUHL: The question is on the resolution, Resolution Number 1529.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is unanimously adopted.

Chair recognizes Senator Skelos.

SENATOR SKELOS: I believe there is a Resolution 1530, sponsored by Senator Libous, at the desk. I ask that it be read in its entirety and adopted and that Senator Libous be recognized.

ACTING PRESIDENT KUHL: There is

a privileged resolution by Senator Libous at the desk. I'll ask the Secretary to read Resolution Number 1530 in its entirety.

THE SECRETARY: By Senator Libous, Legislative Resolution honoring Mrs. Wendy Petzold of Sheboygan, Wisconsin, Ms. Wheelchair America of 1994-95, upon the occasion of her appearance as Guest of Honor at ceremonies marking the New York State Legislative Disability Awareness Day, June 6, 1995.

Whereas, community awareness and acceptance of persons who are disabled serves to lift barriers and expand choices for persons of all abilities; and

Whereas, it is the intent of this Legislative Body to recognize individuals with disabilities who have put aside those conditions which might otherwise hinder a purposeful life of achievement and fulfillment, demonstrating that the barriers to success for persons who are disabled come more commonly from prevailing attitudes and opportunities than the physical

limitations of a disability; and

Whereas, Wendy Petzold, a 23-year-old senior at the University of Wisconsin-Milwaukee, has demonstrated great courage, character and determination in overcoming the trauma of a serious automobile accident which severed her spinal cord and confined her to a wheelchair;

An honor student and former athlete, Wendy Petzold responded with uncommon determination to her 1989 accident; returning to her high school within six months, she mastered her wheelchair and resumed an active lifestyle, participating as a member of the Student Council and several other school groups, as a Junior Rotarian, volunteering with Teens Helping Teens and serving as the manager for her school's track team;

Marrying her high school sweet heart, Andy, in 1992, Wendy again demonstrated her fortitude by conquering the challenges of leg braces, a walker and agonizing months of therapy to fulfill her goal, walking down the

aisle on her wedding day;

Completing her senior year at college, Wendy Petzold now continues her quest for fulfillment, accepting each of life's obstacles as a challenge; she drives her own car, plays tennis in her wheelchair, swims, SCUBA dives and water skis, while also devoting countless hours in volunteer work, assisting the disabled of her community; and

Whereas, Wendy Petzold was chosen Ms. Wheelchair America from among the best and brightest of America's young women confined to wheelchairs, selected as the most accomplished and articulate among the young women competing, she now serves as spokesperson for the millions of citizens with disabilities, educating the able-bodied public regarding their dignity, productiveness and value, and championing the cause to eliminate the architectural and attitudinal barriers preventing persons with disabilities from assuming their rightful place in society;

An able spokesperson and an

inspiration to all who would strive to achieve the best within them, Wendy Petzold now prepares for her return to private life and her chosen career as a teacher; her past tragedy and subsequent achievements remaining as a vivid and moving tapestry of opportunity for the physically disabled; now, therefore, be it

Resolved, that this Legislative Body pause in its deliberations to honor and commend Ms. Wendy Petzold, Ms. Wheelchair America, recognizing her courageous endeavors, outstanding achievements and unparalleled contributions on behalf of people with disabilities, and their cause for increased awareness and opportunity, upon the occasion of her appearance as Guest of Honor at the New York State Legislature on Disability Awareness Day, June 6, 1995; and be it further

Resolved, that a copy of this resolution, suitably engrossed, be transmitted to Mrs. Wendy Petzold of Sheboygan, Wisconsin.

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

SENATOR LIBOUS: Thank you, Mr. President.

As was stated in the resolution, it is indeed an honor for us to have Wendy Petzold with us today. As was mentioned, Wendy travels the country in her role as Ms. Wheelchair America but in a different role than one would think and one in which she is an advocate for people with disabilities. She travels this country and goes to state houses, state legislatures, works in community groups and she is always working to improve life for people with disabilities. That goes in line with her title as Ms. Wheelchair of America.

As was mentioned, you know, after she sustained disabling injuries in a serious automobile accident, Wendy overcame the many obstacles in her path to continue her education and to prepare to become a teacher, and that's what she will be doing when she graduates.

She is an honor student and member of the Student Council at the University of Wisconsin. She is a tennis player, water

skier and a SCUBA diver. That tells us even more that people with disabilities lead no different a life than you and I.

She has demonstrated great fortitude in undergoing the challenge of leg braces and the months of intensive therapy as she began recovering from her disability and her very tragic accident.

Mr. President. I have had the pleasure of spending the last couple of hours with Wendy and finding her not only to be a delightful individual but one who really cares and one who is really on a crusade to help change the lives of people with disabilities and help to inform those of us, as I mentioned earlier, who really don't understand what it's like to live with a disability, to make that understanding much clearer in the way that we who have the power and authority as legislators to begin the process to change legislation so that we can change the lives of those people with disabilities.

So, Mr. President, it is, indeed,

an honor for me to stand before this body today in honoring Wendy Petzold to join us here in New York State.

And before I close, Mr. President, at 11:00 o'clock, Wendy will be giving an address, a speech, on the third floor terrace. There will be many exhibitors there, people who deal with different programs with people with disabilities. We expect quite a few people. Wendy will be delivering a speech at 11:00, and I would ask my colleagues if they can take a couple minutes away from the chamber, as I can see many have presently, that they might have the opportunity to listen to Wendy and hear her remarks. I will be there and I would hope that many can join us.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The question is on the resolution.

All those in favor of the resolution signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is unanimously adopted.

Wendy, on behalf of Senator Joseph Bruno, Senator Libous, and all of the members of the house, let me welcome you to New York. Certainly, you have changed your life around as a result of a tragic consequence. You are an inspiration to all of us. Let me have you know that.

Keep doing the right things that you are doing. Make us all proud of you. We know you will.

Thanks again for taking a minute out of your life to join us. Thank you for being with us.

(Applause.)

Chair recognizes Senator Skelos.

SENATOR SKELOS: Mr. President. I believe there are two privileged resolutions by Senator Nozzolio at the desk, 1541 and 1542. I ask that the titles be read and both of them adopted.

ACTING PRESIDENT KUHL: I ask the Secretary to read the title of 1541 first.

THE SECRETARY: By Senator Nozzolio, Legislative Resolution commending Gustavus C. Wehrlin upon the occasion of his designation as recipient of the 1995 FANY Fire Service Achievement Award on June 8, 1995.

ACTING PRESIDENT KUHL: Question is on the resolution.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is adopted.

Secretary will read the title of Resolution Number 1542.

THE SECRETARY: By Senator Nozzolio, Legislative Resolution praising the value of the Seneca Army Depot and memorializing the Base Realignment and Closure Commission to consider the depot for realignment.

ACTING PRESIDENT KUHL: The

question is on the Resolution, 1542.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: At this time, if we could take up the noncontroversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 330, Budget Bill, Senate Print 1554B, an act making appropriations for the support of government.

SENATOR SKELOS: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 764, by Senator Velella, Senate Print 2587A, an act to amend the General Obligations Law, in relation to providing a cause of action to

recover damages.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 832, by Senator Johnson, Senate Print 4470, an act to amend the Election Law, in relation to distributing the name of inactive voters.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 836, by Member of the Assembly Galef, Assembly Print 4887, an act to amend the Election Law, in relation to the requirement to publish proposed constitutional amendments.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 861, by Senator Spano.

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 865, by Senator DiCarlo, Senate Print 4432, an act to amend the Vehicle and Traffic Law, in relation to proof of notice.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 867, by Senator Levy, Senate Print 4717, an act to amend the Transportation Law, in relation to requiring airport owners to notify the Department of Transportation.

SENATOR PATERSON: Lay it aside.

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

THE SECRETARY: Calendar Number 906, by Senator Sears Senate Print 1226.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

938, by Senator Libous, Senate Print 4037.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 947, by Senator Rath, Senate Print 3014, an act to amend the Domestic Relations Law and others, in relation to altering the phrase natural parent.

ACTING PRESIDENT KUHL: Calendar Number 947 was starred at the request of the sponsor earlier this morning.

Secretary will continue to call the noncontroversial calendar.

THE SECRETARY: Calendar Number 948, by Senator Saland, Senate Print 3469, an act to amend the Judiciary Law, in relation to certain reports.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 955, by Senator Saland, Senate Print 4219A, an act to amend the Family Court Act and the Social Services Law, in relation to the frequency of review.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 958, by Senator Saland, Senate Print 4987A, an

act to amend the Domestic Relations Law, the Family Court Act and the Criminal Procedure Law, in relation to conditions of orders of protection.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 17. 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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1045, by Senator Present, Senate Print 5069.

SENATOR PATERSON: Lay it aside.

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

Lay the bill aside at the request of Senator Paterson.

THE SECRETARY: Calendar Number

1107, by Senator Tully, Senate Print 4673.

SENATOR SKELOS: Lay it aside for amendment.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1111, by Senator Saland.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1116, by Senator Sears, Senate Print 5237, an act to amend the General Business Law and the Personal Property Law, in relation to cancellation of personal emergency response service agreements.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 5. 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 49.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, that completes the noncontroversial calendar on Regular Calendar Number 60.

Chair recognizes Senator Skelos.

SENATOR SKELOS: Mr. President. With the consent of the Minority, there are two bills on the regular calendar, 906 and 938 and then a series of bills by Senator Libous on the first supplemental calendar. If we could take them all up at this time, again, like I said with the consent of the Minority, Senator Libous will explain the bills.

Thank you.

ACTING PRESIDENT KUHL: For the benefit of the members, we will be taking the following bills in this order: Calendar Number 906, Calendar Number 938, both of those bills appear on Regular Calendar Number 60. Then we will be taking up Calendar Numbers 1119, 1122,

1127, 1128, 1132, 1133, 1134 and 1136. All of those bills are on the Supplemental Calendar Number 1 for today.

I ask the Secretary to begin adopting those bills by calling the title to Calendar Number 906.

THE SECRETARY: On page 29, Calendar Number 906, by Senator Sears, Senate Print 1226, an act to amend the Tax Law, in relation to granting sales and compensating use taxes.

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

THE SECRETARY: Section 2. This act shall take effect in 60 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

938, by Senator Libous, Senate Print 4037, an act to amend the Tax Law, in relation to authorizing a tax credit for employing individuals.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1119, by Senator Farley, Senate Print 1310, an act to amend the Real Property Tax Law, in relation to permitting senior citizens to pay taxes in installments.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1122, by Senator Johnson, Senate Print 2402, an act to amend the Real Property Tax Law, in relation to granting partial exemption from taxation to persons who are totally or permanently disabled.

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 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1127, by Senator Libous, Senate Print 3857, an act to amend the Executive Law, in relation to authorizing the Office of Advocate for Persons with Disabilities.

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 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1128, by Senator Libous, Senate Print 3897A, an act to amend the Mental Hygiene Law and Chapter 744 of the Laws of 1992, amending the Mental Hygiene Law, relating to the operation of the surrogate decision-making program.

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 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1132, by Senator Libous, Senate Print 4440, an act to amend the Education Law, in relation to vocational rehabilitation in creating the New York State Office for the Blind and Visually Impaired.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1133, by Senator Libous, Senate Print 4442, an act to amend the Public Health Law, in relation to requiring consent for visual observation.

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 44.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1134, by Senator Libous, Senate Print 4519, an act to amend the Mental Hygiene Law, in relation to periodic orientation, training and informational programs.

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 44.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1136, by Senator Libous, Senate Print 4631, an act to amend the Mental Hygiene Law, in relation to memberships of Boards of Visitors for facilities under the jurisdiction of the Office of Mental Retardation and Developmental Disabilities.

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 44.

ACTING PRESIDENT KUHL: The bill is passed.

Chair recognizes Senator Skelos.

SENATOR SKELOS: Mr. President. At this time if we could take up supplemental Calendar Number 1, noncontroversial.

(There was a pause in the proceedings.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Skelos.

SENATOR SKELOS: If we could instead take up the regular calendar, controversial.

ACTING PRESIDENT KUHL: I will ask the Secretary to read the controversial calendar, Calendar Number 60.

THE SECRETARY: Calendar Number 330, Budget Bill, Senate Print 1554B.

SENATOR SKELOS: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number

832, by Senator Johnson, Senate Print 4470, an act to amend the Election Law, in relation to distributing the names of inactive voters to the polling places in the county of Suffolk.

SENATOR PATERSON: Explanation.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 861, by Senator Spano, Senate Print 3975B.

SENATOR SKELOS: Lay it aside for amendments.

ACTING PRESIDENT KUHL: Lay the bill aside for amendment.

SENATOR SKELOS: Mr. President. Call up Calendar Number 832.

ACTING PRESIDENT KUHL: Yes. I ask the secretary to call up Calendar Number 832.

THE SECRETARY: Calendar Number

832, by Senator Johnson, Senate Print 4470, an act to amend the Election Law, in relation to distributing the names of inactive voters.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Johnson, an explanation for Calendar 832 has been asked for by the Acting Minority Leader Senator Paterson.

SENATOR JOHNSON: Under the present system, if people are inactive, there is no registry at the polls indicating their status. They are totally not registered at all. It's very difficult for those people to vote. They have to vote by ballot.

So this provision would provide that there will be a list maintained at the polls for inactive voters so that we know they were formerly registered at a certain address, and they can come in and, instead of voting by affidavit, they can just swear who they are and they can vote on the machine like everyone else.

It simplifies the process, makes

it a lot easier to tabulate the votes and, generally speaking, is consistent with the computerized system which exists in Suffolk County. Essentially, I say the bottom line is it makes it easier for people to vote where there is an error in their registration or something.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Johnson will yield for a question?

ACTING PRESIDENT KUHL: Senator Johnson, do you yield to a question from Senator Paterson?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Therefore, Senator Johnson, through your explanation, what I gather is that if a person comes in and votes, then this is the way they can reactivate their registered status. Correct?

SENATOR JOHNSON: Correct.

SENATOR PATERSON: Senator, does this exist in any other part of the state, what you propose to do with the inactive list?

SENATOR JOHNSON: Well, it's interesting. Everything on Long Island seems to be hyphenated Nassau-Suffolk. So the natural question is why does Suffolk need it and not Nassau? Because Suffolk County is fully computerized in their system and Nassau isn't, and we don't have the personnel because of the computerization to count 10,000 paper ballots if they came in, so we're making it easier for people to vote on the machine, in addition to which, you might recollect or you might postulate that a person who is asked to sign a paper ballot and vote would be intimidated, where to vote on the machine they're not feeling intimidated, so it's easier for them. It's easier for the board.

As you can see, we got bipartisan support, both parties in Suffolk County, the Election Commission. Both parties agree this is a simplified way to make it easier for people to

vote.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Senator Johnson, that being the case and there are other areas that -- there is a difference between Nassau and Suffolk, but there are other areas that are like both. Have you given any thought to just making this a law statewide?

SENATOR JOHNSON: Well, I'm not sure how it would affect other counties, and I don't know if it would be responsible for me to do that.

In this case, the county legislature sent a message requesting this, the commissioners. It's a unique situation, I know, in our county, but if there are other counties with the same situation, they should certainly look into doing this to expedite the voting of the people.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: I think that

perhaps -- on the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson on the bill.

SENATOR PATERSON: I think it might be a good idea to make it optional, but I can understand that Senator Johnson wrote the bill in this way not being familiar with the operations in other counties.

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.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar 832 are Senators DiCarlo and Smith. Ayes 42. Nays 2.

ACTING PRESIDENT KUHL: The bill is passed.

The Chair recognizes Senator

Skelos.

SENATOR SKELOS: Mr. President. If we could return to reports of standing committees, I believe there is a report from the Finance Committee, one confirmation.

ACTING PRESIDENT KUHL: Senator Skelos, there is a report of the Finance Committee here. I will ask the Secretary to read.

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

Richard Warrender of Marcellus, State Advocate for Persons with Disabilities.

SENATOR SKELOS: Move we accept the report of the Finance Committee.

ACTING PRESIDENT KUHL: The motion is to accept the report of the Finance Committee. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The report is accepted.

SENATOR SKELOS: Mr. President, would you recognize Senator Libous?

Would you recognize Senator Stafford, please?

ACTING PRESIDENT KUHL: Secretary will read the nomination first and put it on the floor.

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

Richard Warrender of Marcellus, State Advocate for Persons with Disabilities.

ACTING PRESIDENT KUHL: The confirmation is before the house.

The Chair recognizes Senator Stafford.

SENATOR STAFFORD: Thank you, Mr. President. Before Senator Libous moves the confirmation -- he, of course, has worked tirelessly in this field and has done so much good work. I know practically all of us know Dick Warrender. He has worked here in the

Legislature. He's been a friend to all of us. We know he will do a tremendous job, and here I go again.

When we've had these nominees come before us, I say, "This is one of the best nominees that I have seen come before the Senate," and this is another one, an excellent choice by the Governor who I know will do a tremendous job, and I certainly yield to Senator Libous.

ACTING PRESIDENT KUHL: Chair recognizes Senator Libous on the confirmation.

SENATOR LIBOUS: Thank you, Mr. President. Thank you, Senator Stafford.

Mr. President. It is an honor for me to rise to speak on the confirmation of Richard Warrender as the new State Advocate for Persons with Disabilities.

As was mentioned, I think the Governor, again, has made a very excellent choice.

This is kind of a special honor for me. When I first came to Albany about six

and a half years ago, I first met Dick Warrender and he, as I often said, would pull up next to you in his motorized device, I guess is the best way to put it, and he extended his hand, and he said, "I am Dick Warrender and I hear your family is in the grocery business." I said, "Yes, my family is in the grocery business. I grew up in it."

Dick, of course, was in his role with the New York State Association of Convenience Stores, and then Dick went on to tell me all about my family's business, and he then went on to tell me all about those who are in the grocery business in the Southern Tier. Actually, I learned more about my family business from Dick than I thought I had already known through my family.

It was kind of an enlightening experience. I have enjoyed working with Dick on issues not only for people with disabilities but also on issues that affected convenience stores in New York State.

Many people might ask what does

the Advocate for the Disabled do? Dick Warrender is going to be an excellent advocate for the disabled because, basically, his office is going to serve a number of important functions as they deal with people with disabilities in New York State. They are going to administer federal programs that come through. They are going to work with businesses and state agencies in working on compliance as it deals with people with disabilities, assisting these businesses in government as they work together in a comprehensive manner to help people with disabilities.

Dick Warrender has done this all of his life -- you know, as a member of the New York Advisory Board of the Office of Vocational Educational Services for individuals with disabilities. He served as a member of the Onondaga Council on the Disabled. He has worked to improve programs for people with disabilities and their families.

His efforts have been tireless; and as the Advocate for the Disabled, he will

not only work to assist every member of this house and every member of the other house, but he will be an advocate for every individual in New York State with a disability, a person that they can come to, an office leader that they can come to, who needs help.

Mr. President. It is with great pride and pleasure that I ask that we move the nomination of Richard Warrender to be the next Advocate for the Disabled for the State of New York.

ACTING PRESIDENT KUHL: Chair would recognize Senator DeFrancisco on the confirmation.

SENATOR DeFRANCISCO: Thank you, Mr. President. I am very pleased to see that this day has finally come. There has been a lot of discussions over several weeks and a lot of anticipation by Dick Warrender and his family.

I have known Dick Warrender for some years now as a community advocate, and he is the type of individual that when he sets his sights on something, he gets it done. In fact,

sometimes you get it done so he stops making sure that he -- he contacts you on a daily or hourly basis, and that's the type of person that you need. That's what an advocate is.

An advocate for the disabled has to have that ability not only to get access but also to convince people that what he is advocating for is the right thing to do, and he has that ability. There is no question about it.

His record of community service is second to none. His disability has in no way stopped him from being as active in community services as anyone that is sitting in this house today, and it is really refreshing to see that example that he has given to everyone that nothing is going to stop him from doing what he thinks is important for his community, and now his community encompasses the entire state of New York.

I'm very pleased to stand up and advocate for our new advocate, a friend and a person that's going to do an absolutely

outstanding job, and I look forward to the great things that he is going to do for all the citizens of the State of New York, and I'm pleased to call him the new advocate and still pleased to call him my friend.

ACTING PRESIDENT KUHL: The question is on the nomination of Richard Warrender of Marcellus to the position of State Advocate for Persons with Disabilities.

All those in favor of the nomination, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The nominee is confirmed.

Richard Warrender, on behalf of Senator Bruno and all the members here, congratulations on your confirmation.

We're pleased to have you with us, and we know that you're pleased to have your wife Joan, who is in the gallery along with your daughter Edith and granddaughter Catherine with you. You have a wonderful family.

Good luck in your job. Thanks for taking on the responsibility.

(Applause.)

Senator Skelos.

SENATOR SKELOS: Mr. President. At this time, if we could return to the regular calendar and take up Senator Levy's bill, Calendar Number 867.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 867.

THE SECRETARY: On page 27, Calendar Number 867, by Senator Levy, Senate Print 4717, an act to amend the Transportation Law, in relation to requiring airport owners to notify the Department of Transportation.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT KUHL: Senator Levy, an explanation is asked for by, I think, three Senators on the Minority side. Pick any one of Paterson, Stachowski, or Leichter to address your explanation to.

SENATOR LEVY: Thank you very much. Senator Leichter is pleading innocent.

ACTING PRESIDENT KUHL: Senator Levy, just a minute, if we might.

May we have a little order in the chamber, please. I know there's a lot going on, a lot of bills to be done. It's going to be a long day, but we must, in order to have accurate debate, be able to hear the person responding to a question or presenting a bill. So if we can just quiet it down. Staff take your conversations out of the chamber. Members, also.

Chair recognizes Senator Levy.

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

Senator Paterson, earlier this year the Commission on Critical Transportation Choices issued a report on general aviation entitled, "General Aviation: A Flight Plan For Economic Prosperity." General aviation is vitally important to the economy of the State of New York, and it is a major factor in doing

business in the State of New York because in our general aviation airports Upstate, Western New York, even in places like Long Island, general aviation is the site where the business community keeps its corporate jets so it is able to fly from those airports to other parts of the state and other parts of the country to do business, as well as general aviation airports are the location where business people using corporate jets are coming from everywhere in the country and other parts of the world to do business in the State of New York. These airports are also used for recreational purposes.

Now, we've been working with the New York State Association of Airport Managers as well as the Association of Counties, and one of the things that the airport managers have brought to our attention and it was a part of this report, and this bill is as a result of those conversations both with the counties and with the airport managers, is that, particularly Upstate in the last ten years, small airports -

small airports that are vital to those counties and that have been in the hands of the private sector, without any notice to the county or other elected governmental officials, those airports which have been so vital to the economy of not only the county but the region have been sold, sold and for non-airport purposes.

So what the airport managers have said is, "Would you do legislation" -- the New York State Department of Transportation has an Aviation Department -- "and require notification to the state before one of these general aviation airports is sold so that the county officials, the town officials, the village officials, the elected officials like those that serve in this body and the Assembly don't find out about the sale of one of these airports after the fact?"

And this bill really is to give notice to everybody before the airport is sold so government can step in; and if government decides to do so, on a local level, they can intervene and try to acquire that airport for

governmental purposes before the airport is sold so it is there to meet the needs that general aviation fills in this state.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President. That was a very fine explanation, wouldn't you agree?

Well, either way, if Senator Levy would yield to a question?

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

SENATOR LEVY: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator Levy, do you have a record of how many airports in this state have actually closed at this point?

SENATOR LEVY: Yes. In our report, we went into that, Senator. I would say that in the last ten years, it was probably close to ten general aviation airports.

SENATOR PATERSON: And the other

question that I would have is what are the federal regulations? What are the FAA regulations for closing an airport?

SENATOR LEVY: There are none. These are privately owned airports, and the ones that have closed have primarily been Upstate. To my knowledge, there are no federal aviation requirements. These are not airports that are being utilized for commercial aviation purposes with scheduled flights. These are airports that are being utilized for the purposes that I spoke about in the explanation of the bill.

SENATOR PATERSON: Right. I didn't realize that, Senator. I guess the question I would like to ask you -- if you would continue to yield?

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

SENATOR LEVY: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: When the airports are actually open, is there any kind of

record that is kept by the FAA that these airports exist?

And the reason I'm asking the question, to try to make it a little easier for you, is that I just assumed that since the crafts are in the air that for purposes of commercial aviation it's just good to know where private airports exist. Even at times because of emergencies, it's just good to know where there is an available landing field.

SENATOR LEVY: Senator Paterson, this bill doesn't deal with -- this isn't the bill that deals with surveying and having a list of general aviation airports in the state. What this does is say that if you own an airport in the State of New York, that before you sell it, you are required to give notice to the State Department of Transportation so, in turn, elected officials and local governmental officials will know that this airport is being sold, so that government has the opportunity to step in if they choose to do so and use the powers of condemnation of the locality to take

over that airport so that it will continue to exist for that county, that town, or that region.

SENATOR PATERSON: Exactly, Senator. That's exactly -- I understand what the bill is saying, and all I'm asking you, and I think you have answered the question, is that the federal government is at this point not involved in any of this; and so what I would like to know is, up to the point that you wrote this bill, does the state have any control over this right now?

SENATOR LEVY: Senator Paterson, there is no requirement that somebody who owns an airport before they dispose of it notify anybody. This bill, when it's enacted into law will impose that requirement on someone who owns an airport, to notify the State Department of Transportation.

SENATOR PATERSON: Therefore, I am correct in assuming that up to this point there's actually been no governmental control until the printing of this bill.

SENATOR LEVY: This bill does not relate to government control.

SENATOR PATERSON: I'm sorry, Senator. I don't mean government control. What I mean is just any kind of record keeping as to when the airports close or where they even exist.

SENATOR LEVY: Senator, there is a companion bill that deals with existing, and I have to tell you that the State Department of Transportation could not provide us with a list of all of the airports in the state. The other piece of legislation dealt with that problem.

SENATOR PATERSON: All right. On the bill, Mr. President.

I guess Senator Levy has answered the questions. It's actually a little bit disturbing that there is so little information available about this, and this bill apparently will be of some benefit economically to the state and also will give the state an opportunity to become aware when these airports are actually planning on closing, and I would

imagine that the companion bill will establish some record of their existence, and it's a new area, one that I didn't understand, and I thank Senator Levy for clearing it up.

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

SENATOR DOLLINGER: Will the sponsor yield just to a couple quick questions?

ACTING PRESIDENT WRIGHT: Senator Levy, will you yield?

SENATOR LEVY: Yes.

SENATOR DOLLINGER: Through you, Mr. President. So I understand this bill, Mr. Chairman, this bill only applies when the effect of transfer is to have the property no longer be used for aviation purposes -

SENATOR LEVY: Yes.

SENATOR DOLLINGER: -- so it's only when it's being converted from aviation uses to some other use?

SENATOR LEVY: Yes. That's clearly set forth in the bill.

SENATOR DOLLINGER: The transfer

between one owner of the airport to a second owner in which they would continue the operations wouldn't apply?

SENATOR LEVY: The bill would not apply to those circumstances.

SENATOR DOLLINGER: Again through you, Mr. President. What is the effect of failure to give that notice? Is there an enforcement provision here?

SENATOR LEVY: It is purely a notification bill. In other words, failure to give notice would not affect the transfer.

SENATOR DOLLINGER: Thank you, Mr. President. I'll just add one thing.

I know the Commission on Critical Choices in transportation continues to do good work, and I think this is a good piece, as well.

SENATOR LEVY: Thank you, Senator.

ACTING PRESIDENT WRIGHT: Secretary will read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Would you please call up Calendar Number 1045, by Senator Present.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar 1045, by Senator Present, Senate Print 5069, an act authorizing the County of Chautauqua to discontinue for reforestation purposes the use of certain lands.

ACTING PRESIDENT WRIGHT: There is a home rule message at the desk. An explanation has been called for by Senator Paterson. Senator Present.

SENATOR PRESENT: This would allow Chautauqua County to transfer, to exchange

some reforestation land in Chautauqua County with a couple who inadvertently built their house on 2.89 acres of reforestation land. The county forester has determined the land to be given in exchange of equal value or better purposes to the county, and the county feels this would be to their advantage and the homeowner's advantage rather than have them destroy their house or move it.

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

SENATOR PATERSON: If Senator Present will yield for a question?

ACTING PRESIDENT WRIGHT: Senator Present will you yield?

SENATOR PRESENT: Sure.

ACTING PRESIDENT WRIGHT: Senator Present yields.

SENATOR PATERSON: Very quickly, Senator. Has the land been a product of reforestation previously, the one that's being exchanged?

SENATOR PRESENT: The county

owned land has been a portion of reforestation land, yes.

SENATOR PATERSON: To your knowledge, Senator, is this an equal exchange?

SENATOR PRESENT: I'm informed by the county forester that it's to the advantage of the county, the land they would receive, because it's a hardwood stand.

SENATOR PATERSON: Finally, Senator, what is the cost of the exchange?

SENATOR PRESENT: No cost other than the paperwork involved. It's determined the value of both parcels is about $150.

SENATOR PATERSON: $150. Oh, if I was getting paid regularly, I would take care of that myself for you, Senator. Thank you.

ACTING PRESIDENT WRIGHT: Secretary will read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President. At this time the Minority has requested a 25 minute conference, so the Senate will stand at ease until 11:30 a.m. sharp.

ACTING PRESIDENT WRIGHT: The Senate will stand at ease until 11:30 a.m. sharp. The Minority will be conferencing in the Minority Conference Room.

(Whereupon, at 11:05 a.m., the Senate was at ease.)

(Whereupon, at 12:00 noon, the Senate reconvened.)

ACTING PRESIDENT KUHL: Senate will come to order.

SENATOR SKELOS: Mr. President. I believe there is a privileged resolution, by Senator DeFrancisco, at the desk, Resolution Number 1513. I ask that it be read in its entirety and that Senator DeFrancisco be

recognized and then the resolution adopted.

ACTING PRESIDENT KUHL: Senator Skelos, I'm informed by the Secretary that there is a privileged resolution at the desk, by Senator DeFrancisco.

I ask the Secretary to read Resolution Number 1513 in its entirety.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution, honoring 67 students at Tully High School of the Tully Central School District for their participation in the 49th Senate District "Good News! Good Kids!" student recognition program.

Whereas, it is incumbent upon the people of the State of New York to recognize and acknowledge notable deeds performed by our fellow citizens; and

Whereas, our country and our state have endured and been made strong because generations of Americans have traditionally felt a sense of responsibility to their country, to one another, to their families and for themselves; and

Whereas, all citizens must recognize that the unsurpassed democratic freedoms that have made our country so great require each of us to reciprocate by exercising the duties and responsibilities of good citizenship; and

Whereas, it is the attitudes of our children that will influence our future course of government, and the future of our society is dependent upon our instilling within our children the concepts of individual responsibility and good citizenship;

Throughout the State of New York our young people are lovingly and thoughtfully demonstrating a sense of civic and community responsibility in a variety of socially oriented projects for the betterment of their neighbors and neighborhoods, while concurrently and positively shaping the values of the participants;

In acknowledgment of these acts of sharing and nurturing undertaken by our children, a student recognition program entitled

"Good News! Good Kids!" was initiated in the 49th Senate district; and

Whereas, 22 projects involving more than 2,500 students from within the 49th Senate district were reviewed by educational and community leaders serving as members of the "Good News! Good Kids!" Advisory Committee; and

Whereas, the "Health Careers Club" project implemented by 67 High School students at Tully High School was selected as the most impressive project submitted from the High School level; and

Whereas, on Tuesday, June 6, 1995, the Tully High School students who participated in the project will visit the chamber of the New York State Senate; now, therefore, be it

Resolved, that this Legislative Body pause to express congratulations to the residents of the Tully Central School District, Superintendent Dr. Robert Urzillo, Tully High School Principal Gary J. Heymann, and Tully High School Nurse Lorraine Spaulding for their

support and encouragement of the educational and empathetic values so obviously instilled within their student population; and be it further

Resolved, that copies of this resolution, suitably engrossed, be transmitted to the members of the Health Careers Club at Tully High School for the unselfish sharing of their natural gifts as responsible students and citizens of the 49th Senate District.

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

SENATOR DeFRANCISCO: Mr. President. I'm proud to rise to honor the Tully High School Health Career Club; and before I forget, my good friend Senator Tully has agreed to co-sponsor this resolution, for whom your school is named. No (indicating "just kidding").

This is part of the program that we have in the 49th Senate District that recognizes young people who are doing the good things that we normally don't hear about. We

hear about a lot of the negative things that are going on and this is the type of thing that the Health Careers Club has done in our county.

First, they sponsored two blood mobiles and 30 percent of the senior class participated in donating blood, and also the class participated in seeking blood donors to make two successful blood drives at the high school.

They participate in an annual canned food drive, which is done at Thanksgiving, Christmas and Easter, which also has full participation from the group. Four times a year they serve meals at a home at the Rescue Mission, and the Rescue Mission provides meals to indigent individuals during those periods of time, and these students participate in serving those foods.

They also sponsor a multigenerational dance which includes senior citizens down to high school students, which also shows a sense of community.

All of these things point out the

fact that there are good kids doing good things in this state, and they should be recognized and they are being recognized here today, and I thank them for being here, and I urge unanimous adoption.

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

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is unanimously adopted.

SENATOR DeFRANCISCO: Thank you, Mr. President.

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

ACTING PRESIDENT KUHL: We have a substitution, I believe, at the desk and, also, a motion that Senator Farley would like to make.

The chair recognizes Senator Farley. Return to motions and resolutions.

SENATOR FARLEY: On behalf of my

good friend Senator Marchi, on page 5, I offer the following amendments to Calendar Number 165, Senate Print 2198A, and I ask that Senator Marchi's bill retain its place on the Third Reading Calendar.

Do you agree, Mr. President?

ACTING PRESIDENT KUHL: The amendments to Calendar Number 164, which is on page 5, by Senator Marchi, are received and adopted. The bill will retain its place on the Third Reading Calendar.

SENATOR FARLEY: I thought I was going to lose that motion, Mr. President.

ACTING PRESIDENT KUHL: Well, you were close, Senator Farley. Not only does the nurse have an allergy testing program, they will screen eyesight, too, if there's some question about your ability to read the motion papers.

SENATOR FARLEY: What was wrong with that?

ACTING PRESIDENT KUHL: The Secretary will read the substitution.

You have another motion, Senator

Farley?

SENATOR FARLEY: I do.

ACTING PRESIDENT KUHL: Oh! Let's try again. Chair recognizes Senator Farley.

SENATOR FARLEY: On behalf of Senator Lack, I wish to call up his bill, Senate Print 5230, which was recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 1087, by Senator Lack, Senate Print 5230, an act to amend the Tax Law, in relation to authorizing the County of Suffolk to impose an additional 1/4 of 1 percent sales and compensating use tax.

ACTING PRESIDENT KUHL: Senator Farley.

SENATOR FARLEY: 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 52.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator Farley.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

There is a substitution at the desk. I ask the Secretary to read.

THE SECRETARY: Senator Velella moves to discharge from the Committee on Higher Education Assembly Bill Number 882A and substitute it for the identical Calendar Number 977.

ACTING PRESIDENT KUHL: Without objection, substitution is ordered.

Senator Skelos.

SENATOR SKELOS: Senate will stand at ease for several more minutes.

ACTING PRESIDENT KUHL: The Senate will stand at ease.

(Whereupon, at 12:10 p.m., Senate was at ease.)

SENATOR SKELOS: There will be an immediate short conference of the Majority in Room 332 of the Capitol.

ACTING PRESIDENT KUHL: Immediate meeting of the Majority Conference in the Majority Conference Room, Room 332. The Majority Conference Room, Room 332.

Senate stands at ease.

(Whereupon, at 12:16 p.m., Senate continued at ease.)

(At 12:40 p.m., the following announcement was made.)

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Mr. President. There will be an immediate meeting of the Rules Committee in Room 332 of the Capitol. The

Senate will stand at ease.

(Whereupon, at 12:50 p.m., Senate reconvened.)

ACTING PRESIDENT KUHL: Senate will come to order. Members please take their chairs, staff their places. Get the chamber in order.

The chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President. Can we return to the order of standing committees. I believe there is a report from the Rules Committee. We would like to have that at this time.

ACTING PRESIDENT KUHL: We will return to reports of standing committees. There is a Rules report at the desk. Ask the Secretary to read.

THE SECRETARY: Senator Bruno from the Committee on Rules reports the following bill:

Senate Print 5280A, by the Committee on Rules, an act to amend the Public

Health Law, the Social Services Law, Chapter 600 of the Laws of 1986 amending the Public Health Law.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President. I move at this time that we adopt the report of the Rules Committee.

ACTING PRESIDENT KUHL: The motion is to accept the report of the Rules Committee. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The Rules report is accepted, and the bill is reported directly to third reading.

Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President. Can we at this time call up Calendar Number 1144.

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

1144.

THE SECRETARY: Calendar Number 1144, by the Senate Committee on Rules, Senate Print 5280A, an act to amend the Public Health Law, the Social Services Law, and Chapter 600 of the Laws of 1986, amending the Public Health Law.

Senator Bruno.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is a message at the desk, Senator Bruno.

SENATOR BRUNO: Can we accept the message at this time, Mr. President?

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity that is at the desk.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

Secretary will read the last section.

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Senator Paterson we're on controversial at this point.

Chair recognizes Senator Paterson.

SENATOR PATERSON: Mr. President. Could I have an explanation of this bill? Since I don't really know what the bill is, I guess an explanation would be a good start.

ACTING PRESIDENT KUHL: Senator Holland is going to be handling the explanation, Senator Paterson.

Senator Holland for an explanation.

SENATOR HOLLAND: Mr. President. I'm going to spread it around a little bit. Senator Hannon is going to do Medicaid. Senator Saland is going to do children and family, and I

will do welfare.

First of all, I will tell you a little bit about welfare.

What is included in the bill is Workfare, Learnfare to the sixth grade, minorities living at home, three fraud pieces recommended by the District Attorney of Manhattan, and a limit of six months, basically, if you come in from out of state, whether you come in from out of state or you come in from out of nation.

That's basically the welfare package, and I think most all of us know what are included in that.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Would Senator Holland yield for a couple of questions?

ACTING PRESIDENT KUHL: Senator Holland, do you yield?

SENATOR HOLLAND: Yes, sir.

ACTING PRESIDENT KUHL: Senator Paterson, he does.

SENATOR PATERSON: Senator Holland, my understanding is that the attendance of school children from years 1 to 6, the first to the sixth grade is not significantly - there's not a significantly high evidence of truancy. Is that not correct?

SENATOR HOLLAND: I'm not sure whether -

SENATOR PATERSON: In other words, with the truancy that is rampant in a number of school systems in our public system, that really the problem doesn't begin until junior high school. That's what I'm asking.

SENATOR HOLLAND: Yes, sir, I understand your question. I'm not sure exactly what grade it starts in. It starts around that sixth, seventh, eighth grade. If I had my druthers, I would encourage this Learnfare program to go longer than the sixth grade, but we should try to get, in my estimation, the young people and the parents used to them going to school in the early grades, and so this is a beginning.

SENATOR PATERSON: Yes, I agree, Senator. However, with it being from grades 1 to 6, at a point that the limitation that we have established, for those students who are absent from school in excess of that limitation, wouldn't it be most likely that these are actually due to medical or nutritional problems that these children are having?

SENATOR HOLLAND: Let me have the last part of the question again, Senator? I'm sorry.

SENATOR PATERSON: Senator, the question is, those situations where you have children who are absent from school who have now gone over the limitation that we have set forth in this legislation, aren't they actually - predominantly, isn't this problem being caused due to health care problems or nutritional deficiencies that are causing health care problems rather than actual truancy?

SENATOR HOLLAND: There are many, many excused absences in this proposal, Senator. It is only unexcused absences of five

per quarter that would kick in the Learnfare problem. If they have sickness, they are excused and it doesn't count in that five days. Does that answer your question?

SENATOR PATERSON: I understand. Then, Senator, since there is, what I'm saying, a rather low level of truancy at this actual age level, do you think it's a good idea to have it there? I know what you are saying about encouraging parents to make sure that their children are in school but since -- in these designations that we're actually addressing in in budget bill, do you think that it's a good idea to actually leave it there, since I don't know that we're addressing that much of a problem in grades one to six where the children are approximately age 6 to 11 years old?

SENATOR HOLLAND: Senator, as I said previously, I wanted to go much higher, to the tenth or twelfth grade, but the Assembly would not agree to that, and we agreed because we think anything is an improvement. I would love to see it progressive, sixth grade this

year, seventh grade next year, eighth grade, et cetera, et cetera, so that we encourage these young people to go to the school.

I have to give you the same story I've given to you before. Forty-three percent of the high school students in the City of New York graduate in four years of high school. We are destroying, as far as my opinion is, the young people, particularly of the City of New York, because they do not go to school. If we do not educate those people, we do not get industry into the Bronx, Brooklyn, et cetera. This is a start as far as I'm concerned. I would love to see it go higher if that is the purpose or the point of your question.

SENATOR PATERSON: All right, Senator. Now, just to clarify, as long as the student has excused absences, as long as the student is really sick, then there could be really an unlimited number of those absences.

SENATOR HOLLAND: Yes.

SENATOR PATERSON: How do you define an unexcused absence, Senator.

SENATOR HOLLAND: There was a list initially of excused absences which is not included in the budget bill, I am told, but now it is done by the individual school districts. They decide what is an excused absence.

SENATOR PATERSON: I'd assume, generally, that an unexcused absence is an absence for which there is no explanation.

SENATOR HOLLAND: Sounds reasonable to me, Senator, yes, sir.

SENATOR PATERSON: Pardon me, just one second, Senator.

SENATOR HOLLAND: It's all right.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President. If Senator Holland would yield?

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

SENATOR HOLLAND: Yes, sir.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: Senator, you have been very helpful. Now, I'd like to ask you a couple of questions about Learnfare in year two. I'm interested in how many sites will actually be located in the New York City area.

SENATOR HOLLAND: It's six the first year, fifteen the second year -- that's what you are asking about -- and six of them would be in the City of New York the second year, six out of the fifteen in the second year.

SENATOR PATERSON: Can you give me an estimate -- if the Senator will continue to yield?

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

SENATOR HOLLAND: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: -- an estimate of what the cost for the 21 sites over the two year period will be?

SENATOR HOLLAND: First year estimate cost is $800,000. I don't know how

they come to that, Senator, but that's what the figures say.

SENATOR PATERSON: $800,000?

SENATOR HOLLAND: Yes, sir.

SENATOR PATERSON: All right. Thank you, Senator.

ACTING PRESIDENT KUHL: Senator Espada.

SENATOR ESPADA: Thank you, Mr. President. Just a question or two of Senator Holland.

ACTING PRESIDENT KUHL: Senator Holland, do you yield to Senator Espada?

SENATOR HOLLAND: Yes, sir.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR ESPADA: Thank you, Senator. The residency requirements and the prohibition for payments to immigrants or out-of-staters, the question to you is, are you at all concerned, number one, about the constitutionality of those provisions in this bill? And, number two, no doubt that this will

bring about some litigation; what would be the cost to the State of New York for said litigation?

SENATOR HOLLAND: I imagine, Senator, as you do, that it will be challenged. Sorry, I do not know or have an estimate of the cost to either side.

SENATOR ESPADA: As to the first part, though, the constitutionality of those provisions, are you at all concerned about those, inasmuch as some of these have already been tested in the court system and the Court has spoken loud and clear on our constitutional provisions that provide for the needy and don't include residency requirements and the like.

SENATOR HOLLAND: Yes, sir, I believe that there will be some questions about the item. People will take it to court, I'm almost positive.

SENATOR ESPADA: With respect to the total package, I hear you loud and clear on the issue of Learnfare, on the issue of work fare; and the political climate being what it

is, we understand that things could have been a whole lot worse given my perspective and many of the Assembly Democrats, but if you had your druthers -- and it is the phraseology that you just used with respect to Learnfare -- but if you had your druthers, what would you really do that would insert some degree of positive aspects to a woman and a child and a poor person dependent on these programs being able to lead a life of economic and personal independence?

I am having a very hard time trying to find a single provision here that doesn't result in a punitive sanction as opposed to something that can help me as a poor person get off the rolls, get a better education for my children. When will we take that up, is my question?

SENATOR HOLLAND: I guess, Senator, my impression is that we are trying - or we would like to put the family back together. We would like to encourage personal responsibility, and I believe that Workfare, Learnfare, limits to the time that you can be -

or limits to the amount of money that you can earn and minors living at home is what we're really trying to do.

I think it's -- it's taken us 30 to 40 years to destroy the family. One of the other things that we have in here also is the - encouraging child support payments that I guess Senator Saland will talk about, and that's requiring fathers to support their children which should have happened a long time ago, and these are things that I think -- the total overall package is trying to put the family back together, encourage the kids and parents to have the children go to school and grow in a family atmosphere, encouraging grandparents and grandchildren to live together. That type of thing is what we're looking for totally, and that's what we hope the package will do in the long haul.

SENATOR ESPADA: Through you, Mr. President.

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

SENATOR HOLLAND: Yes, sir.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR ESPADA: Those are all laudable goals, and they all really sound great when they appear in the manuscript of the "Contract with America." They sound great when they appear on these bills. But when you actually try to concretely go about living the life of a poor person and engaging or interfacing with these kinds of legislative initiatives, what you find is, "Now I'm on Workfare. Now I have a job. I'm at the worksite. Everybody knows that I'm an HR, welfare, Workfare recipient. The working person that lost the job because I'm there hates my guts. The people that are there, basically, don't give me any respect because I'm stigmatized; and in the end, when you really analyze it, I'm earning way less than minimum wage for my participation in the job market."

So the question really is, when are we going to go about the job of really

creating real personal responsibility as opposed to stigmatizing people by way of making them earn what they get off of the public dole?

The fact of the matter is that most of these people want jobs. Do you think there is a better approach that we can utilize putting people through more training, putting people through more college education programs, than to subject them to that kind of continued humiliation that in the end will not result in any permanent career path or real job?

SENATOR HOLLAND: Senator, as far as the training goes, you know that nationally and statewide we've had a number of training programs; and if you talk to the Welfare Inspector General, he will tell you that many of those programs were rife with fraud. There was fraud all over them. They were stealing from us.

If you talk to some of the clients -- and I believe that most of them want to work. Most of them have a different opinion than we do in this chamber and they do in the

other chamber. Most of the people on welfare, if they have a baby, they want to go to work very quickly. They want to get a job, and I've been down and talked to them with you and Senator Waldon. So -

I lost my point. I lost my point.

SENATOR ESPADA: The point is and the reason why we get lost in the debate -- no pun intended, but the reason is because we're not really focusing in on what result we really want.

My question to you is -- I believe that you want people to get real jobs that pay liveable living wages that they can support a family on; and my whole problem with this is that this framework opens the door for more participation in Workfare but when I go through that door and I try to go to some path that will lead me to stable employment, I don't get there.

And so maybe we should celebrate about this thing and say, "Oh, this is great for

New York and people are going to be put to work, but what we really want is real results, and I'm having a hard time getting to your goal through this method.

And my question to you is, when are we going to go about in this state really taking on the real job of putting people in the job market with real skills? I'm not talking about the fraudulent type that rip off government grants and that sort of thing. You and I know about the good programs that are out there waiting to receive more assistance.

If we were to invest in those, if we were to accentuate the positive out there instead of knocking people over the head, my question to you is, don't you think we would get a lot more people to remain in the job market and to stabilize their families with that kind of approach as opposed to what is in this legislation?

SENATOR HOLLAND: I think we're talking about the same thing. I think the legislation is talking about the same thing,

Senator. I think people who go to work, who have a job, are better off. People who are matched to a job that meets their educational background, their matched abilities, their likes, are much better off than people who are forced into training programs that, really, they don't have an interest in.

If somebody is forced into a software job or a computer hardware job that they don't like, it's a total waste of money and time for the individual. I think that's what we're trying to do here. Through Workfare we are trying to match people with jobs that matches their likes and their abilities. "Work America" does that. Many other programs do that, and I think people are better off if we can get them into jobs, not into educational programs that don't match their abilities, and that's what we're trying to do.

We're trying to do two things. We're trying to educate them, and we're trying to get them jobs. Those are the basic two things we'd love to do, and we don't want them

staying on the public dole. We do not think it's good for the taxpayers or good for the people who are actually on the dole.

SENATOR ESPADA: One last question, though you, Mr. President.

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

SENATOR HOLLAND: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR ESPADA: On the Workfare, Senator Holland, you know, we put in a provision to work in the not-for-profit sector and government programs. Would you be at all opposed to legislation that would essentially encumber, obligate the UDC (the Urban Development Corporation) that provides grants and assistance, subsidies and the like, to for-profit corporations? Would you at all be adverse to having a requirement, a Workfare provision, tied to those kinds of assistance that we provide to for-profits that would really pay living wages to welfare recipients to work

in the private sector?

SENATOR HOLLAND: I would look at anything, to tell you the truth, Senator, that would put people to work and find them jobs that they liked and would stay in.

SENATOR ESPADA: Thank you, Senator Holland, for yielding. Thank you.

ACTING PRESIDENT KUHL: Chair recognizes Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. This is part of what I consider one of the worst and most flawed budgets that we've had and a budget that is going to do grievous harm to New York State and that's going to bring us back next year dealing with an impossible deficit, where we're going to be forced to make further cuts in basic services.

What this budget does is really turn around the purpose and function of government, which is to help the needy, the poor, the disadvantaged, and makes the role of government to supporting and helping the wealthy and taking away essential programs for those who

really have to rely on government for help and protection.

This particular bill, of course, is the centerpiece for many of the Republicans because this is really the one that expresses the scapegoating that you have been so involved in, where the blame for all the deficit, the blame for our economic problem. Who is to blame? Well, it's those people on welfare. It's the costs on welfare. All of the myths, all the shibboleths, all the simplicity that has driven the Republican right is represented to such a large extent in this bill, and it would be even much further if it weren't for a Speaker who stood up against some of the excesses of the Republican right.

But this whole idea that people on welfare are the cause of the problems that we have in this state, that they are the cause of the deficit, of course, is sheer bunk; and the idea that welfare is at the root of the breakup of the family, as I just heard Senator Holland say, of course, is expressive of the nonsense

that drives the far right Republican philosophy.

In fact, there was just a study, Senator Holland, if you had read it, by the United Nations that shows that the breakup of the family happens to be a worldwide phenomena, particularly in developed countries, has no relationship whatsoever to welfare.

But that's the sort of shibboleths and myths that we hear, and this is the sort of bill we get, and to call this "welfare reform" is the worst of misnomers.

There is no reform in here at all. What you are essentially, basically doing is cutting benefits. Is that reform? Oh, yes, we're helping people. Senator Holland says we're going to make them more self-reliant. You know, make people hungry, they become reliant. That's a wonderful thing.

That's how we're going to create the family unit, by seeing that people go hungry; and if, in fact, we'd had your reductions in benefits, which you had initially,

there is no question that we would have had many, many people in this state who would have gone hungry.

I don't know whatever happened to that wonderful doctrine of F.D.R., the Four Freedoms, which included the freedom from hunger and the freedom from want and the freedom from lack of shelter. That's really what our government ought to aim at.

Is the welfare system a flawed system? No question about it. Is it a failed system? I would say that maybe our economy is failed. Our society has some failures in it, and certainly our government has failed. But I think we need to look at who's on welfare, why they are on welfare, what the problems are.

No question, we have many, many dysfunctional people in this society. They exist particularly in the urban areas. Many of them come from minority backgrounds because of the particular difficulties of problems that minorities have traditionally had and still have in our society. Can we make it better? No

question about it. Can we try to move people to work? Absolutely should be done.

But it requires more than slogans. You can't just say "Workfare". That's wonderful. Put people on welfare to work. That's great. Who is against that? Everybody is in favor of that.

How are you going to do it. How are you going to deal with it? Where are the jobs? How do you train people for it? Senator Holland, that costs money.

That costs money; and the reason we have made far less progress under the reforms that Senator Moynihan pushed through the Congress is because neither the federal government nor the states have been willing to put up the money that's required. If you are going to take people who come from a very troubled background and home situation, it's going to require money.

There was an article in today's Times about a particular school in New Jersey, St. Anthony's, that takes these young people

from these troubled backgrounds that ordinarily or that traditionally in the last decades or so have just continued on a life of welfare, but trains them, educates them, and a very large proportion of them now are going to college. That program, by the way, is probably going to be cut in New Jersey because it's part of their so-called reform program there. That's the sort of things that we need to be doing.

But I'll say this, Senator Holland, and my other friends on the other side who love to talk about welfare, you want to talk about welfare? There is lot of welfare. We give a lot of support in our society. I mean, to listen to some of you, you would think that all of you or the people you represent had made it without any government help at all. It's wonderful.

Well, you got veterans benefits. Oh, well, that doesn't count. We subsidized the growth of the suburbs. Oh, well, that doesn't count. We provide all sorts of benefits to corporations. Oh, well, that doesn't count.

You take a look where a large amount of subsidies and assistance goes in our society, and it really goes to people who happen to be fairly well off, and it has enabled these people to reach that middle class status, which is wonderful. It's wonderful that we've done this.

But everything that I'm talking about you consider sort of an entitlement program. Interest deductions for homes in the suburbs, where does it say that that's not welfare? Why isn't that welfare? That benefits you, benefits your constituents and, therefore, it's an entitlement program. Why is that any less welfare than when you take a poor family and you say "I'm going to give you a shelter allowance"? Do you know how much the state spends in interest deductions? An enormous amount, billions of dollars every year. I happen to think, by and large, it's a good investment, but what I dislike is that what you have is entitlement but what people who are poor and needy receive, that's a dole. That is a

give-away. That's waste.

Take a look at the corporate welfare. I issued a report, showed New York State poured $1.2 billion in programs of benefits to corporations, many of which did not create jobs.

You want to apply the test of, well, is it cost effective? Does it create reliance? Does it achieve its purpose? That's the test you apply on social welfare. You would have to apply it to corporate welfare, other, at the same point.

I'm also very concerned about aspects of this bill -- I'm not going to get into the details on it -- which are going to make it that much more difficult for hospitals, particularly in the urban areas, to provide services. The cuts in Medicaid, some of the other reductions in hospital programs, are unquestionably going to create serious problems not only in the urban areas but I think they are going to create it in the rural areas. I think you are going to find some of your small rural

hospitals are going to close because of these cuts in Medicaid. But I think essentially what this bill reflects is the anti-urban, anti-poor and anti-minority aspect which has driven so much of this budget.

And if anybody gets up, and I'm sure they will, and say, "We're achieving welfare reform; we're achieving efficiency in government," I think you are achieving none of that or hardly any of that in this bill. I shouldn't say none of it, because there are some provisions that make sense -- certainly making fathers pay for their children. There's other things in there I think we can agree on, but the main aspects of this are punitive. They are purely and simply punitive. They scapegoat, and I think this is a bill that I frankly am ashamed of, and it's a budget that I'm ashamed of.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 246. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the

roll. Senator Espada to explain his vote?

SENATOR ESPADA: I have a question.

ACTING PRESIDENT KUHL: Oh, okay. Withdraw the roll call.

Senator Holland, do you yield to another question?

Senator Espada.

SENATOR ESPADA: My question is not of Senator Holland but of Senator Hannon on the health component of the -

ACTING PRESIDENT KUHL: Senator Hannon, do you yield to Senator Espada?

SENATOR HANNON: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR ESPADA: Thank you, Senator Holland. Just one question, sir, on the projected job loss that the implementation of these various measures -- cost containment measures will result in. What is your projection of job loss in our state as a result of these measures?

SENATOR HANNON: I don't have any.

SENATOR ESPADA: Pardon?

SENATOR HANNON: I don't have any.

SENATOR ESPADA: Would you consider your answer somewhat remiss in the fact that this is a big part of the fiscal impact?

SENATOR HANNON: I would look at it more in this way, Senator. We were faced with an overwhelming deficit, and one of the reasons we were faced with a deficit is that the revenue projections in this state had fallen because we had for various reasons industries leaving this state, jobs leaving this state, when we know that when the rest of the nation went through a recession, was going through a recovery, we had not gone through a recovery.

So before we could start looking at everything in terms of our effect, we had to look at what we had to cure, and part of the cure that we had to do was to put our fiscal house in balance, put our fiscal house in order,

make sure that we could pay our bills, make sure that people who were the neediest were taken care of instead of doing everything that was, want-to-be, and desirable.

So in terms of remiss, no. I think you are absolutely wrong. I think what we have tried to do here is with the scarce resources available take care of the people who need it most.

SENATOR ESPADA: Through you, Mr. President.

Maybe remiss was an unfortunate and premature conclusion, but, certainly, incomplete maybe more appropriate because the question still stands. How many jobs will be lost to the health care sector and to New York State residents as a result of these cost containment measures? If the answer is that you don't have an answer, then -

SENATOR HANNON: Are you suggesting, Senator, that the purpose of the health care system is not to take care of people who are sick, who are needy, who are infirm, but

rather to provide jobs for people who don't have them?

SENATOR ESPADA: The answer to your question is it is A and B and C and it's a lot of things. It isn't just simple slogans, "health care," "Workfare". What we have here is a complicated world. What we have here is that health care industry in New York State is like the oil industry in Texas and Silicon Valley in California. You don't go -

SENATOR HANNON: Are you suggesting that we should not be taking -

SENATOR ESPADA: I don't -

ACTING PRESIDENT KUHL: Gentlemen. Gentlemen. Gentlemen. This is this is not a shouting match. We have a procedure. We go through the Chair. One Senator will ask a question. The other one will be given a chance to respond to it. We don't interrupt people in the middle of discussions. It's going to be a long day today, so let's please show a little respect to our comrades here, our colleagues here in the Senate.

Senator Espada, did you finish your question?

SENATOR ESPADA: I was actually responding to the question when I was interrupted.

ACTING PRESIDENT KUHL: You have the floor, so it's your floor.

SENATOR ESPADA: Thank you so much.

The question of the impact on the health care industry isn't to negate the fact - and believe you me, I spent a lifetime on the provider side of health care, so I understand health provisions very well.

I also understand that in my county 45 percent of the jobs that have been created in that needed sector have been in the health care industry, so it's worked both wonders. It's improved the quality of health care in my district and also has provided for families and stability and job careers.

And so it is to the latter impact that I ask you again about job losses, is all.

SENATOR HANNON: When we went through the Medicaid system, we looked at what efficiencies, what savings could be made in the hospitals, nursing homes, home care, personal care. We took a budget that had been crafted as so many others have been crafted in the past with more of an eye toward savings and tried to look at it in terms of caring for people.

When we restored the long-term home health care, we looked not just at that one program, but we looked at related programs and saw what had to be done so conceptually we would be taking care of people.

Well, we did the same thing in analogous ways, personal care nursing homes, hospitals.

I submit to you, Senator, that what we had to do was to look at what was of the utmost concern for individuals at a time when they needed the help the most. In fact, one of the greatest tragedies is the demise of the mandated managed care for those people in the Medicaid system. In that way, if we had had

this managed care, we could have insured that people would have a regular system of health care, would have a regular care giver, not use the emergency rooms, not be treated in the most costly, inefficient and illogical way.

What has happened with the demise of that mandate, in the budget at least, is, I think, the loss of quality care to the individuals who need it most; and as an ancillary thing, it would have saved money; and that money could have been put into things we might want to see but are not absolutely necessary in the health care system; and those things we might want to see might have responded to your question.

But what we have tried to do is always look at what is the purpose of this program, what is the goal that we are seeking, because, frankly, that is our obligation.

SENATOR ESPADA: If I may, Mr. President, just as a follow-up?

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

Espada?

SENATOR HANNON: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR ESPADA: I didn't have it in mind, Senator Hannon, to discuss managed care but since you brought it up, maybe you could explain how, in fact, we could have implemented the Governor's proposals for mandatory managed care when, in fact, it seems at a quick cursory glance of the memo that we received in conference just now that we've essentially gutted out all the primary care capacity building strength that was in the budget two years ago through the NYPHRM that we passed.

I don't understand how we can have mandatory managed care, which essentially would require that people be absolutely involved in an HMO setting, without having family doctors in those family clinics for them to go to.

So since you brought it up, the question is, really, were we ready for this thing that you said is subject to demise?

SENATOR HANNON: Not only do we believe that over a three-year period we could have achieved the goals that would have been set and we could have done it in a very orderly way, I believe that through the 1991 statute that allowed for voluntary enrollment, that we will see by the end of this year or shortly into next year, calendar year, over a million people on Medicaid, a good proof of -- and very close to the goals that are contained in the Administration's plan that's been submitted to Washington for a waiver.

So I believe the answer is question is yes, and the questions in regard to the changes in the NYPHRM system have nothing to do with the capacity that would have been needed and will be needed for managed care.

SENATOR ESPADA: We have a loss, Mr. President -- one last question?

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

SENATOR HANNON: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR ESPADA: Do we have a loss of primary care development funding capacity in this budget? Do we have a loss?

SENATOR HANNON: I don't believe so.

SENATOR ESPADA: We have not reduced the primary care enhancement capabilities under this budget?

SENATOR HANNON: There are many sources of money that can be used for the evolving medical needs of this state. Just because something happened to be reduced that had that title doesn't mean there aren't many other streams of that money. There are five incarnations of NYPHRM, which is the payment system that fixes the rates for hospitals and then provides ancillary social goals through the bad debt and charity pool and a number of other add-ons; and there are many of those other streams of revenue to the hospital that can be used for this purpose.

SENATOR ESPADA: I look forward to debate on NYPHRM when it comes up, but suffice it to say that it's clear to me that we have eliminated primary care enhancement and capacity development in this budget; and if you won't say it, I will. We have.

Thank you.

ACTING PRESIDENT KUHL: Chair recognizes Senator Waldon.

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

Would the distinguished chairman of Social Services from Orange and Rockland Counties permit me to ask him a question or two?

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

SENATOR HOLLAND: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

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

Senator Holland, I'm going to

surprise you today. I'm going to support this bill. But I have a couple of concerns, and I need you to iron them out for me.

SENATOR HOLLAND: You say you are going to support the bill, Senator?

SENATOR WALDON: I think I am going to support the bill.

SENATOR HOLLAND: Good man.

SENATOR WALDON: Isn't that a revelation? At last, distant polarized philosophies will somehow come together, but there is a bridge I have to cross. I want you to help me cross that bridge.

This is in regard to the Learnfare component. I'm concerned that a child through whatever reason is absent from school and the family will be penalized; and my understanding is that those children who are receiving aid from the state over the period of a year -- we're talking about a collective now -- are absent only two days more than all other children; that that is what the data shows; and yet what you are proposing is that if a child is

absent from school, unexcused, as characterized by the legislation, that the family will suffer in terms of the monetary benefit.

Can you tell me when the mechanism triggers to end the benefits for the family; and can you tell me what the conferences -- the warning conferences, what it really entails?

SENATOR HOLLAND: When it triggers is five days of unexcused absences in a quarter.

SENATOR WALDON: It's not quite accurate from what I read.

SENATOR HOLLAND: The conference is with the family and the school district, and would be held after three unexcused absences, before the five are completed.

SENATOR WALDON: May I continue, Mr. President?

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

SENATOR HOLLAND: Yes.

ACTING PRESIDENT KUHL: Senator

continues to yield.

SENATOR WALDON: Thank you, Mr. President. Who will attend that conference?

SENATOR HOLLAND: I don't believe it specifically says that. It lays out the number of people or who should attend, but it would be the family and representatives of the school, anybody who can help solve the problem.

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

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

SENATOR HOLLAND: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR WALDON: Thank you, Mr. President.

What I really want to know is who will pull the trigger? Who will say, "Your child in this quarter has been absent too many times. We are now going to cut off the benefits"? Who has that responsibility?

SENATOR HOLLAND: It will either

be the school or the social services district. I assume it will be the school district and, hopefully, it will be done at the local level with the parents themselves.

I think every effort is going to be made, Senator, and I hope you are correct, that your study says that they only miss two additional days, and maybe that's true until the sixth grade. That's when, as Senator Espada said, I think, the younger people start leaving school. We're trying to get them in to -- and we don't want to take the money away from them if they really need money.

We're trying to get them used to going to school. We're trying to get the parent to continue to encourage the young people to go to school. That doesn't only happen in the Bronx or Brooklyn. It also happens in New City, in particularly junior high school, when kids don't want to go to school. We need the assistance of the parents and the assistance of the school and everybody else to get them over that hump and they get a little bit better in

high school.

SENATOR WALDON: One last question, if I may, Mr. President?

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

Senator yields.

SENATOR WALDON: I am unclear because in your response you were unclear about who will make the final decision; and so my question to you is, will you put pressure on the system to make sure that the decision is not made by the school in terms of cutting off the money, but by the representative of the state which is better equipped, in my opinion, to do that with recommendations from the school?

And if you can assure me that you will do this -- and I trust your response - then I may be able to support you regarding this legislation.

SENATOR HOLLAND: Right off the top of my head, Senator, you know, I have a little problem with that. I think the people in the school themselves who work with the young

person daily and know the young person would probably have a better judgment of whether this young boy or young girl is trying to cut school or not trying to cut school rather than somebody from social services.

So I would like to see it done at the local school because I think the teachers and the principals there know the young people that come to their school.

Let me just say one more thing. It's not set yet, Senator. You know that. It's got to be worked out in the plan, and the plan has not been specified.

SENATOR WALDON: Mr. President, I apologize. Because of the response of our chairman, I need to just say one more thing to him, and then I will be seated.

ACTING PRESIDENT KUHL: Senator Holland yields.

SENATOR WALDON: Perhaps I didn't explain myself clearly enough, Senator, and that happens often times. I'm 58-1/2 now. A lot of things don't work the way they used to. We've

gone down this road before.

The point I was trying to make is that the decision to cut off the money should not be with the school personnel. The determination as to whether or not the student is performing up to speed should be the responsibility of the school, and that recommendation would then go to the social services agency representative and that representative would make the decision.

If I did not explain that clearly enough before, I do it now. That was the thrust of my concern. If you can assure me now -- to complete, if you can assure that that will be the process, which I think you did just a moment ago, if you can repeat it for us, then I can support you on this measure.

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

SENATOR HOLLAND: I will do the best I can.

ACTING PRESIDENT KUHL: Senator Stavisky.

SENATOR STAVISKY: Senator Holland, would you yield?

SENATOR HOLLAND: Yes.

SENATOR STAVISKY: Senator Holland, we have not yet seen a local assistance budget, but from the preliminary indications, it does not appear that school districts will be satisfied or able to perform all the functions required of them.

When I last undertook examination of this thorny problem, I found that one of the difficulties is that bureaus of attendance have been decimated because school administrators have had to decide whether to keep teachers in the classroom or attendance officers available to deal with absenteeism.

Can you assure us, as you ask us to vote on this bill, that there will be adequate funding for bureaus of attendance in all of the schools that will be subject to this procedure?

It's not that I'm quarreling with you on the desirability of having an improvement

in classroom attendance, or performance, obviously, but I think that we may be imposing upon the schools a mandate without money. We may be imposing upon the schools a responsibility without adequate staffing for bureaus of attendance; and have you consulted with your colleagues who have responsibility for educational funding in the school districts, the 700 school districts of the state which will ultimately be covered by your bill or even the sample school districts that are involved in the preliminary survey and the preliminary procedure? Can you assure the members of this Senate that bureaus of attendance, properly staffed, are in place in all of these school districts, or are you imposing upon the schools a responsibility for which they have no resources and limited personnel?

SENATOR HOLLAND: One of the reasons that we're phasing it in is just to improve the system as we go along. You understand it's six districts the first year, fifteen districts the second year, and statewide

the third year?

There will be money going to the districts. I can not guarantee how that goes to the schools. However, I have to go back to a little story in visiting the City of New York, again. Many of those schools, it was my impression, don't keep attendance; and attendance should be kept.

If we can encourage the schools to keep attendance, whether it costs money or not, I think that's one of basic things we should do.

There is money in there, $800,000, as I said, to implement the program for six districts the first year. It should be enough money, Senator, but I really think the school districts should keep attendance anyway.

SENATOR STAVISKY: Did I hear you correctly? Did you say that there was $100,000 provided to each of the school districts?

SENATOR HOLLAND: $800,000.

SENATOR STAVISKY: $800,000.

Did you consult with any

educational officials that this would be adequate to cover the non-attendance problem, the absenteeism problem; that they would, in fact, be able to make contact, especially where there may be a dysfunctional family, where there's only one parent or where there may be a foster parent, and whether there is anyone to receive the message that the child has not been in attendance?

You know, it is one thing to have even a bureau of attendance and if the contacts are made between 9:00 a.m. and 3:00 p.m. and the parent is not home, and if there is no opportunity for discussion, we may be creating an unfair and unfortunate breakdown in the system by insisting on results when we are not assuring that the requirements are in place.

I commend you for the objective. I do not commend what I fear will be inadequate local assistance funding for education, where New York City will continue to receive inadequate state aid to education, not even based on the number of pupils, not based on the

number of pupils who have special needs, but based on a formula that absolutely discriminates against certain large city school districts, including the City of New York, and does not necessarily guarantee that they will be held accountable with sufficient resources and revenue; and districts here are not like districts in other parts of the state. $800,000 does not go very far when you have a million pupils and when you have in some school districts as many as 35,000 students.

Are you aware that some school districts can have as many as 30,000 students? This may be more than entire counties in upper New York State have in terms of students, and these may be the very kids who have special problems, special needs and not, too often, the resources in the school system to care for them.

ACTING PRESIDENT KUHL: Senator Paterson?

SENATOR MENDEZ: Mr. President, would Senator Holland yield?

ACTING PRESIDENT KUHL: Senator

Holland, do you yield to Senator Mendez? The Senator yields.

SENATOR MENDEZ: Senator Holland, in terms of the Workfare program, how will a home reliefer who is HIV-positive or has tuberculosis, one of the -- this new kinds of that disease, how will they fare within the Workfare program?

SENATOR HOLLAND: HIV individuals can go into Workfare or are required to go into Workfare but they cannot be sanctioned. They cannot be put off the system for 90 days or 150 days or 180 days.

SENATOR MENDEZ: So, in other words, in a sense they are exempted from the Workfare provisions of the bill because of illness.

SENATOR HOLLAND: Yeah. Let me read this to you, if I could. It's lines 16 through 20. Home relief applicants or recipients affected with HIV or exposed to tuberculosis and in need of treatment as defined by the Commissioner of Health, assigned to

participate pursuant to Section 164 of this chapter shall not be subject to the provisions of the first undesignated paragraph in the subdivision and that is the sanctions, 90 days, 150 days, 180 days.

SENATOR MENDEZ: Will the Senator yield for a question?

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

SENATOR HOLLAND: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MENDEZ: In the case of individuals who are drug addicts or alcoholics, what are the provisions in the bill affecting them in terms of Workfare?

SENATOR HOLLAND: They can be excused -- if I can find the section here, Senator -- with a note from a doctor, I believe, if they have to go to treatment. They can be excused. I have read it. They can be excused with a note from the doctor if they have to go to treatment.

SENATOR MENDEZ: Thank you.

Will the -- will he still yield for a question?

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

SENATOR HOLLAND: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield, Senator Mendez.

SENATOR MENDEZ: Thank you, Mr. President.

Senator Holland, in terms of residency requirements, I believe that this bill states that people who -- let's say people who move to the state from other states for six months, they are limited to receive only the kind of welfare amount of monies that they receive either previous -- in the previous states where they had residency.

My question is I understand that there was a -- a -- a Supreme Court decision in reference to the right to travel of American citizens. Would there be a possibility that this specific aspect of this bill could be found

unconstitutional?

SENATOR HOLLAND: There have been cases, Senator, yes, that's true. We feel it should be looked at again. We feel that it should be challenged and that people who come in should receive the same benefits they received in their previous state or country.

SENATOR MENDEZ: Now -

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

SENATOR HOLLAND: Yes, yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR MENDEZ: Thank you.

Senator Holland, I understand - to what extent have individuals, let's say women with children who are on public assistance, have their allotments been cut in this bill?

SENATOR HOLLAND: No.

SENATOR MENDEZ: M-m h-m-m.

SENATOR HOLLAND: No grant cuts for them.

SENATOR MENDEZ: What about -

what about the personal health care -- I suppose that I have to ask those questions to the chairman of the Health Committee, but at least on the aspect of -- thank you, Senator Holland.

At least on the aspect of welfare reform, which we know our own president four years ago in his campaign, he said that he wanted to reform welfare as we know it. In the -- in the aspect of welfare reform, we don't know what will be coming down at present from Washington. It's not been finalized there yet.

At least with respect to the people who receive home relief, at least individuals who are very sick are not being forced into Workfare.

It is very interesting to know, Mr. President, that years back in the '70s, the city of New York started a program on Workfare for men and women, and the objective of that program was to have women and men work for their welfare check in city offices, and I remember that at the time I was very, very curious to see how they felt about it, and I interviewed many

of them, and they told me that they were very happy that at least, although they were receiving a check from the government, at least they were working for it and at least every morning that they would wake up, they would have a place to go.

I am saying that, of course, what happened to that program was they were looking -- all these people were looking forward to having a job with the City, but at the time the unions opposed it and then the problem no longer existed; and I'm saying this, Mr. President, because there is a horrendously negative stereo type concerning the -- who are the individuals who, in fact, receive either home relief or public assistance, and knowing the economic realities of the state of New York during the past years and that we have not been able to join other neighboring states in gaining jobs and in recuperating from our economic mess, so that the scarcity of jobs make it even more difficult for many welfare recipients to, in fact, get jobs. I think I understand that, in

this bill today, there -- more monies would be provided for day care services for women who have young children and will be -- will be joining the Workfare.

Again, just on the area of welfare, our society really makes a strong case for developing marketable skills among the poor. We shall always then have, unfortunately, an economic under class and, in fact, our studies recently do show that the gap between the haves and the have nots in our country has increased enormously through the years.

We hope that once our state puts in order its economic situation -- and let us hope that the philosophy of the Governor, in fact, does work so that we could see an economic revival in the state of New York that will provide jobs for people who want to work but are unable to do so because there are no jobs in the market.

I have one other concern with respect to health -- and let me see which one it was. Will Senator Hannon yield for a question?

ACTING PRESIDENT KUHL: Senator Hannon, do you yield to Senator Mendez for a question relative to a health provision in this bill?

SENATOR HANNON: Yes. I was just consulting Senator Tully -

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HANNON: -- about some information.

SENATOR MENDEZ: Senator Hannon, my community, my district will be tremendously impacted with the cuts in home health care and -- according to the first budget submitted by the Governor.

In this budget, Senator, how have we fared in terms of the restitutions? Will 24 hour care still be in place so that senior citizens that are very frail and that rather stay at home rather than go into the nursing home will be able to do so?

SENATOR HANNON: Under the - even the first version of this bill that we

passed in this house which we had negotiated with the Governor, Senate 4000, we would have dealt with personal care on an average basis so that we still would have left for an individual, if the determination -- determination was made that 24 hours was the most appropriate number of hours for that individual, they could have done that.

There are most indications, however, that having home care on a 24-basis is not an appropriate setting, and so there needs to be a very good review by the counties and the city as to what's most appropriate to bring down these average number of hours, but we have been talking about averages and we still do so that if there is something that is called for, a short-term, acute need, that could be done.

SENATOR MENDEZ: Thank you.

Mr. President, will he yield for a question?

ACTING PRESIDENT KUHL: Senator Hannon, do you continue to yield? The Senator continues to yield.

SENATOR MENDEZ: Thank you.

Senator Hannon, in my district, I have homes -- greater homes, I have individuals who are tremendously physically handicapped, and they have been successful at living independent ly with the aid of the -- of the home health care services. How will these individuals be specifically impacted upon with this bill?

SENATOR HANNON: We have enacted -- I believe you're referring to what's called patient self-directed management care, consumer directed personal assistance program, so that people who are disabled but are fully functional and know whatever the medical needs, that's a limited number of individuals, but obviously it's a group that we should be as supportive to as possible. I think we have by establishing a separate stream for them.

SENATOR MENDEZ: Finally, will the Senator yield for another question?

ACTING PRESIDENT KUHL: Senator Hannon, do you continue to yield? The Senator continues to yield.

SENATOR MENDEZ: With the kinds of cuts that hospitals will be receiving -- and I understand that the negotiating process between the Assembly, the Senate and the Governor has been very successful in terms of bringing it -- in more monies to avoid a tremendous amount of loss enforcing, in a sense, closing of hospitals. How will hospitals that are servicing poorer neighborhoods will -- will fare under this bill?

SENATOR HANNON: They will fare well, as well as one could expect. We spent a great deal of time discussing the nature of the hospitals, the ones that we called distressed hospitals. There's another group of hospitals that are called SLIPA which are really marked by the large number of Medicaid patients they treat. We're also aware of the municipal hospitals, and that goes for not just the city of New York, but there are municipal hospitals outside, and we've tried to be as cognizant as possible in regard to the population they serve and the services that they render.

It would, however, be wrong just to look at what is happening in the hospital field in terms of what we are doing in state government. There are two other major outside factors and forces that are working and will work and will create changes, no matter what we do.

The first is the continued movement from insurance coverage under the fee for service into managed care and, as that happens, we find that there becomes more efficient utilization of hospitals. We find there becomes negotiated rates with hospitals, and so those changes in the delivery of health services are forcing the hospitals to change.

We know currently that our hospitals have some of the longest rates of stay for individuals who enter into those hospitals. Longest rates of stay -- not the longest, but among the longest rates of stay in the nation. We have the highest among -- the highest hospital costs among those in the nation. So that's a force that's continuing to move, and we

are going along with those changes; and I must add the projected changes from Washington make whatever we do today pale in comparison. 14, 15 times as great the cuts are being projected and proposed for adoption this year when the federal budget begins, the federal fiscal year begins October 1.

So those changes are going to cause us to take a long, hard look at what we're doing, how we can do it and how we keep these essential services flowing to people in your community, people throughout the state because, frankly, there's no corner of this state that will be left untouched by both of those forces.

SENATOR MENDEZ: My final question, Mr. President -

ACTING PRESIDENT KUHL: Senator Hannon, do you continue to yield? The Senator yields.

SENATOR MENDEZ: I was concerned that $10 a month is nothing for you and I, but $13 a month is a lot of money for senior citizens who live on SSI. Has that problem been

resolved in this budget bill?

SENATOR HANNON: That has not been taken up at our table. That has not been something that's been discussed in regard to the Medicaid budget.

ACTING PRESIDENT KUHL: Senator Holland, do you yield to a question? It seems to be deferred to you from Senator Hannon - Senator Mendez.

SENATOR HOLLAND: It's going to be a separate bill, Senator.

SENATOR MENDEZ: $13 a month that we're going to be -- some senior citizens - poor senior citizens are going to lose. How are we addressing that proposal?

SENATOR HOLLAND: Start the question over again. Let me -

SENATOR MENDEZ: There was an original proposal whereby senior citizens who are poor would be losing $13 a month, I believe, of their SSI or -- what's happening with that proposal that we -

SENATOR HOLLAND: My

understanding, Senator, is that original proposal that we all heard back in the beginning where the federal money would not be passed through has been forgotten and it will not happen and it won't happen in this bill. It's not going to happen in the -

SENATOR MENDEZ: So the senior citizens will be receiving the -

SENATOR HOLLAND: That's correct.

SENATOR MENDEZ: -- the $13 that's supposed to -

SENATOR HOLLAND: Senator, but we have to pass another bill as we do every year to pass that money through.

SENATOR MENDEZ: I know. I know. But that will be okay?

SENATOR HOLLAND: Yes.

SENATOR MENDEZ: Thank you, Senator Holland. Thank you, Senator Hannon.

Mr. President, I know that all these budget bills that we are voting on this year, that it has been a very lengthy, hard process, painful for everybody.

I am proud that the Democratic Party has been pushing and pushing to make certain that some of the most vulnerable population of the state of New York are thought of and not -- and not penalized as much.

I must also say that the members of these houses as well as the Governor took to heart those recommendations and came through with the kind of budget that, yes, is not -- is not the best in the whole world, because we all would like to have lots of monies to fund the best of programs that will help all the residents of the state of New York to do better in their lives, but within the economic reality that this is a state that has a $5 billion deficit within the economic reality, that because of what we in prior years did with the pension funds, we have a deficit there of $4 billion that the courts are asking to us to pay back. Within all those realities of -- the realities of the economic situation in the state of New York, this is within that negative economic reality.

This is the best budget that we can compromise. I feel satisfied and that is why I'm going to support this bill. I feel satisfied that senior citizens in my district who are poor will not be penalized. I feel satisfied that people in home relief within my district who suffer from HIV-positive or have tuberculosis will not be forced into Workfare because of their health situation.

I'll be satisfied -- I'm satisfied also that the home health care programs as well as personal services, all those services there, that new industry that provides jobs for -- for poor, unskilled women and provides a work of love to be taking care of seniors day in and day that, that that industry has been saved and that those women will be working, and in doing so, providing those services, they will be, in fact, saving monies for the state of New York because, otherwise, these older people would have to go into nursing homes where I'm told, would have to pay anywhere from 45,000 to 60- -- $60,000 a year. So that

the hospitals will not be suffering horrendously, the nursing homes either.

So within all that negative economic reality, I think I must congratulate the Speaker. I must congratulate the Majority Leader here and the Governor, because within all this negative situation, they have come up with a budget that reflects the best that everybody could do, and that's good enough for me.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Hannon might yield for a question just briefly.

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

SENATOR HANNON: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, in the negotiation, passage and adoption of this budget in the area of personal care, we project

a $63 million savings to the state arising from the sanctions that we will impose if local governments do not meet the threshold of savings.

My question to you is what is the standard which we are imposing on those local governments because, as I see it, New York City will bear the brunt of it, and in a way, if it isn't organized properly, it would really be in a sense a fiscal hit on New York City.

SENATOR HANNON: Two or three things, Senator. That's a good question.

First of all, the brunt is much less than the bill that passed this house or was proposed by the Governor, by the mechanisms that are available which are mechanisms in regard to the management of the level of care, the organization of care, the delivery of care, this personal care that's delivered at the home, that, I think, are available and are achievable without at all harming the individuals receiving the care.

We've taken looks -- I have, at

programs throughout the state. We've seen counties that have worked at sharply defining the needs of the individuals, making sure that extra hours are not allocated where they are not absolutely needed, and we feel that they can be done -- this can be done.

I've seen people go through two different methods, the method that has arisen without a lot of thought as people had to invent this system and which over-allocates the hours and other methods which are really people management methods of saying you don't have to be eight hours at an individual's home, and if you can look and see if there's three or four, ten individuals in a building or in a neighborhood and share the services for those individuals, and so that those savings, I think, are achievable. I think there needs to be a defined will to make them come about. I think this is nothing new. This body passed a limitation on -- in 1991 of 100 hours flat cut off. I mean -- so things have been on the horizon to the local social service districts

that they had to get on the ball and do this.

In the county of Suffolk, a countywide program, they took the average hours from over, oh, 160 hours per month and brought it down in the range of 80 hours per month as an average delivery to people who need it, and they're doing well with that. It's just a question of how much application and focus they can have.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, I think that's a sufficient answer and the only question I would add is -- if Senator Hannon would yield.

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

SENATOR PATERSON: Senator Hannon, I guess I'm just a little more interested in how we set the targets for the amount of money we want to save in those particular areas. Where do we -- I guess it's something that is a little nebulous in concept

and that's what I'm trying to -

SENATOR HANNON: This is going to have to be something that will be set by the Department of Social Services, communicated to each of the districts. Very shortly, within a couple of months -- I believe the date deadline would be August 1st -- there will be quarterly monitoring of all of this. There'll be reports whether or not the targets are being met, and there's even a provision for incentives to be built in so that if the targets are met and better achieved that some incentives can be provided to local social service districts.

SENATOR PATERSON: Well, the quarterly monitoring, which I wasn't aware of until you just mentioned it, Senator, is certainly going to be helpful, because I would imagine, if there's any problems, some adjustments can be made. I guess I'm just a little more interested in what the criteria would actually be for setting up this kind of standard, because I'm not altogether sure that we can meet our -- our objective of saving 63

million.

SENATOR HANNON: There are some of the criteria contained in the provisions of the bill, Section 92. I don't have the page number for you. I have the bill drafting copy, and it says, first of all, through appropriate and efficient use of personal emergency response system, the type of system that people may be familiar with through television advertisment, health by phone, but that in and of itself intelligently used can derive a great deal of comfort to people who are the care givers to make sure people do not have -- are put at risk, shared aides also; another criteria is the total size of the district, along with the density of the number of recipients in that district.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Senator.

That certainly alludes as to how to achieve of the savings, which is what we are -- are trying to do.

My last question -- and I promise you -

ACTING PRESIDENT KUHL: Senator Hannon, do you yield to another question from Senator Paterson? The Senator yields.

SENATOR PATERSON: Is -- the actual target, who's going to set that up?

SENATOR HANNON: The Department of Social Services.

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

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR HANNON: And there is, by the way, in the bill a requirement that the total targets be in the order of 53.1 million.

SENATOR PATERSON: Very good.

Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: If Senator Holland would yield to one last question.

ACTING PRESIDENT KUHL: Does the

Senator yield for one last question from Senator Paterson?

SENATOR HOLLAND: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, the finger imaging that I -- I imagine it's not here, that will be forthcoming in another piece of legislation?

SENATOR HOLLAND: Yes, sir. I'm told it will be in S.1840.

SENATOR PATERSON: Okay.

Thank you very much and thank you, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will read -- Senator Montgomery.

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

I would just like to ask the - Senator Holland, I think, a couple of questions on the welfare reform.

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

The Senator yields.

SENATOR MONTGOMERY: Senator Holland, I didn't see in the bill and maybe I just can't find it, the -- a section that - where day care is necessary in order before a locality is allowed to force a parent in the AFDC program off of benefits. What provisions did we make for ensuring that there is appropriate day care services in order to -

SENATOR HOLLAND: No changes.

SENATOR MONTGOMERY: No changes in the current law, so we're still under the federal guidelines?

SENATOR HOLLAND: Yes.

SENATOR MONTGOMERY: And in anticipation of any changes, for instance, block granting, what does that mean for the state in that -

SENATOR HOLLAND: When the block grant comes down, it's my understanding that we will have to refigure the entire thing. It will be on the state's shoulders at that point, but we don't know what that's going to be at this

point, Senator.

SENATOR MONTGOMERY: Okay. Thank you.

The other issue is transitioning, and I guess you partially answered that question, that that's the same question -- Mr. President, if Senator Holland would continue to yield.

ACTING PRESIDENT KUHL: Senator Holland, do you continue to yield? The Senator continues to yield.

SENATOR MONTGOMERY: The medical benefits transitioning eligibility for Medicaid benefits -

SENATOR HOLLAND: No changes.

SENATOR MONTGOMERY: No changes vis-a-vis this legislation?

SENATOR HOLLAND: M-m h-m-m.

SENATOR MONTGOMERY: Thank you, Senator.

Mr. President, I just want to speak briefly on the bill. I think -

ACTING PRESIDENT KUHL: Senator

Montgomery on the bill.

SENATOR MONTGOMERY: I think that this -- the legislation, particularly around the welfare reform piece, certainly tries to deal with fraud and I certainly agree with that, and also tries to strengthen our loss as it relates to child support payments, and I certainly think that's one of the major issues for us, and one of the small pieces that I find in the legislation which I particularly am pleased about is that you will be -- you're instructing the agency to review the training programs in our state that ostensibly train welfare recipients and, Mr. President, one, we've held hearings on this issue, in particular, and one of the things that we find with training programs is that many of them say that they're training welfare recipients and, in fact, they're training people for either dead end jobs or they don't train them to prepare them in any way for any job or they trained them for jobs for which there is no need because there's a saturation in the -- in the market, and one of

those areas, in particular, which is in the legislation and I am -- it's very unfortunate that we continue to maintain this -- in this legislation is that we are still accepting training by trade schools, registered business schools, et cetera, and this body should know that those are the areas where we have seen the most fraudulent kind of activity vis-a-vis training of welfare recipients in the state, and I certainly hope that as the legislation directs review of training, that this is looked at very, very carefully.

We should not continue to fund any program that does not, in fact -- cannot prove that it trains people and that people can go out and get jobs that are above minimum wage and that they can stay on those jobs for any length of time. Otherwise, we should not be funding it and it should not be part of what we consider to be welfare reform.

Mr. President, this is, I think, a moment for us to really think and be very thoughtful about what we do because we're

talking about changing the lives, hopefully, of many thousands of people and changing the life in a way that a person can go from dependence to self-sufficiency, and I think it requires a lot more thought and a lot longer deliberation.

I am very sorry that we have not had that opportunity but, as Senator Holland has indicated, there still will be another opportun ity, and I certainly hope that we will continue to move along the lines of strengthening what we do to support people becoming independent because we have not done that in the past and I see this as sort of the first step.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Waldon.

SENATOR WALDON: Yes, Mr. President.

Something Senator Montgomery said triggered a thought and if Senator Holland, the distinguished chairman, would allow me to ask him a -

ACTING PRESIDENT KUHL: Senator

Holland, do you yield to a question from Senator Waldon?

SENATOR HOLLAND: From Orange County.

ACTING PRESIDENT KUHL: The Senator from Orange County yields.

SENATOR WALDON: Senator from Orange and Rockland. I didn't mention your counties, sir. I have them written right here in front of me. Senator Joseph Holland, distinguished Senator, Orange and Rockland County.

Senator, in this bill, there's a welfare fraud section and it has gradations of penalties. Would you please tell us from top to bottom what each penalty is and on it -- and including your explanation, please, the minimum and maximum at each level and that's my question, Mr. President.

I thank you.

SENATOR HOLLAND: In the home relief area, first time you break the law, it's six months and $1,000; second time is 12 months

and the monetary values are $1,000 to 3900. In other words, if you broke the law the first time but you had stolen 1,000 to $3900, you would go to the second sanction. Third sanction, 18 months, over $3900. So, in other words, if you did the first time but you took over 3900, you would go to the third sanction. Fourth sanction is five years.

In food stamps, zero to $1,000, A misdemeanor. 1,000 to $3,000 is an E felony. 3,000 to 50,000 is a D felony. Over 50,000 is a C felony; and the criminal and Penal Law for welfare fraud, A misdemeanor, zero to $1,000, $1,000 to $3,000, an E felony, a D felony, 3,000 to 50,000 and a C felony, 50,000 to one million and a B felony, over a million. Okay?

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

(There was no response.)

Hearing none, the Secretary will read the last section.

THE SECRETARY: Section 246. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Waldon to explain his vote.

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

I find some good things in this proposed legislation, and I'm going to support it because I believe it is headed in the right direction. Didn't go far enough, but it's headed in the right direction.

I agree with the learned Senator from Kings County, Senator Montgomery, and her request that we be about creating real jobs, real training with the possibility of someone having a direction after the training process occurs, but I like the fact that people who create problems at home by having children that will now be sanctioned in terms of they'll have to 'fess up and we can suspend their licenses and other sanctions in that regard.

I'm not too happy about the

Learnfare component. I think it's overly punitive even regarding the fact that there has to be a hearing and a conference and the school is involved, and all of that, but I think it's targeted towards the wrong population, our grade school children, but overall there are some concepts here which are revolutionary for me to support, because I fought tooth and nail, Workfare, Learnfare, because they had been lacking in the past, but I believe that this time there's a little light at the end of the tunnel and we may be moving in the direction.

So I'm going to vote yes for this this time because I believe there's some hope that it's going in the right direction, but this yes vote this time does not mean that I'm on board forever and ever. It just means that I'm hoping that Senator Holland in his wisdom next year will come about with something that's even better, that will allow people to have more dignity, will ensure jobs, which will be less punitive and less repressive.

And I thank you, Mr. President,

for that time.

ACTING PRESIDENT KUHL: Senator Waldon will be recorded in the affirmative.

Senator Espada to explain his vote.

SENATOR ESPADA: Thank you, Mr. President.

I think it is foolish and costly to surrender the political terrain, Mr. President, to artful demagoguery. Workfare, Learnfare, things of that sort do not work, will not work. Poor people in this society in this state are not a protected class. You have to look to the rich. You have to look to those bankers that stole billions of dollars in the '80s under Reaganomics, and the same kind of economic policies that we're fostering and implementing via legislation here today.

We would have to steal night and day for the next century to match the kind of thievery that took place then. No task forces, no special press releases to cover that. Instead, we get what we call this artful

demagoguery of Workfare and Learnfare.

Learnfare will cost $800,000 this year. I can think of 800 scholarships. I can think of lots of kindergarten classes that could be made habitable with that kind of money.

What it also encourages, Mr. President, is it opens a window for the mayor of city of New York to come up to Albany to ask for the first time in God knows how many decades, to ask for cuts in education. So we want them to learn and we want Learnfare, but we ask for cuts in New York City. We don't get 37 percent of the money, we get 35 percent of the money. How many more penalties can we exact from our poor people and our poor children in our classrooms?

Is the fact that we restored lots of the things, that the draconian cuts that were contemplated when the Governor first released his budget, excuse enough to support this - this budget? I say no. Less pay, no gain should not be rewarded.

I must go down in the negative on this inasmuch as it doesn't achieve anything to

put people back to work.

With respect, very quickly, to health care, I have great respect for the effort that the new chairman has put into this, but I just want to remain sensitive to the economic dislocation that is going to take place if we move too quickly with the down-sizing of the health care industry in this state.

Thank you so much.

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

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

ACTING PRESIDENT KUHL: Senator Dollinger to explain his vote.

SENATOR DOLLINGER: Mr. President, I guess I agree with Senator Waldon. There are many things in this bill that are moving in the right direction. In some ways it's like getting on a train. You have a charted path and a charted number of stops that you're going to be on in the train. The problem

I have is -- I'm prepared to vote in favor of this bill, Mr. President, but I still have concerns about where the train is going, where it's going to stop and whether the train is going to get off the track.

There are a whole bunch of good things in the bill. It's got some changes in the welfare system that I think drive us hopefully toward more jobs. I agree with Senator Montgomery, they should be more jobs and I think that trend is probably a good trend and we should be a part of it in New York State.

The child support enforcement pieces are critical pieces as we look through the problem of dead-beat dads, but there's some other problems with this and one is in the health care area, the retreat from primary care. We're backing away from primary care. Some of the commitments we made in NYPHRM last time to primary care we're walking away from - perhaps walking away is too hard. We're pulling back to some extent.

On the Medicaid takeover,

something that the county executives and the local property taxpayers in this state have been pushing for a decade, we're now saying we're going to rescind the takeover and put $39 million back into the budget. I think we owe it to the people of this state who pay property taxes to look again at the issue of the take over of the long-term care.

I'm concerned about the nursing home assessment, the 2.5 percent that's going to be placed on nursing homes. What do I think that will do since it is not combined with an increase in Medicaid reimbursement rates; what that will do is be a big hit to private pay patients in nursing homes and will drive them faster into Medicaid because they're going to have to pay more for private pay patients.

Despite those concerns, I think we've got to keep our eye on the ball and continue to monitor the problems that those types of changes could accrue for this state.

I'm still going to vote in favor, Mr. President. I think that this is a victory

for our Assembly colleagues who went to bat to get things like adult day care restored, long-term home health care restored and from that point of view, disaster from my perspective has been averted, but I still think there may be red lights on the little train track as we ride down this road to welfare reform, and we in this Legislature should be prepared to pay heed to them.

ACTING PRESIDENT KUHL: Senator Dollinger will be recorded in the affirmative.

Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: I also am going to be voting for this, and like everyone else, I think we're moving in the right direction. I just want to admonish one warning that, if we do not vastly increase the quantity of child care in this state, we will never be able to really move ahead on the -- on the reforms that we want in welfare, and we should remind everyone that we're talking about quality, affordable day care that's in easy

distance of where the families are either living or working.

The one thing that concerns me the most in voting for this is the cutbacks in the hospital funding which, though it is half of what the Governor's budget originally had called for in cutbacks, there's still a very hefty amount of money, $143 million, and the cutbacks -- that's in hospitals, and the cutbacks in nursing homes is also halved from what the Governor's budget originally had down.

It is very concerning to me, coming from the Hudson Valley Region where we have enormous problems. Many of our hospitals are in the red, and this is a single bill and, like all bills that are omnibus that have a lot of pieces to them, you support some of the pieces and some of the pieces you're very, very leery of, but I will be supporting it and I hope it will not prove to be too terribly damaging to my Hudson Valley nursing homes and hospitals.

ACTING PRESIDENT KUHL: Senator Oppenheimer will be recorded in the affirmative.

Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: I'm going to vote yes, and the reasons why, I think, have been said by a lot of people, but I just want to look at it from a different perspective.

I think everyone in this chamber wants to provide what government is supposed to provide for people, and that is opportunity, and the opportunity for those good jobs that Senator Montgomery talked about occurs when you have a system that promotes economic growth and vital ity, a system that also provides for individuals who have an opportunity to get off a system that has a tendency to keep them on. At least that's what's been shown over the past several years.

This particular budget provides incentives for people to work and also to keep more of any kind of public assistance that they might have to wean off of the system, to provide that opportunity and to provide that hope.

Of course, there's cuts in hospitals; I have several in my district. Of

course, there's cuts in various other areas of Medicaid but, on the other hand, when the state of New York spends more than the next two states combined, California and Texas, something is basically wrong with that system, and we have to start getting that cost under control.

Of course, there's going to be hurt in some areas, but the general goal, I think, is shared by all of us, namely to make sure there's a system that creates those good jobs for people so that they have those opportunities that all of us have had in the past and hopefully our children will have in the future.

I think this is a small start in that direction. We've turned the corner and I hope we start moving that train in that same direction, and I think it's this house -- unlike what Senator Dollinger mentioned, it's this house that made that train turn around and go in the direction that we want it to go to.

So I vote in the affirmative.

ACTING PRESIDENT KUHL: Senator

DeFrancisco in the affirmative.

Senator Hannon.

SENATOR HANNON: Yes, Mr. President.

Responding to the point somebody made, some opinions brought up, but one thing is -- I just want to make clear that it was this house with the Governor that restored the long term home health care, adult day care. Not only did we restore it, we did it in the bill that passed months ago here in Senate 4000, because we had -- when we had examined it, we found out it made conceptual sense to do so.

I just wanted to straighten that out in the record.

ACTING PRESIDENT KUHL: Senator Hannon in the affirmative. Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar 1144 are Senators Espada, Gonzalez, Leichter, Montgomery and Smith. Ayes 53, nays 5.

ACTING PRESIDENT KUHL: The bill

is passed.

The Chair recognizes Senator Hannon.

SENATOR HANNON: Yes, Mr. President. Could we go to Calendar Number 330?

ACTING PRESIDENT KUHL: That, we can. There's a substitution at the desk, Senator Hannon, if I might take that first for that bill.

The Secretary will read the substitution.

THE SECRETARY: On page 8, Senator Stafford moves to discharge from the Committee on Finance, Assembly Bill Number 3054-B and substitute it for the identical Calendar Number 330.

ACTING PRESIDENT KUHL: Without objection, the substitution is ordered.

The Secretary will read the title to Calendar Number 330.

THE SECRETARY: Calendar Number 330, Budget Bill, Assembly Print 3054-C, an act making appropriation for the support of

government and to amend Chapter 52 of the Laws of 1995, enacting the State Debt Service Budget for the support of government.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT KUHL: An explanation has been asked for.

Senator Hannon, who would you like to have take that, Senator Stafford?

SENATOR HANNON: Senator Stafford.

ACTING PRESIDENT KUHL: Senator Stafford, an explanation of Calendar Number 330 has been asked for by the Acting Minority Leader, Senator Paterson.

SENATOR STAFFORD: Thank you, Mr. President.

As we move along here, we have the -

ACTING PRESIDENT KUHL: Excuse me, Senator Stafford. It's a little noisy in here. Can we get the attention of the members, please? Shut the doors. Sergeant-at-arms, shut

the doors. Staff, please take their places. If you have to have a conversation, take it out of the chamber. I think we have their attention now, Senator Stafford.

SENATOR STAFFORD: Thank you.

ACTING PRESIDENT KUHL: You can continue.

SENATOR STAFFORD: Thank you, Mr. President.

Starting really in alphabetical order, but if we're going to review what was done with the Correctional Services, the state is purchasing for $120 million, the facilities at Riverview and Cape Vincent from the City, and this will, of course, be of assistance to the City. At the present time, the state is running those facilities and there's state correctional officials and correction officers and civilian employees there, but they're all state employees now, and there is authorization through some bonding for future facilities that have been suggested, but there are -- there's no appropriation or authoriz... there is no bonds

being proposed.

As far as CUNY goes, the City University of New York, there is an appropri ation for new facilities for LaGuardia Community College, 14.4 million and 42.7 million for health and safety infrastructure preservation and A.D.A. compliance.

In the Education Department, we have a new appropriation authority for a cultural education center, improvements, emergency lighting and repairs at the state schools for the blind and the deaf, and we have a reappropriation for 62 million for other facilities in the Education Department.

Transportation -- I'm sure some of you probably have reviewed the materials - there are appropriations for some specific facilities.

Then we move on. In the Capital Projects, we provide 42.5 million for the environmental protection fund which, I think, is an increase of ten million from what the Governor had proposed, and I think that is very

good work.

I have always said -- and I can't think how many years we did that. Was it four years ago; four years ago when we passed that fund. That was one time when we saw everybody come together. We saw people on one side. We saw people on the other side and everyone agreed, and we saw people calling each other, congratulating each other, and I hope we can see some more of that, and we're providing funding for that.

Now, you -- we could go down the allocation for what the funding will be for, but you all will see that, but I will be glad to provide that list for anyone who would like it. I don't want to -- we'll handle it. We'll do it. We reappropriated -- right -- funding for various facilities and various communities, and this will provide a real boost in these communities for spectator recreation, and a great deal of work has gone into this and, of course, I'm speaking about the stadia that have been discussed a number of times.

I could go through that list, but I think those who are concerned with it know the list better than I.

Again, there were -- there were -- there were other proposals made, but we - as in all parts of the budget, and I heard my colleague speaking just before I came in the room concerning the issue that he was going to do, that we aren't able to do all we would like to do, but I would point out there's a restoration of $62 million for the maintenance of facilities in primary and secondary education, and that really results in a real - well, it's just tremendous support for the New York City schools.

We will be very pleased to answer any questions or -- it doesn't appear that this had too high a profile as I look around, but we'll -- we'll sit down. Last section.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

SENATOR MARKOWITZ: Mr. President, to explain my vote.

ACTING PRESIDENT KUHL: Senator Markowitz to explain his vote.

SENATOR MARKOWITZ: Thank you very, very much.

Every so briefly, I would have a great difficult time in supporting this, Senator Hannon. There are several glaring reasons, but one of them, under CUNY, I notice they have a number of capital reappropriations, but what I don't see is a master plan put forward by the heart of the City University of New York, Brooklyn College, that has visited many of the legislators in this chamber, urging us to assist them in the rehabilitation of a campus that is aging, not so gracefully each and every year, that is woefully in need of capital monies for

some of the buildings at Brooklyn College, and I'm sure that Senator LaValle knows that some of the concerns and difficulties that Brooklyn College has expressed and their desire to begin the rehabilitation of the campus with the master plan that they put forward. So that would be one concern that I would have on this issue.

Another concern is that I noticed that we're going to move ahead on stadiums in this state and, you know, that's well and good for the communities impacted, but the one that's missing, the county that is the largest county in state, 2.4 million people -- 2.4 million - and I noticed that Brooklyn, New York, is not listed among the proposed sites of stadiums in this bill.

And so, how can I as a Brooklyn representative in a community of 2.4 million people -- the largest stadium indoors or outdoors in Brooklyn is 2,400 seats. Could you imagine? Albany, New York -- Albany, New York, with their Knickerbocker hall -- Knickerbocker Arena here for 7- -- 16,000 seats in Albany

County, but Brooklyn, New York with 2.4 million people, we have zip.

I wish I was around before they ripped down Ebbets Field. We never would have let them take that stadium out of Brooklyn, but we can't bring back Ebbets Field, but we sure can put into this bill and it should have been between our new governor and legislative leaders, we should have put in a stadium for Brooklyn. It's high time and I can't possibly allow or accept the fact that Brooklyn is missing from this list in regards to a stadium that we need.

I vote no on this bill.

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

THE SECRETARY: Those recorded in the negative on Calendar Number 330 are Senators Abate, Espada, Kruger, Leichter, Markowitz, Montgomery, Smith and Waldon. Ayes -- also, Senator Stavisky. Ayes 49, nays 9.

ACTING PRESIDENT KUHL: The bill

is passed.

The Chair recognizes Senator Hannon for an announcement.

SENATOR HANNON: Yes. Mr. President, there will be an immediate meeting of the Finance Committee in Room 332 and that will be followed immediately by a meeting of the Rules Committee in the same room.

ACTING PRESIDENT KUHL: There will be an immediate meeting the Senate Finance Committee in Room 332, the Majority Conference Room. Immediate meeting of the Senate Finance Committee, Majority Conference Room, Room 332. That meeting will be followed by an immediate meeting of the Rules Committee. Immediate meeting of the Rules Committee to follow the Senate Finance Committee, which is being held right now.

Senator Hannon.

SENATOR HANNON: Mr. President, would it be possible to go to Supplemental Calendar Number 1 and do the non-controversial on that calendar?

SENATOR LEICHTER: Mr. President.

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

SENATOR LEICHTER: Mr. President, we've had this problem before where committee meetings are called off the floor while bills are being moved in the Senate. I think last week we convinced Senator Skelos that we ought to be at ease. There are many members who are now leaving to go to the Finance Committee. I'm going to leave to go to the Finance Committee. I'd like to be on the floor while these bills are being considered, so I would ask you that we stand at ease until the Finance Committee concludes its work.

ACTING PRESIDENT KUHL: Senator Leichter, if you remember, the Acting Majority -- I should say the Majority Leader last week acknowledged the request to Senator Paterson. You may remember -- we might have just a moment of order. There seems to be a discussion here about process.

You may remember that the

Majority Leader consented to leave the roll calls open so that you could cast a vote. The Acting Majority Leader has simply asked for a calling of the non-controversial calendar. If you have some bill that you would like debated, I suggest that you indicate that to the Acting Minority Leader, Senator Paterson, and he will lay the bill aside and we will wait for you to debate the bill on your return from the Senate Finance Committee.

That procedure was followed last week. It seemed to work to the accommodation of the members. It's my indication coming from the Majority Leader that that's the procedure that they would like to follow right now.

So if you have some bill that you would like the Acting Minority Leader to lay aside on the supplemental calendar, that's going to be Supplemental Calendar Number 1, I suggest that you relay that information to Senator Paterson and I'm sure that he will represent your objections wholeheartedly and with great vigor.

SENATOR LEICHTER: May I make an added suggestion to make this more manageable, and that is that all bills be retained at the desk until the -- so that if members want an opportunity to debate a bill, they may not have had a chance to tell a champion, such as Senator Paterson, to hold the bill. Would you hold the bills at least at the desk, please?

ACTING PRESIDENT KUHL: I don't have the authority to do that, Senator Leichter. That would be up to the Majority Leader.

SENATOR HANNON: Mr. President, let me point out that all we're trying to do right now is non-controversial bills and, you know, you already made the offer to hold the bill aside, not take it up, not debate it until you return, if you just simply indicate anything you may have an interest in. Holding it at the desk in terms of a day like this when we're having a multitude of bills and trying to coordinate with another house, just sometimes becomes a very difficult thing to promise.

There's no contemplation of anything otherwise, but it's a very difficult thing to make a commitment to -- as a day like this goes along.

SENATOR LEICHTER: Mr. President, if I understand Senator Hannon, why is it difficult to hold bills? You have a limited number of bills. It isn't as if the Governor is waiting to sign the bills or the Assembly to pass them. It's a simple enough matter, courtesy, and we've done that in the past. Are you willing to do that, Senator Hannon?

SENATOR HANNON: We're willing to hold any bill you like, Senator, for debate. We won't take anything up. Just let us know.

SENATOR LEICHTER: Will you hold the bills at the desk?

SENATOR HANNON: I -- in this calendar, there's nothing that's involved that would be a problem.

SENATOR LEICHTER: Fine. Why don't you just call the non-controversial.

ACTING PRESIDENT KUHL: The Secretary will call the non-controversial

calendar to Supplemental Number 1.

Senator Paterson, why do you rise?

SENATOR PATERSON: Why do I rise, Mr. President?

ACTING PRESIDENT KUHL: Pardon me, Senator Paterson? I didn't hear you.

SENATOR PATERSON: We understand the -- we understand the predicament that we're all in trying to pass the budget and having a number of bills before us. I would just like to point out in support of Senator Leichter that when the regular non-controversial calendar is on the floor, it's a lot easier because we've seen an active list prior to that.

However, the problem that Senator Leichter and many of us are encountering right now is that we've only seen the supplemental calendar for a brief period of time, so it's very difficult for us to determine which of the non-controversial bills we would like to take up or perhaps vote against, and I think that's the reason that Senator Leichter has raised this

quite good point, I think.

SENATOR HANNON: Mr. President - Mr. President, we'll hold those bills at the desk until the conclusion of the committee meeting. As soon as that committee meeting is concluded -- and I realize sometimes that communication gets a little difficult, but for today, we'll hold them at the desk and then when the committee meeting is concluded, we'll take them up.

ACTING PRESIDENT KUHL: At your request, Senator Hannon, we will do that. The Secretary will call the non-controversial calendar for Supplemental Calendar Number 1.

THE SECRETARY: Calendar Number 1117, by Senator Skelos, Senate Print 523-A, an act to amend the Executive Law, the Tax Law and the State Finance Law, in relation to missing children.

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

THE SECRETARY: Section 5. 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 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1118, by Senator Cook, Senate Print 1015, an act to amend the Highway Law, in relation to bridges in the county of Delaware.

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

SENATOR PATERSON: Please lay the bill aside.

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

THE SECRETARY: Calendar Number 1120, by Senator Johnson, Senate Print 2187, an act to amend the Vehicle and Traffic Law, in relation to strengthening the standards

regulating excessive noise.

ACTING PRESIDENT KUHL: The 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 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1121, by Senator Cook, Senate Print 2350-A, an act to amend the Executive Law, in relation to reports by registered charitable organizations.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1123, by Senator Hoblock, Senate Print 3110, an act to amend the Labor Law, in relation to the amount of unemployment benefits payable to a recipient of Workers' Compensation benefits.

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

THE SECRETARY: Section 2. This act shall take effect on the first Monday of the month.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 57, nays 1, Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1124, by Senator Santiago, Senate Print 3625, an

act authorizing the city of New York to reconvey its interest in certain real property acquired by in rem tax foreclosure in the borough of Brooklyn.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. The 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 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1125, by Senator Trunzo, Senate Print 3662, an act to amend the Retirement and Social Security Law, in relation to individuals who make application for ordinary and accidental disability retirement benefits.

ACTING PRESIDENT KUHL: The 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 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1126, by Senator Kuhl, Senate Print 3830-A, an act to amend the Public Officers Law and the Town Law, in relation to eliminating the residency requirement for eligibility for holding the office of town justice in the town of West Union.

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

SENATOR PATERSON: May we lay that aside, Mr. President?

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1129, Senator Trunzo moves to discharge from the

Committee on Rules, Assembly Bill Number 7333-A and substitute it for the identical Calendar Number 1129.

ACTING PRESIDENT KUHL: The substitution is ordered. The Secretary will call Calendar Number 1129.

THE SECRETARY: Calendar Number 1129, by the Assembly Committee on Rules, Assembly Print 7333-A, an act to amend the Retirement and Social Security Law, in relation to the establishment of retirement programs.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 57, nays 1, Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1130, by Senator Trunzo, Senate Print 4130, an act to amend the Education Law, in relation to benefits to be provided in the event certain members of the New York State Teachers Retirement System die before their applications for retirement would ordinarily have become effective.

ACTING PRESIDENT KUHL: The 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 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1131, by Senator Maziarz, Senate Print 4435, an act to amend the Retirement and Social

Security -

SENATOR MAZIARZ: Lay that bill aside for the day, please.

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

THE SECRETARY: Calendar Number 1135, Senator Hoblock moves to discharge from the Committee on Labor, Assembly Bill Number 4823 and substitute it for the identical Calendar 1135.

ACTING PRESIDENT KUHL: The substitution is ordered. The Secretary will read the title.

THE SECRETARY: Calendar 1135, by Member of the Assembly Feldman, Assembly Print 4823, an act to amend the Labor Law, in relation to developing a policy and a report on the issue of employees forced to leave employment due to domestic violence.

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

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1137, by Senator Holland, Senate Print 4634-A, an act to amend the Agriculture and Markets Law, the State Finance Law and Chapter 115 of the Laws of 1894, relating to the better protection of lost and strayed animals.

SENATOR HOLLAND: Lay the bill aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1138, by Senator Trunzo, Senate Print 4849, an act to amend the Retirement and Social Security Law, in relation to retirement allowance options provided by the New York State Teachers Retirement System.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1139, by Senator Wright, Senate Print 5044-A, an act to amend the -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1140, by Senator Levy, Senate Print 5062-A, an act to amend -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

1141, by Senator Farley, Senate Print 5120, an act to amend the Banking Law, in relation to establishing limitations for the percentage of savings banks' assets.

SENATOR HANNON: Can you lay aside 1141, Mr. President?

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1142, by Senator Farley, Senate Print 5205, an act to authorize certain participating employers to elect -- to provide the retirement incentive provided for in Chapter 12 of the Laws of 1995.

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

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

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1143, by Senator Sears, Senate Print 5250, an act to legalize, validate, ratify and confirm

the acts and proceedings of the board of trustees of the village of Vernon, Oneida County.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

Senator Hannon, that completes the non-controversial. We do have a lot of housekeeping at the desk, if you would like to clean the calendar up.

SENATOR HANNON: That would be a fine idea to proceed and try to do that.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Holland.

SENATOR HOLLAND: Mr. President, on page 42, I offer the following amendments to Calendar Number 441, Senate Print Number 3623, and ask that the said bill retain its place on the Third Reading Calendar for Senator Saland.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 441 are received and adopted. The bill will retain its place on

the third reading starred calendar.

Senator Holland.

SENATOR HOLLAND: For Senator Johnson, I wish to call up his bill number 571 having passed both houses and not delivered to the Governor.

ACTING PRESIDENT KUHL: The Secretary will read the title.

THE SECRETARY: Calendar Number 94, by Senator Johnson, Senate Print 571, an act to amend the Tax Law, in relation to procedures for written communications.

ACTING PRESIDENT KUHL: Senator Holland.

SENATOR HOLLAND: Mr. President, I now move to reconsider the vote by which this bill was passed and ask that the said bill be restored to the order of third reading.

ACTING PRESIDENT KUHL: The motion is 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 58.

ACTING PRESIDENT KUHL: Senator Holland.

SENATOR HOLLAND: Mr. President, I now offer up the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Holland.

SENATOR HOLLAND: Mr. President, on page number 4, I offer the following amendments to Calendar Number 110, Senate Print Number 2135 and ask that the said bill retain its place on the Third Reading Calendar for Senator Lack.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 110 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Holland.

SENATOR HOLLAND: For Senator Goodman, on page 20, I offer the following amendments to Calendar 740, Senate Print Number

3424-A and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 740 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Hannon, we have one substitution to take up, if you would like to take that up at this time.

SENATOR HANNON: Can we move that substitution?

ACTING PRESIDENT KUHL: The Secretary will read the substitution.

THE SECRETARY: On page 18, Senator Tully moves to discharge from the Committee on Rules, Assembly Bill Number 243 and substitute it for the identical Calendar Number 670.

ACTING PRESIDENT KUHL: The substitution is ordered.

Senator Hannon.

SENATOR HANNON: Mr. President, I understand at the desk there are some privileged

resolutions. I would like to return to that order of business and ask that we take them up at this time.

ACTING PRESIDENT KUHL: The Senate will return to the order of motions and resolutions. There's a privileged resolution by Senator Smith at the desk. I'll ask the Secretary to read the title.

THE SECRETARY: By Senator Smith, Legislative Resolution commending Howard Jones upon the occasion of his retirement from active service in the Professional Staff Congress and the City University of New York.

ACTING PRESIDENT KUHL: The question is on the resolution. All those favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolution is adopted.

There's also a privileged resolution by Senator Mendez at the desk. I'll ask the Secretary to read the title.

THE SECRETARY: By Senator Mendez, Legislative Resolution commending Minerva Rios upon the occasion of her 90th birthday to be celebrated on Friday, June 9, 1995.

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

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolution is adopted.

The Chair recognizes Senator Hannon.

SENATOR HANNON: Mr. President, I would ask that we stand at ease for a moment until -- awaiting the report from committees.

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

(Whereupon, the Senate stood at ease.)

ACTING PRESIDENT WRIGHT: Senator Mendez, why do you rise?

SENATOR MENDEZ: Mr. President, I would like to announce that there will be an immediate conference of the Democratic Minority in Room 314.

ACTING PRESIDENT WRIGHT: Thank you.

There will be an immediate conference of the Senate Minority Conference in the Minority Conference Room.

Senator Skelos.

SENATOR SKELOS: The Senate will stand at ease until 3:35.

ACTING PRESIDENT WRIGHT: The Senate will stand at ease until 3:35.

(Whereupon, the Senate stood at ease from 3:10 p.m. until 4:10 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the members to take their places, the staff to find their places. Ask the Sergeant-at-arms to close the doors.

The Chair recognizes Senator Libous.

SENATOR LIBOUS: Mr. President, can we go to the reports of standing committees to hear a Rules report, please.

ACTING PRESIDENT KUHL: We will return to reports of standing committees. I'll ask the Secretary to read the Rules report at the desk.

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

Senate Print 5311, by the Committee on Rules, an act in relation to certain provisions which impact upon the expenditure of certain appropriations made by Chapter 54 of the Laws of 1995 which enacts the Capital Projects Budget;

5312, by the Committee on Rules, an act in relation to certain provisions which impact upon the expenditure of certain appropriations made by Chapter 50 of the Laws of 1995 which enacts the State Operations Budget;

And 5319, by the Committee on Rules, an act to amend the Criminal Procedure

Law, the Family Court Act and the Public Health Law, in relation to testing of certain criminal defendants and juveniles for human immuno deficiency virus;

All bills ordered directly for third reading.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: I move that we adopt the Rules Committee report.

ACTING PRESIDENT KUHL: The motion is to adopt the Rules report. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The Rules report is adopted.

Senator Libous.

SENATOR LIBOUS: Would you call up Calendar Number 1145.

ACTING PRESIDENT KUHL: The Secretary will read the title to Calendar Number 1145.

THE SECRETARY: Calendar Number 1145, by the Senate Committee on Rules, Senate Print 5311, an act in relation to certain provisions which impact upon the expenditure of certain appropriations made by Chapter 54 of the Laws of 1995.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: I'm informed by the Secretary a message of necessity is at the desk, Senator Libous.

SENATOR LIBOUS: Can we move to accept the message?

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity at the desk on Calendar Number 1145. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message of necessity is

accepted.

The Secretary will read the last section.

THE SECRETARY: Section 56. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, would you please call up Calendar Number 1146.

ACTING PRESIDENT KUHL: The Secretary will read the title to Calendar Number 1146.

THE SECRETARY: Calendar Number 1146, by the Senate Committee on Rules, Senate Print 5312, an act in relation to certain provisions which impact upon the expenditure of certain appropriations made by Chapter 50 of the Laws of 1995.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: I'm informed by the Secretary a message of necessity is at the desk, Senator Libous.

SENATOR LIBOUS: Mr. President, can we move to accept that message?

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1146 which is at the desk. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 46. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes -

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar 1146 are Senators Dollinger, Leichter, Smith and Stachowski. Ayes 54, nays 4. Also, Senator Abate. Ayes 53, nays 5.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, can we go to the Supplemental Calendar Number 1, controversial reading, please?

ACTING PRESIDENT KUHL: The Secretary will call the controversial calendar, Supplemental Calendar Number 1, commencing with Calendar Number 1118.

THE SECRETARY: Calendar Number 1118, by Senator Cook, Senate Print 1015, an act to amend the Highway Law, in relation to bridges in the county of Delaware.

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

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: An explanation has been asked for.

Senator Libous.

SENATOR LIBOUS: Mr. President, we're going to have to lay that bill aside.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1126, by Senator Kuhl, Senate Print 3830-A, an act to amend the Public Officers Law and the Town Law, in relation to eliminating the residency requirement for eligibility for holding the office of town justice.

ACTING PRESIDENT KUHL: The 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 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1137, by Senator Holland, Senate Print 4634-A, an act to amend the Agriculture and Markets Law, the State Finance Law and Chapter 115 of the Laws of 1894, relating to the better protection of lost and strayed animals.

SENATOR PATERSON: Explanation.

SENATOR HOLLAND: Lay it aside temporarily, please.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1139, by Senator Wright, Senate Print 5044-A, an act to amend the Public Authorities Law, in relation to the powers and duties of the Port of Oswego Authority.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Wright, an explanation has been asked for by the Acting Minority Leader, Senator Paterson, on

Calendar Number 1139, Senate Print 5044-A.

SENATOR WRIGHT: Thank you, Mr. President.

The bill amends the Public Authorities Law. Last year, we enacted legislation amending the Public Authorities Law, allowing the Port of Oswego to finance industrial projects. As part of the revisions to that statute last year, we need to make a technical correction this year to remove a cap that is -- that was previously placed on the interest paid on bonds, and since that limitation is five percent, that effectively restricts the ability of the authority to pursue the projects that they wish to.

ACTING PRESIDENT KUHL: The Secretary will read -- Senator Paterson.

SENATOR PATERSON: Mr. President, if the sponsor would yield for a question.

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

SENATOR WRIGHT: Yes, I do.

ACTING PRESIDENT KUHL: The

Senator yields.

SENATOR PATERSON: Maybe you said this and I just didn't hear it. Why are we removing the cap here?

SENATOR WRIGHT: Mr. President, a year ago when we amended the Public Authorities Law to authorize the Port of Oswego to finance industrial projects, we also amended it so that it coincided with all of the IDA reforms that we enacted a year ago.

In one of the revisions of the bill, we inadvertently left out the language that would eliminate the cap, so that it would conform with IDA law. Now we're going back making the technical amendment at the request of the Port of Oswego.

At the current limitation of five percent, it restricts their ability to effectively sell and issue bonds given what the financial markets are currently.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: In other words

-- in other words, Mr. President, this legislation, if Senator Wright agrees, will correct something that we assumed existed in the legislation that we passed last year?

SENATOR WRIGHT: Correct.

SENATOR PATERSON: Thank you.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: No, Mr. President, the question was answered.

ACTING PRESIDENT KUHL: Senator Dollinger waives.

The 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 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1140, by Senator Levy, Senate Print 5062-A, an act to amend the Public Authorities Law, in relation to the acquisition of real property by the Water Authority of Southeastern Nassau County.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Levy, an explanation of Calendar Number 1140, Senate Print 5062-A, has been asked for by Senator Paterson.

SENATOR LEVY: Senator Paterson, this bill has been requested by the Southeast Nassau Water Authority, and Southeastern Nassau Water Authority was created to explore a takeover of the New York Water Company so that the territory and service of that water authority would become public.

As negotiations have moved forward with this takeover, bond counsel have advised the board of the water authority that they need statutory authority not to hold -- not to hold the public hearings that are required within this bill, but if they choose to hold a

non-binding referendum according to their bond counsel and counsel, they must have legislative authority to do so.

So what this bill does is to give the authorization to the water authority to have the non-binding election -- referendum, I should say, on -- and let the public vote and tell them how they feel as it relates to the proposed takeover of the New York Water Company.

ACTING PRESIDENT KUHL: Senator Paterson.

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

ACTING PRESIDENT KUHL: Senator, Levy, will you yield?

SENATOR LEVY: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator Levy, I don't understand why we need a non-binding referendum where I would imagine that the same purpose might be accomplished through a public hearing.

SENATOR LEVY: Well, I don't agree with you that the same purpose of a water -- a water corporation with a territory that not only takes up a significant part of the southeastern part of the town of Hempstead, which is the largest town in the United States of America in terms of population and bigger than eight states or nine states and the town of Oyster Bay.

Part of the town of Oyster Bay, in my experience -- and maybe it's been different with yours with public hearings -- no matter how hard you or I or the people that would be involved with this water authority try to get people to come out to a public hearing, they just don't, in fact, come out; but if you give them an election -- an election date to come out and vote on a non-binding referendum - and incidentally, under this bill, the date would be set by the Nassau County Board of Elections and presumably they will be setting - setting this referendum concurrently with other elections that will be taking place within the

town of Hempstead and the town of Oyster Bay. You are going to have a significant -- a significant percentage of people to come out and through the ballot box to say yea or nay if there is to be a public takeover of the New York Water Authority.

And let me tell you that we are talking about a price -- a price to acquire this water authority between -- somewhere between 50 and $80 million, and certainly the -- the rate payers who live within the territory of the New York Water Service Corporation certainly have an important interest in expressing themselves as to whether they think that this water authority should be taken over by the public sector or left with the private sector in the New York Water Corporation.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: If Senator Levy would continue to yield for a question.

ACTING PRESIDENT KUHL: Senator

Levy, do you continue to yield?

SENATOR LEVY: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PATERSON: Senator, now I do understand why you want to hold this through a non-binding referendum as opposed to -

SENATOR LEVY: Senator Paterson, it's not a question of whether I want to do it or not. All this bill does is to authorize the board of the New York Water -- the board of the Southeastern Water Authority, if they decide to do a non-binding referendum, to permit them to do it and to work with the Nassau County Board of Elections on a date for the referendum.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: All right, Senator. Now I can understand why somebody might want to have a non-binding referendum based on what you urged us about the problems holding public hearings.

However, the authority made the

request. My question is who is actually going to pay for the election? Is this going to be paid for through money of the water authority or is it going to come from the town or who exactly is going to sponsor this election? How much is it going to cost? Is there going to be a local fiscal impact, because this is something that I guess could be put on the ballot with other issues at a different -- at a different time, but we're just curious as to how much this election which, from what you're telling me is more informational than anything else, is going to cost?

SENATOR LEVY: Senator Paterson, that is a matter between the water authority and the County Board of Elections, and how much it will cost will obviously determine whether this non-binding referendum takes place on a date when other elections are taking place within - within the town of Hempstead and town of Oyster Bay that relates -- that is within the jurisdiction, I should say, of the New York Water Service Corporation. I cannot give you an

amount.

If there was a determination to -- to say hold this non-binding referendum when there -- when there were, for example, elections of fire commissioners in the fire districts within -- within the New York Water Service Corporation territory, I would think there would probably be no cost or little cost because there would be elections going on and this would become an item on the ballot at this same time of another election.

If it -- if it were to be -- if it were to take place at a time when there were no elections, well, obviously that might - might cause a cost of having a special non-binding referendum on this issue, and that's a matter that will be determined as well as the course between the Board of Elections and Southeast Water Authority.

Let me say also that they do have some revenues that have come to them through the state budget as well as contributions of revenues through Nassau County.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Senator Levy, thank you for clarifying this for the members.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Dollinger.

SENATOR DOLLINGER: Would the sponsor yield to just one question?

ACTING PRESIDENT KUHL: Senator Levy, do you yield?

SENATOR LEVY: Certainly, Senator.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Senator, my understanding is generally in the Town Law and in all of our municipal statutes, we have taken a posture against non-binding referenda. We have some restrictions, some town actions and governmental actions that require a mandatory referendum; for example, changes in county charters and those kinds of things.

My question is what -- and I

heard your explanation to Senator Paterson, but why -- what is unique about this instance that we should break that sort of policy against non-binding referenda by governments of all types? Doesn't it end up being a partly - couldn't it end up being a confusing message to both local residents and the decision-makers?

SENATOR LEVY: Certainly - certainly by giving residents the opportunity to express a yea or nay on any potential takeover, I don't think is sending the wrong message to - to people who are going to be asked to pay -- to pay the course of the takeover of this water company which, as I said, may amount -- will amount to somewhere between 50- and $80 million.

Now, the reason that we are doing this bill -- and I have to tell you, if -- if I had my druthers with the direction that we would be going, it would be to require the Southeast Nassau Water Authority to hold a referendum on any takeover of the water authority and that it be binding.

Now, we had tried to go that

route previously. A large number of the water authorities in the -- in the state, though it was the Southeast Nassau Water Authority that was going to have that responsibility imposed upon them, the other water authorities in the state did not want a mandate from state -- state government passed by the Legislature, signed into law by the Governor requiring a referendum on a takeover. The bill passed both houses and it was vetoed.

So we now have this approach that was requested by the board of the water authority and this probably, with the exception of a public -- a public hearing or a public meeting that Senator Paterson referred to, will be the only method to give people an opportunity to say yea or nay on any potential takeover.

SENATOR DOLLINGER: Mr. President, just on the bill ever so briefly. I guess I agree with you -

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

SENATOR DOLLINGER: -- Senator

Levy that given my druthers, I'd rather have this a binding public referendum as well. I think the problem with non-binding public referendums is they become expensive polls and they run into a problem because if the board is predisposed not to do it or to do it and the voter referendum comes in one way or the other and you set up an opposition between the board and the public, I think you end up with a terrible muddle that tends to lead to procrastination. I would have a binding referendum that would allow the people to decide for themselves whether they want to pick up this 50- to $70 million hit on their water bills.

So I understand that this may be a fall-back compromise and I'm going to vote for it, but I would prefer to have a -- if I - actions are going to be taken by government, we're going to go to the people and ask for their opinion, we shouldn't ask for their opinion and say it doesn't really mean much. We should say "Your opinion means everything" and it's going to be a binding referendum, and we've

got that policy in the Town Law and in the County Law all through our statutes that give limited forms of referendum on specific issues.

I for one favor broadening that class to give them even broader referendum power because going to the people and saying it's only for advisory purposes seems to me to be somewhat at odds with our whole theory of government.

ACTING PRESIDENT KUHL: The Secretary -- excuse me.

Senator Leichter.

SENATOR LEICHTER: Yeah, Mr. President, if Senator Levy would be good enough to yield. Senator, I apologize.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LEICHTER: I must say when this bill first came up, I was totally disinterested, but as time passed and questions were asked and I looked at it, it brought to mind one question which I want to ask you. Who's going to pay for the cost of the election?

SENATOR LEVY: I think I had answered that.

SENATOR LEVY: Oh, did you? I'm sorry. I -

SENATOR LEVY: For Senator Paterson or Senator Dollinger. That will be a determination that will be made among -- among the Nassau County Board of Elections, and they really have control under this legislation because it is up to the Board of Elections to set the date for the referendum. They have to set that date.

Therefore, the cost of this - the cost of this non-binding referendum will be paid for out of the revenues of the Southeastern Nassau Water Authority or -- or with the participation of either the town of Hempstead and/or the town of Oyster Bay or Nassau County, all of whom have an interest in this issue.

SENATOR LEICHTER: Senator, I guess just one final question.

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

SENATOR LEVY: Certainly.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LEICHTER: I appreciate that maybe by the bill you don't want to get involved in the thicket of who's going to pay for it, but I think on the other hand to leave it open in this fashion, to my mind, would - could possibly end up with the referendum not being held or some other problems, and so on, but I guess it's your district. You're doing as always a very good thing for your constituents. Why should I meddle?

SENATOR LEVY: That you, sir.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill

is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe at this time we can go back to Calendar 1137.

ACTING PRESIDENT KUHL: The Secretary will call the title to Calendar Number 1137.

THE SECRETARY: Calendar Number 1137, by Senator Holland, Senate Print 4634-A, an act to amend the Agriculture and Markets Law, the State Finance Law and Chapter 115 of the Laws of 1894, relating to the better protection of lost and strayed animals.

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

THE SECRETARY: Section 12. This act shall take effect on the 180th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50...

ACTING PRESIDENT KUHL: Announce

the results when tabulated.

THE SECRETARY: Ayes 56, nays 2, Senators Levy and Marcellino recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Nanula, why do you rise?

SENATOR NANULA: Mr. President, I would like to express unanimous consent -- or request unanimous consent to be recorded in the negative on Calendar Number 1146.

ACTING PRESIDENT KUHL: Without objection. Hearing no objection, Senator Nanula will be recorded in the negative on Calendar Number 1146.

Senator Libous.

SENATOR LIBOUS: Mr. President, would you recognize Senator Smith.

SENATOR SMITH: Thank you.

Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 1145.

ACTING PRESIDENT KUHL: Without

objection. Hearing no objection, Senator Smith will be recorded in the negative on Calendar Number 1145.

Senator Libous.

SENATOR LIBOUS: Mr. President, if we could continue with the regular order, please.

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

THE SECRETARY: Calendar Number 1141, by Senator Farley, Senate Print 5120, an act to amend the Banking Law, in relation to establishing limitations for the percentage of savings banks' assets.

SENATOR LEICHTER: Mr. President, if the chairman of the Banking Committee would yield.

Senator, why don't you just briefly explain the bill and then I just have one comment on it.

SENATOR FARLEY: I am pleased to get your support there, Senator Leichter.

Actually, what this bill does, it provides state-chartered savings banks with the same parity of power that the federally chartered thrifts and state and federal and all the commercial banks in the state have.

These institutions are not subject to any such ownership restrictions on the mutual funds that they may invest. In essence, this bill repeals the restriction that the savings bank -- that's the state-chartered one -- may only invest in a mutual fund which is wholly owned by other thrifts and the pension funds.

Therefore, these other entities have more options available to them than do the state-chartered savings banks. Federal and state regulators have had -- have not had any such concerns about these types of investments.

Basically that's it, Senator Leichter, but I'm going to lay the bill aside and go on to my next bill.

SENATOR LEICHTER: You're laying it aside?

ACTING PRESIDENT KUHL: At the request of the sponsor, Calendar Number 1141 will be laid aside temporarily.

The Secretary will continue to call the roll -- excuse me -- call the calendar.

THE SECRETARY: Calendar Number 1142, by Senator Farley, Senate Print 5205, an act to authorize certain participating employers to elect to provide the retirement incentive provided for in Chapter 12 of the Laws of 1995.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT KUHL: Senator Farley, an explanation of Calendar Number 1142 has been asked for by Senator Leichter.

SENATOR FARLEY: Thank you, Senator Leichter.

This bill was drafted with the assistance of the State Comptroller, and it's going to be introduced in the Assembly by Assemblymen Tonko and Luster.

The bill was introduced at the request of the town of Rotterdam, which is

within my district. Incidentally, Rotterdam is bigger than Amsterdam and Cortland County, so I'm carrying a piece of local legislation for Cortland County. I forget who has that - Senator Seward, my seatmate who is not here, but he should be interested in this.

In essence, what it does, under the provision of Chapter 12 of the Laws of 1995, municipalities were allowed to offer the early retirement incentive to their employees by passing a local law by a prescribed date. The town of Rotterdam and the entire Cortland County passed resolutions by the prescribed date rather than a local law -- they passed a resolution rather than a local law.

This bill would allow these municipalities to pass local laws within 60 days of the effective date of this act, thereby correcting this procedural error. Actually, what it was was an error that local government made. They passed a resolution as opposed to a local law that allows them to do it.

SENATOR LEICHTER: Thank you.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Abate, why do you rise?

SENATOR ABATE: Yes. I ask for unanimous consent to be recorded in the negative on Calendar Number 1145.

ACTING PRESIDENT KUHL: Without objection. Hearing no objection, Senator Abate will be recorded in the negative on Calendar Number 1145.

Senator Montgomery.

SENATOR MONTGOMERY: Yes.

ACTING PRESIDENT KUHL: Why do you rise?

SENATOR MONTGOMERY: Thank you,

Mr. President.

I would like unanimous consent to be recorded in the negative on Calendar 1145.

ACTING PRESIDENT KUHL: Without objection. Hearing no objection, Senator Montgomery will be recorded in the negative on Calendar Number 1145.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT KUHL: The Secretary will read the title to Calendar Number 1143.

THE SECRETARY: Calendar Number 1143, by Senator Sears, Senate Print 5250, an act to legalize, validate, ratify and confirm the acts and proceedings of the board of trustees of the village of Vernon, Oneida County.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Sears, an explanation has been asked of Calendar Number 1143 by Senator Paterson.

SENATOR SEARS: I welcome the opportunity to explain this very, very important

bill, and you're probably not going to believe the explanation but it's true.

The board of trustees of the village of Vernon passed Local Law Number 3 on December the 28th of 1994. This law discontinued the village's status as an assessing unit. It was then filed with New York State on 14-inch paper. However, since these filings must be made on 11-inch paper, the request was not accepted. Being that the new year had begun and the January 1st deadline was not met, the village's status as an assessing unit still remains. The New York State Board of Equalization and Assessment has indicated to the village that this legislation is needed to remedy the problem.

SENATOR PATERSON: Senator, you expect me -

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Do you really expect me to believe that explanation?

SENATOR SEARS: Senator, all I

can say is I don't make the snowballs, I just throw them.

SENATOR PATERSON: So the only problem is the paper was three inches short?

SENATOR SEARS: That is apparently what happened.

SENATOR PATERSON: Well -

SENATOR SEARS: It was a three inch difference.

ACTING PRESIDENT KUHL: Senator Paterson on the bill.

SENATOR PATERSON: Mr. President, I really think I shouldn't comment on this bill, but I guess we've all -- some of us have had that problem, so I guess we'll leave it.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Libous, I believe that completes the controversial reading of Supplemental Calendar Number 1.

SENATOR LIBOUS: Mr. President, I believe we have some housekeeping to take care of.

ACTING PRESIDENT KUHL: We do have some housekeeping.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I wish to call up Senator Bruno's bill, Senate Print Number 5311, which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read the title.

THE SECRETARY: Calendar Number 1145, by the Senate Committee on Rules, Senate Print 5311, an act in relation to certain provisions which impact upon the expenditure of certain appropriations made by Chapter 54.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Mr. President, I now move to reconsider the vote by which this bill was passed and ask that the bill be restored to the Third Reading Calendar.

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 58.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Mr. President, I move to discharge from the Committee on Rules, Assembly Print Number 8021 and substitute it for this identical bill, and I move that the substituted Assembly bill have its third reading at this time, please.

ACTING PRESIDENT KUHL: The Assembly bill will be discharged. The Secretary

will read.

THE SECRETARY: Calendar Number 1145, by the Assembly Committee on Rules, Assembly Print 8021, an act in relation to certain provisions which impact upon the expenditure of certain appropriations made by Chapter 54 of the Laws of 1995.

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

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

ACTING PRESIDENT KUHL: Senator Dollinger, for the benefit of the members, this is a bill that was passed earlier in this house, but there was a cross with the Assembly. We're simply recalling the Senate bill, now taking the Assembly bill up. We're passing -- we're going to register the same vote unless somebody wishes to vote differently.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 55, nays 3, Senators Abate, Montgomery and Smith recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. On behalf of Senator Kuhl, my worthy colleague, on page number 31, I offer the following amendments to Calendar Number 923, Senate Print Number 3172-B, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Any time you want to offer up any amendments, Senator Marcellino, you're more than welcome.

Calendar Number 923, the amendments will be received and adopted. The

bill will retain its place on the Third Reading Calendar.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, on behalf of Senator Leibell, on page number 35, I offer the following amendments to Calendar Number 989, Senate Print Number 3786, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 989 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, on behalf of Senator Leibell, once again, on page number 36, I offer the following amendments to Calendar Number 990, Senate Print Number 3801, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 990 are received and adopted. The bill will retain its place on

the Third Reading Calendar.

SENATOR STAVISKY: Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Espada.

SENATOR ESPADA: Thank you, Mr. President.

I would like to request unanimous consent to be recorded in the negative on Calendar Number 1145, please.

ACTING PRESIDENT KUHL: Without objection. Hearing no objection, Senator Espada will be recorded in the negative on Calendar Number 1145.

Senator Stavisky.

SENATOR STAVISKY: Mr. President, in the same manner as Senator Espada, without objection, I would like to be recorded in the negative on 1145.

ACTING PRESIDENT KUHL: Without objection. Hearing no objection, Senator Stavisky will be recorded in the negative on Calendar Number 1145.

The Chair recognizes Senator

Libous.

SENATOR LIBOUS: Mr. President, would you call up Calendar Number 1111?

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1111. It's on your regular calendar, Calendar Number 60.

THE SECRETARY: On page 38, Calendar Number 1111, by Senator Saland, Senate Print 5103, an act to amend the Domestic Relations Law, in relation to special relief in matrimonial actions.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Would you lay that bill aside for the day, please.

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

SENATOR LIBOUS: 1118 next, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1118.

THE SECRETARY: Calendar Number

1118, by Senator Cook, Senate Print 1015, an act to amend the Highway Law, in relation to bridges in the county of Delaware.

ACTING PRESIDENT KUHL: Senator Libous.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR LIBOUS: Is there any other housekeeping, Mr. President?

ACTING PRESIDENT KUHL: The housekeeping has been taken care of for the time being, Senator Libous.

SENATOR LIBOUS: Now, Mr. President, I say we stand at ease for a few moments.

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

(Whereupon, the Senate stood at ease from 4:49 p.m. until 4:51 p.m.)

ACTING PRESIDENT KUHL: The Chair would recognize Senator Libous, the Acting Majority Leader, for an announcement.

Senator Libous.

SENATOR LIBOUS: Mr. President, there will be an immediate conference of the Republican Majority in Room 332. That's an immediate conference of the Republican Majority in Room 332.

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

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Senate will stand at ease until 6:45.

(Whereupon, Senate was at ease.)

(At 6:14 p.m., the following announcement was made.)

ACTING PRESIDENT DEFRANCISCO: Good evening. Senator Mendez.

SENATOR MENDEZ: Mr. President. I want to announce that there will be an immediate conference of the Democratic Minority in the conference room, Room 314.

ACTING PRESIDENT DEFRANCISCO: Room 314, Democrat Minority Conference Room, there's an immediate meeting.

SENATOR MENDEZ: Thank you.

ACTING PRESIDENT DEFRANCISCO: Senate will stand at ease until 6:45 p.m.

(Whereupon, at 6:55 p.m., the Senate reconvened.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senate will come to order.

Senator Skelos.

SENATOR SKELOS: If we could call up Calendar Number 1147, Senate 5319.

ACTING PRESIDENT KUHL: I will

ask the Secretary to read the title.

THE SECRETARY: Calendar Number 1147, by the Senate Committee on Rules, Senate Print 5319, an act to amend the Criminal Procedure Law, the Family Court Act and the Public Health Law, in relation to testing certain criminal defendants and juveniles for human immunodeficiency virus.

SENATOR SKELOS: Mr. President. Is there a message at the desk?

ACTING PRESIDENT KUHL: Secretary informs me that there are messages at the desk, Senator Skelos.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity at the desk.

All in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

SENATOR PATERSON: Explanation.

SENATOR STAFFORD: Mr. President. I believe an explanation -

ACTING PRESIDENT KUHL: Senator Stafford, an explanation of Calendar 1147 has been asked for by Senator Paterson.

SENATOR STAFFORD: Thank you.

Mr. President. I will try to have this in simple terms, in layman's terms. This will provide and allow a victim of a crime to have the criminal or criminals involved tested for HIV, an HIV test after conviction. I do point out this does also apply to juveniles, youthful offenders.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President. I won't delay the proceedings -

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR PATERSON: Wait. I won't delay the proceedings considerably because Senator Skelos is very hungry right now, but I

would just like to point out that something such as this needs further research and that the issue of the conviction and testing the individual is something that we have absolutely no problem with.

This person is convicted of a crime. They may have more than just committed a crime; they may have risked the life of the individual who is afflicted. It is a very dolorous situation that occurs, and there's no problem.

The only issue that I would just like to address is the testing itself not being reliable enough, and that there must be at least two tests occurring six months apart, is my recommendation, just to assure that the victim of the crime is not in any way deluded into thinking that they should not be tested themselves. Other than that, the bill obviously has merit.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 5. This

act shall take effect August 1st.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: At this time, please call -

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: On Calendar 1147, which we were just addressing, I believe that Senator Hoffmann would like to explain her vote. Can we allow that?

ACTING PRESIDENT KUHL: I don't see her in the chamber, Senator Paterson.

SENATOR SKELOS: When she comes in, she can explain her vote.

Call up Calendar 1088, Senate 5235.

ACTING PRESIDENT KUHL: We'll return to the regular calendar, Calendar Number

60, and I'll ask the Secretary to read Calendar Number 1088, Senate Print 5235.

THE SECRETARY: On page 38, Calendar Number 1088, by the Senate Committee on Rules, Senate Print 5235, an act to amend the Social Services Law, in relation to medical assistance exclusion.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Before we go to Calendar 1088, may Senator Hoffmann be recognized to explain her vote on Calendar Number 1147 now?

SENATOR SKELOS: Without objection.

ACTING PRESIDENT KUHL: We'll withdraw the reading of the title of Calendar Number 1088 and recognize Senator Hoffmann to explain her vote on Calendar 1147, Senate Print 5319.

SENATOR HOFFMANN: Thank you, Mr. President.

This bill marks an important departure from our previous attitude in this state relative to HIV testing in that it is apparently the first time that we have undertaken a mandatory HIV testing, and that's a very important first step.

A number of us in this house, Senator Nozzolio, Senator Sears, as well as myself, have introduced bills in the past that would address the issue of mandatory testing for HIV, particularly where criminal acts are involved. In my case, and I believe for the other two gentlemen's cases, we're talking about inmates in New York State correctional facilities.

This bill, although it's an important first step, leaves unanswered a very, very significant question, and it leaves us open, I think, to significant criticism because the effect would be that a rapist who has been convicted of a terrible crime and has been required by this law to undergo a mandatory HIV test would then have the personal option of not

knowing the results of that test and, therefore, the personal option of not acting in any responsible way in his future conduct.

We know statistically that rapists tend to recidivate at approximately the rate of 50 percent in this state, so there is little reason to doubt that an HIV-positive rapist, having once raped, possibly infecting his victim with the HIV virus, could then with rather unbelievable impunity granted by the State of New York go out and do the same thing again.

It is really tantamount to providing a license to infect other women and women and children in this state with the HIV virus. I would really hope that before this Legislature adjourns for the year this piece of legislation will have a better review by those individuals who have negotiated it and those of us who were not privy to those negotiations will have an opportunity for some input.

I would hope that the Governor in his wisdom will send this measure back to us

rather than sign it so that we may make the necessary corrections and require that a rapist not only undergo the mandatory HIV test but be required to undergo mandatory testing and treatment and be subject to some follow-up.

I think that to do anything less would put us in a position where we could be accused of being derelict in our responsibility.

And I thank you, Mr. President and my colleagues, for being a bit liberal with the two-minute rule in my explanation of my vote.

ACTING PRESIDENT KUHL: Are you voting in the affirmative as you had voted?

SENATOR HOFFMANN: I'm voting in the affirmative.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Senator Hoffmann I believe now has explained her vote as was requested. We have voted on the bill already?

ACTING PRESIDENT KUHL: Yes. The

bill passed previously. Are you asking we take up bill 1088?

SENATOR SKELOS: Could you recognize Senator Goodman first?

ACTING PRESIDENT KUHL: Senator Goodman.

SENATOR GOODMAN: Mr. President. Would you please lift the sponsor star on Senate 1367A, Calendar Number 98.

ACTING PRESIDENT KUHL: At the request of the sponsor, the star is removed from Calendar Number 98.

Senator Skelos.

SENATOR SKELOS: At this time, could we call up Calendar Number 1088, Senate 5235.

ACTING PRESIDENT KUHL: I will ask the Secretary to read Calendar Number 1088.

THE SECRETARY: Calendar Number 1088, by the Senate Committee on Rules, Senate Bill Number 5235, an act to amend the Social Services Law, in relation to medical assistance exclusion.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Farley, an explanation of Calendar Number 1088 has been requested by the Acting Minority Leader, Senator Paterson.

SENATOR FARLEY: I don't know why it falls to me to explain this, but I will do my best. This is, in essence, the Donovan bill. That's why it has nobody's name on it. It's the bill that restricts, if you will, the funding for Medicaid abortions.

You know, if there is a tragedy in this whole argument on abortion, pro-life and pro-choice, and so forth, is that there's really no compromising. This is truly a compromise.

This is a budget bill, a budget bill when the state is facing tremendous fiscal problems. Twenty-six million dollars are spent for Medicaid abortions in this state, and let me just bring to your attention a political situation here.

The New York Times in a poll in April of 1993 polled and said that 72 percent of

New York State residents oppose funding abortions. What does that mean? I guess abortion is a personal and a private decision and should be paid for with personal and private funds.

This bill does not outlaw abortions, and every year that the Senate has done this type of legislation or this amendment for the past quarter of a century, we can't outlaw abortions. The Supreme Court has spoken to that. All this does is bring us somewhat into conformity with the rest of the nation.

Forty-three states have accepted this restriction in saying they will pay for Medicaid abortions where there's rape or there's incest or there is risk to the life of the mother.

There's all kinds of people that will be voting for this bill. Our Governor, Governor Pataki, voted for this legislation even though he is pro-choice. Several other Senators who were pro-choice will be voting for it. Governor Casey, one of the most popular

Governors in Pennsylvania's history, has been very, very strong in this area.

You know, whether you are pro choice or whether you are -- I respect your opinion, your belief. This is a personal decision. I respect your position, and I expect that you would respect mine. I happen to be strongly pro-life, but there's a lot of people supporting this legislation that are not that strongly pro-life, the pro-choice.

You know, some say that this is a women's issue. Let me just say this. My mother, who has passed away who died at 90, was a suffragette. As a young woman, she worked very hard to try to get the women's vote. She was the most feminine and loveliest and most informed person that I ever knew, and she spoke on this issue to me a number of times.

She wasn't a bit depressed that I was a Senator; but I tell you, this was an issue that she felt very, very deeply about; and every woman that I know in my family -- and I come from a very large Irish family, Irish-American

family -- feel very deeply on this subject; and I'll tell you, it's an issue that is very, very important to a lot of people.

Senator Nolan, who served in this house for many years and always stood up on this issue, was always out front on this issue, said something that was very moving to me. He said, "You know, I represent a district which is around Albany here which has a lot of affluent people and a lot of poor people." He said the very affluent women used to come into his office and say, "The poor women need more abortions or need abortions." He said, "I had a lot of poor women that came into my office and asked for things. They had problems with their housing, with their rent, with their issues of trying to survive." He said, "I've never had one of them say that they needed more abortions."

What this does -- and I don't think there's anybody in this chamber that would disagree that abortion is a failure. It represents a tragedy in somebody's life. I don't think that anybody would disagree with

that, from Planned Parenthood -- that does abortions -- to anybody else. It certainly is the opposite of Planned Parenthood when they have to end up in the back room taking a fetus out of somebody's body.

This is an issue again today when we've got a budget crisis that sends a message. We're not outlawing abortions. We're not taking away the right of choice. We're saying that the state will pay for a Medicaid abortion when there's rape, incest, or life of the mother, as do 43 other states.

Again, I suspect that we're only one of seven states. We're also about -- when you think of it, one-third of the 150,000 abortions that are performed annually in New York are paid for by Medicaid; and the vast majority of Medicaid funded abortions, 89 percent, are for nonmedical convenience reasons. In other words, what we're talking about is elective abortions.

Medicaid doesn't pay for everything. You can't get cosmetic surgery.

You can't get an awful lot of things that might be needed. Certainly, I think we have a right under federal funding to restrict this. I think that we should, and I urge the passage of this legislation.

ACTING PRESIDENT KUHL: Senator Goodman.

SENATOR GOODMAN: Mr. President. As I have done many times in the past when this issue has arisen, I rise to express my great respect for Senator Farley and for his predecessor in this matter, Senator Donovan, because there is no question as to their sincerity in their pursuit of this particular piece of legislation.

But, Mr. President, I must with some controlled passion respectfully suggest to my dear colleagues that I think that there is an aspect of this which they have totally overlooked, and that is the fact that in the state of New York we have always permitted women, irrespective of their economic capacity, to have a right and access to abortion. I would

remind you, of course, that this matter was taken up in the famous Roe versus Wade decision in 1973 in which the United States Supreme Court guaranteed women the right to choose abortion, period.

It did not make that right dependent upon age, marital status or ability to pay. But since 1976, with the passage of the Hyde Amendment, Congress has severely restricted federal funding for low income women's abortions, and currently the federal Medicaid Program refuses to pay for abortions except when a pregnancy threatens a woman's life.

But in New York State, abortion is recognized as a basic health right. Here, a woman's right to choose abortion has never hinged upon her ability to pay.

I would ask my colleagues who are on the other side of this matter one simple question. Put yourself in the shoes of a poor woman who does not have available the funds with which to pay for an abortion but who, nonetheless, seeks to have such an abortion, as

would have been her right under the United States Constitution, and ask yourself the question, what are we to do with regard to this tragic problem in relation to the specific individual who, because of her indigency, because of her poverty, can not enjoy the same rights as her neighbors who happen to have the money available for an abortion?

Mr. President, I submit to you this is rank discrimination, that this brings about potential tragedies; and in states where the abortion right is denied to poor women, we have countless examples of botched abortions, of abortions in which they have found it impossible to go through appropriate medical channels and have resorted to home remedies and various home techniques to abort their babies, with catastrophic results, culminating in hemorrhage and almost certain death. I believe that to subject women to this type of punishment is absolutely unconscionable and beyond the pale.

Mr. President, I would like to speak to you for just a moment about the

consequences of states which do not permit abortion. Without coverage for medically necessary abortion, vulnerable poor women and girls have no other access to health care and they must carry pregnancies to term even if they risk their health or are victims of rape or incest. Safe and funded abortions have led to decreases in maternal losses among poor women.

Enabling poor women to choose whether or when to bear a child has had a significant positive effect on their lives and on the health and welfare of their families. The cost to the state of providing the medical services related to childbirth and child rearing is, of course, enormously greater than the expense of funding abortions, which is not to say that it is not desirable to carry children to full term and, wherever possible, it is certainly desirable to allow women to make that choice if that be their wish; but to take a woman who, after careful consideration, has decided that she wishes to terminate a pregnancy and force her into a position of not being able

to do that, I think, denies her a very fundamental right.

The function of government is not to control people's reproductive choices. All women must have the freedom to make decisions concerning abortion in light of their conscience and religious beliefs.

Mr. President. I think one practical matter should come to the House's consideration. This is a one-house bill. This bill is repeatedly passed in the Senate but has never passed in the Assembly, so year after year, we have to go through what is essentially a fruitless exercise.

I am certainly prepared to have any member express his views on this who may wish to; but I would certainly point out that the fact of the matter is, when the dust settles on this question, the state of New York will continue to provide to poor women, as it always has since the Roe v. Wade decision, the absolute right to make their own decision.

I believe this to be just. I

believe this to be something fully consistent with the traditions of a compassionate state, and I believe this to be something which this house in its wisdom may yet find the appropriate action to prevent this from, once again, passing in the house, in effect, fruitlessly and pointlessly, leaving us in a state of, essentially, frustration over a situation which will never come to the fullness of passage into a law.

Women must retain their absolute right. That is the issue at stake here, and that is the issue I hope the house will consider in reaching its decision.

ACTING PRESIDENT KUHL: Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President. Senator Farley, I think, was both eloquent and accurate in his articulation of the meaning, significance and the merits of this particular bill.

I would like, however, to respond briefly to previous speakers' comments and to

highlight one fact that Senator Farley touched upon. The Congress of the United States in its wisdom has decreed that this country shall not benefit from any shared cost of Medicaid funding in this category. They said, "We will pay half of Medicaid," roughly half as we know it, "in all kinds of things; but for abortion, we will not," which is why, as Senator Farley pointed out -- one of the reasons -- there are only a handful of states, of which we are one, that fund this entirely on their own.

I think that that is a major issue, because if the things Senator Goodman was talking about were true, then of the other 40 some-odd states we would be picking up our newspapers every day and reading about these tragedies, but we do not. We do not.

There are many things people, poor people and not so poor people, would like to have that they can not get at the taxpayers' expense, and this, indeed, should be one of them. Again, I repeat, I think Senator Farley covered the ground very well, and I share 100

percent in his observations.

But I think as we deliberate on this issue and we come to our final conclusion, we should keep in mind that this bill would make New York State consistent with the law of the United States of America as enacted by the Congress.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President. The law of the United States of America, as I understand it, entitles a woman with the right to choice. That is the law. I would think that if many in the chamber who have strong feelings on this issue, who wish that the law be changed, this is the process and this is certainly the forum to change the law.

This is an issue of conscience. This is an issue of personal choice, and it is one that each of us makes and each of us lives with in our own way; however, I do not think that there should be any fixed rules for the interpretation of what is the actual decree of

the Congress because the Congress has not changed the law, neither has the United States Supreme Court to this point; and, therefore, I don't understand why we would be, in a sense, subrogating the law by denying the right to choice, and that's what denying Medicaid funding for abortion would actually do.

What it would do is it would set up a class system in which whomever was entitled to make use of the law as it stands now would be able to do so, but it would be economic. It would be the economic choice of those who can pay as opposed to those who can not pay. Now, for those who can not pay, we have a Medicaid system that exists right now. It is a health care benefit for those who are indigent and needy and would require this type of assistance.

What we would be doing by enacting this piece of legislation is, in a sense, sending a message to those individuals that because we who happen to be in the minority because we have not changed the law have the

ability to control the purse strings, we will impose our value on you, again, even though if you had the resources, you could under the laws of this land receive an abortion, and so I think this is one of those things that occurs when people feel strongly about an issue and they see it as a matter of principle; and, yet, what is being missed is the fact that the major battle, the one that I guess would reverse Roe v. Wade has not been effected; so, therefore, everything short of it must be employed; and in this case, I think it is an inappropriate application of that desire.

I certainly respect those who feel the way they feel. It is a heartfelt issue to the people who feel it, and it is one that all of us have to consider on both sides whether we are pro-choice or we are pro-life, and I think that it is something that in this bill inures to the detriment when we are actually asking that incest victims or rape victims only can be eligible to receive an abortion if they report this case to law enforcement.

When you report a matter to law enforcement, you become the complaining witness. It is now not only the victim versus the perpetrator, it is now society versus the perpetrator, and a lot of measures can be used by a district attorney against a complaining witness who happens to be reporting it not because they want to bring a case but because they want to exercise a right that they have under our legal system.

So see how we have complicated it in this bill. I am relieved to see that we have at least corrected the legislation, and I congratulate Senator Farley for seeing through the legislation last year and amending it, because, last year, we mandated that there be a 48-hour contact between the rape victim and the incest victim and law enforcement, dismissing the fears, the anxieties, all of the trauma that would accrue after such a tragic situation in the victim's life; and so this bill that is crafted out of sensitivity to life, in many respects, does not demonstrate the real caring

for the abused individual, that woman or that child who has been the victim of a horrible rape or incestuous situation.

It is just not regarded in this legislation because, again, we are making the individual go to a law enforcement authority rather than a child welfare agency, a social service agency, some alternative hot line that we could set up if this was actually how we wanted to effect this; and so for those who feel passionately about the issue, I would admonish them that even in the bill as it is constructed technically, we do not see any type of real remedy for the victim of the actual crime so that the victim can avoid having to go through with an actual pregnancy and then giving life and having to live with this problem for the rest of their life.

In cases where the amniocentesis test is conducted and the woman recognizes that there is a significant fetal deformity, this bill doesn't address that either. That is just something that the woman has to live with, even

though there is really no chance of any life or meaningful existence coming out of this actual pregnancy; and so, in spite of the technical deformities that I think exist in the bill, I understand the spirit of it.

I understand the beliefs and certainly share in the concern. I don't know that any of us can stand here and be significantly convinced that we are right and that anyone else is wrong on an issue that is so highly charged, that is so highly principled, and an issue that has meant so much to so many people on either side.

But I would say that the real discussion should focus on the actual issue of whether or not we are going to allow for abortions in this country and not any attempt to subrogate the actual effect of a Supreme Court decision and legislation that exists in this state by trying to deny those rights to individuals who in any other medical situation that would be analogous to this would be eligible for this procedure, and so I'm going to

be voting no, Mr. President. I urge my colleagues to do so as well. For those who do not, I certainly respect and understand their position, but I think that this is the wrong method to actually make a change in what is now a 23-year-old law in this country if that is going to be the desire of those who oppose a woman's right to choice.

ACTING PRESIDENT KUHL: If the members would suffer an interruption of this debate, I would like to announce that the Majority Leader has arranged for dinner to be brought in, as you now may know. Dinner is now ready to be served to those members only who would like to partake in it at this time. We ask that only members go for dinner at this time to try to accommodate the debate schedule to keep things rolling along. As soon as the members are finished, then we will notify the staff that they are entitled and that the dinner is available for them, too.

Hadn't thought about that, Senator Waldon. What reminded me of making this

announcement is I heard Senator Paterson mention it at one time when he said -- he said, "My father always said you can call me anything but never call me late for dinner," so that's why I wanted to make the announcement at this time. I didn't want any of you to be undernourished when you entered the debate this evening, so -

The next person on the list - and this was not personally intended toward you, Senator Oppenheimer. I didn't want the chamber to vacate, but it just so happens you are the next speaker on debate.

Senator Oppenheimer on the bill.

SENATOR OPPENHEIMER: As everybody pours out of the chamber to go eat. Thanks.

Well, eliminating this funding would really cut the heart out of New York's pro-choice policy. It's a policy which is seeking to provide access to all women who are forced to make this very personal, very disturbing decision. The policy, really -- this bill before us really would cut the heart out of

pro-choice because the fact is the well-to-do woman is able to take care of the problem herself. It is the poor woman that we have to worry about in our state.

The inclusion of abortion within New York's Medicaid system is positive proof that New Yorkers recognize and have recognized for these many years before Roe versus Wade that tolerance plays an important part in building a civilized society.

This Medicaid program was designed to equalize the medical services so that we could protect poor women's health, as well. Poverty should not deprive women of their legal rights. Abortion is legal, as Senator Paterson has said, but these legal rights would be utterly useless to those who are financially not able to exercise them.

Abortion is not a luxury item. It is considered a component of women's health care and medical service and should not be excluded from those services. It safeguards a woman's health. The very private decision of

whether to carry a pregnancy to term should be reached by a woman in consultation with her doctor, with her partner, considering her religious, her emotional positions and circumstances, her family circumstances. It should not be a condition of what her economic status is.

It is a fair and a just policy that New York has had for many years and it is an enlightened policy; and in the milieu in which we find ourselves -- it happens to be an economically wise decision -- looking solely at a budget is not the way I look at it nor most of my colleagues who are interested in this issue look at it.

This policy has been of longstanding in New York state, and we don't want to jeopardize the already fragile health of many of our poor people.

Don't go away. I'm not finished.

In the past, access to these funds has stemmed the tide of welfare dependency and has curbed the trend somewhat of children

having children in our state, even though it remains a problem of enormous magnitude in our state and is the reason that my task force on women's issues is currently going around the state on the issue of adolescent pregnancy prevention.

Without Medicaid funded abortions, increasing numbers of our State's poor youth will have their futures utterly foreclosed. They will be swallowed up by the web of dependence -- welfare dependency, and their children will face a world of hardship and despair. Medicaid funded abortions have been an essential part of the arsenal in this fight against poverty. It has helped stop many babies from being born into poverty. It has aided many a young woman in getting a second lease on life.

Prior to 1970, the poor suffered disproportionately high maternal and infant losses due to illegal abortions. Poor women are more vulnerable to pregnancy complications and death due to poor nutrition, anemia, and

excessive births. Their babies are more likely to be born premature, of low birth weight and with birth defects or mental retardation.

Considering the thrust that the Governor had in his budget to cut back AFDC monies by 15 percent, it should be noted, but let me again reiterate, this is not of the concern to the advocates that it seems to be to the Governor, but in New York State, the average Medicaid abortion costs only a little over $300, but the first year of public expenditures for AFDC alone costs nearly $4,000 for each poor woman who carries to term; and, here, we are not mentioning maternity costs, pediatric care, long-term costs for social services, food assistance, housing. We're not considering that.

Let me mention that currently, there are thirteen states that pay for all medically necessary abortions for low income women. Of these, seven state legislatures voted to pay for all medically necessary abortions, and I would like to read their names. This is

Alaska, Hawaii, New York, Maryland, North Carolina, Oregon, Washington and West Virginia. There are five other states that are paying under court order, and these states are California, Connecticut, Massachusetts, New Jersey and Vermont.

I would also like to take a moment to mention just a few of the supporting organizations, and these are only mentioning perhaps 20 percent of the names of organizations that support Medicaid funding for abortion:

The American Association of University Women; the American College of Obstetricians and Gynecologists; American Jewish Congress; Columbia University Health Service; Committee on Women and Children, the Presbyteria of Western New York; District Council 37, AFCSME; Episcopal Diocese of New York, Federation of Protestant Welfare Agencies, League of Women Voters of New York State; National Association of Social Workers; National Council of Jewish Women; New York City Health and Hospitals Corporation; New York State

Council of Churches; New York State Republican Family Committee; and many, many of the YWCA's.

In fairness, in consideration of economic equity, in consideration of the very policy which the Supreme Court has enunciated, eliminating this funding would really eliminate the pro-choice policy in this state. We have an enlightened policy that has been going on for - I guess it's 1972. We're proud of it. We hope to maintain it.

Thank you, Mr. President.

ACTING PRESIDENT VOLKER: Senator Abate on the bill.

SENATOR ABATE: Like many of my colleagues on either side of this issue, I, too, feel very strongly, and I want to be on record as to my opposition to this legislation.

I think we can not confuse - having Medicaid funding available to women does not say to women they must have an abortion nor does it say to women they must have children. What it says to women, whether they be rich or poor, that they have a choice; and that's what

the law of the land says, that, as a woman, you have a choice what you wish to do with your body and whether or not you wish to bring a child to life or terminate that birth; and so the law of the land says that that woman has a right; and if we eliminate Medicaid funding for abortion, there are two messages. One message is, "If I am a rich woman, I can afford to go to a doctor and get an abortion," and the second message is to that poor woman, "Yes, the law of the land gives you the right but not the opportunity to have that right in practicality; and if you are poor, you will not be able to have an abortion."

So someone mentioned that, "Well, what's happening in all these other states? We're not hearing horror stories because poor women do not have access to abortions," and we only have to look in our recent history in New York State when abortion was once illegal and what did poor women do, because poor women then did not have access to abortions. They went to what we call the underground doctors, people who weren't prepared, did not have medical degrees,

that resulted in late and illegal abortions, resulted in death and mutilation; and for those women and poor women who could not access abortion, it resulted in unwanted births.

If you look at the bill itself, though, the exceptions that are drafted I have problems with, even though I'm opposed to the legislation. There is a misunderstanding, if you look at pregnancy which is the result of rape or incest which has been reported to a law enforcement agency for investigation. This bill recognizes that abortions and Medicaid funding should be available for that purpose, but what it fails to understand is that many women who are raped or victimized through incest do not report these cases to law enforcement agencies. If you look at statistics, if you talk to the police, both of these crimes are among the most unreported crimes to law enforcement. Many of these women who suffer do not go to the police but they go to the hospital or a family doctor or a social service agency. So even in these exceptions, there is a flaw. There's nothing

about fetal deformity within any of these exceptions.

I would like to cite four case histories, and they are actual case histories of women upstate who were poor, that under the current Medicaid policy they were able to get abortions; but if the policy changed and Medicaid funding was not available, all four cases that I will describe would have to bring their babies to birth, the fetuses to birth. Let me give the four examples.

A 27-year-old woman with four children, the youngest of whom, age 10 months, has been hospitalized since birth. This woman finds she's pregnant again; and as a result of learning this, her husband becomes abusive and violent towards her and the children. Because of the consequences and the situation in her home and the fact that she has a child who is already sick and hospitalized, she sought an abortion and because there is Medicaid funding, she got it.

Second example, a teenager whose

mother is dead and father unknown spent 12 of her 16 years in a foster home. Once pregnant, she becomes depressed and suicidal. She, too, under the current law has the opportunity to seek an abortion.

The third example, a woman of 20 suffers from muscular dystrophy and finds it difficult to care for her 18-month-old child. If she carries this pregnancy to term she could be crippled. She chooses an abortion; and, again, under the exception it's an abortion that's medically necessary to save the life of the mother. Under this exception, even this woman would not be eligible for funding, Medicaid funding.

And the third example is a 43-year-old pregnant woman who, because of her age, undergoes amniocentesis to test for fetal defects and Down's syndrome is discovered. She decides to terminate and because, now under Medicaid funding, if that were eliminated, she too would not have choices in her life.

So what we are asking is that the

law of the land is available to poor women as well as rich women. It is not only a legal issue, it's a moral issue in my mind. It's a human issue, and it's also one of a good sound health policy.

If we eliminate this right to abortion for poor women, we will be jeopar dizing, I believe, the health and safety of women. We will be taking sound choices away from her, and I know as a woman I am offended because I do not and, if I were a poor woman, I would not want someone to say to me because you are poor, you do not have choices over your body and you can not make rational choices as to your life.

I firmly oppose this legislation.

ACTING PRESIDENT VOLKER: Senator Dollinger on the bill.

SENATOR DOLLINGER: Mr. President, I'll be very brief. My views on this bill are well known. I'll simply cap the comments made by my colleagues by saying one

thing I will not do, and I've said this since I was first elected to government, is I'm not going to force women into back alleys for $50 abortions that will threaten their lives. I'm not going to make doctors into liars and have to say that they -- their patient is under medical necessity for an abortion when it may not be true, but they know they have to say it in order to be able to get Medicaid funding.

I'm not going to make poor women into liars who will have to report rapes to the police so that they can be investigated because they know that that's the only way they can get funding for abortion from the government.

What I have vowed not to do is to take the curse of poverty and turn it into the tragedy of women's health, and I don't believe that we should put women back into the dilemma that they had before Roe against Wade, which was that they had to seek back alley solutions for their personal choice. I will not do it. I don't believe we as a state should do it. I don't believe, no matter what the other 43

states do and no matter what the federal government does, this is not the right thing to do; and I stand here firmly to say that we ought to provide the same choices for poor women that we provide for women of means; and I remain firmly committed to not bring back the horrors to women who were exercising choice before Roe against Wade. Poor women in this state deserve better.

ACTING PRESIDENT VOLKER: Senator Maltese on the bill.

SENATOR MALTESE: Mr. President, I've heard my Senate colleagues refer to the primacy of the health of the mother and the detriment, the harm that would be done to the mother if they were not permitted to go forward with these abortions; yet, taking that as an issue of and by itself, medical opinion seems to indicate -- and I quote from a book that seems to be accepted in the field, Human Reproduction by Grimes and Kates, that abortion methods - I'm sorry. I'm trying to cut it down so it would be somewhat shorter. "Delayed or

long-term complications affecting future pregnancies and reproductive health ranges from 17 to 50 percent. The actual complication rate is estimated to be far higher because most complications go unreported. Clinics, where 90 percent of abortions are done, are not required to report complications and rarely do so."

In addition, Mr. President, we hear from the proponents of this funding about the rights of citizens, in this case the women seeking abortions. We hear nothing, and this is perhaps not the bill to speak of it, although I feel it's always the time to speak of it - nothing about the rights of the unborn children that are terminated by this procedure.

But if we take simply the rights of the women, how can we match that against the rights of all the people of the State of New York, many of them people of conscience, who object to their tax money being paid for abortions on other people. If this is a question of conscience, let all these proponents of utilizing that taxpayers' money dig into

their own pockets. They speak of interference with a woman's womb. What about the interference with the taxpayers' pocketbook?

We have in New York State an ever-rising amount being paid for these Medicaid funding of abortions. Wouldn't it be far better if these same funds were diverted to care for the homeless, to care for many of the unfortunates that we hear of daily in these chambers from many of the same people urging this funding for abortions?

We have seen ever-increasing abortions so that in 1992, we had some 48,500 Medicaid abortions to the extent of $21 million of taxpayers money. In 1993, one of the last years that we have figures for, we have 49,000, almost 50,000 Medicaid abortions with a funding of over $26 million that could be put to far better use.

We hear of back alley abortions. I ask you, Mr. President, how much better are these abortion clinics that take no heed of their patients, care not for past history,

medical or otherwise, and churn out abortion after abortion. Can these physicians be termed ethical practitioners? I say not.

We have ever-rising costs for Medicaid abortion, so that in '93 we had roughly $432 per abortion. That's a decided increase over prior years.

But I'm not saying that this should be evaluated solely on the question of funding or financing. What I'm saying is, there is no reason that we should be out of step with the majority of states, that we should be one of six or seven states that insists on funding these abortions, these elective abortions for persons who feel they can not afford it. I'm simply indicating that these are the same do-gooders who feel that they can dip into the pockets of many of my constituents who, in conscience, oppose abortion and do not feel any part of their taxpayer funds should go to fund what they consider the killing of innocent babies.

Mr. President, I feel we're

taking a wrong step when we continue to fund these unnecessary elective abortions. We have chosen -- we have taken cognizance of the pleas of our colleagues and others who have said and spoken of traumatic injury to women who did not comply with the prior legislation that we have in this house that mandated a reporting to proper authorities within 48 hours. So this bill now could be called by many of the people who agree with my point of view a watered-down version, but take it as a humanitarian gesture.

So now all we require is a reporting, a mere reporting that could be done at any time up to the induced abortion, and yet we hear the same thing now that we heard in prior years, the same objections to the 48-hour requirement, that these persons can not go and report whether it was a rape or an incest.

Mr. President, this is not a proper use of taxpayers' money. It is not a proper use of the money of taxpayers and residents of this state and residents of my district who feel, in conscience, that abortion

should not be performed by the State of New York.

ACTING PRESIDENT VOLKER: Senator Waldon on the bill.

SENATOR WALDON: Thank you very much, Mr. President. My colleagues have really addressed the major concerns regarding this issue and I think most eloquently.

I would like to especially praise what Senator Oppenheimer said and the manner in which she said it and as well my Republican colleague across the aisle, Senator Roy Goodman, the esteemed legislator from the island of Manhattan; and so I speak not to be redundant and not to be repetitive but because I believe the issue is of such great importance that I would be remiss in not adding my voice to this debate.

Clearly, the law of the land allows for abortions, and it has not changed despite what 43 states, as Senator Farley shared with us, have chosen to do.

Clearly, those of us who can

recall back alley abortions and the damage that it did to the human equation do not, despite our political position on this issue, wish this nation and this state to return to, I am sure.

Clearly, this is a moral issue. I am also Catholic. Those of us who listen to our religious drummer come down oftentimes on opposite sides of the issue though we practice in the same church, perhaps even in the pew next to each other.

However, when I hear the argument that this is costly, I'm befuddled because if we were doing it strictly with sensitivity to the budget process this is much less costly than forcing a young girl who is often a child herself to bear the child in a poor circumstance which will allow -- not allow, I should say, the child to be all that he or she can be, and that child will grow up to be a burden perhaps on society.

I want to make it very clear. I'm not saying that every child who is born to someone who's poor is destined to end up in the

criminal justice system. That is not true. No one was poorer than I as a child or Lenny Wilkins, who lived around the corner from me. Welfare -- Frank Thomas, President of the Ford Foundation, he made a success of his life despite growing up in the abject poverty that was Pachen Avenue and Madison Street Park, Halsey Street Park; Clyde Lord, who is an anesthesiologist now; Vinnie Cohen, even though his last name is Cohen, he is a black man who is now a partner in the Bennett Williams firm in Washington, D.C.

These are all success cases but the exception to the area which spawned us. So every child born in poverty will not be subjected necessarily to the pitfalls of the criminal justice system, but sometimes it does happen; and so I believe that if the young person who is all too ill-prepared to bear the child should wish to abort, then we should allow that to happen even if we're looking at it only from a monetary perspective.

I would like to look at it from

the perspective of it is the law. It is the right thing to do. Some people say this is a woman's issue. I believe it is a people's issue. It's a people's issue, not just a woman's issue, but certainly the woman should have choice and be in control of her body and what she wants to do regarding the child that she's carrying, and I don't think I as a man, though elected by 300,000 people, should interfere with that very private and personal decision.

What I say here today won't change a thing. Won't change a thing. It's as if I'm flailing against the wind. Who am I to blow against the wind? But I must say what I must say because this issue is too important not to have been heard.

So I would encourage my colleagues not to do what is wrong in my opinion but to do what is right in terms of choice by women, to do what is right in terms of our budgetary concerns and to do what is right in regard to the law of the land.

I have great respect for Senator Farley. He knows that, and all who know me know I have great respect for him, but I must differ with him on this issue.

Thank you, Mr. President.

ACTING PRESIDENT VOLKER: Senator Marchi on the bill.

SENATOR MARCHI: Mr. President. This is a very delicate, difficult issue that has troubled us for many years. If we go back to the Hippocratic oath, which was the oath taken by practitioners of the healing arts from the years 200 or 300 B.C. until 1960, just a few years ago, there was an oath taken by every single physician, the physician who delivered me. Whatever their religion or absence of religion, every physician took that oath; and with respect to caring and nurturing, most of us for some periods of our lives were completely in the hands of physicians that had taken that oath.

What did it signify? What was their estimate? Now, there have been very

sensitive observations made by Senator Paterson when he said the issue was really on the centrality of the appropriateness, of the rightness or wrongness of abortion itself. What is the unborn? Is it something that is totally available and preempted by reproductive rights under that banner? Does it have any significance? Do we owe anything to the unborn at any stage of that development?

And that is the subject that we have not answered very clearly. There has been even in contemporary society where we have been not consistent, even those of us, as I do -- I oppose abortion. But there has not been a consistent point of view because the very medical insurance that we are covered with provides for the expense of an abortion. These laws, the contribution and the regulation of the rates of reimbursement, are governed by the public. We accept these policies. So in some ways we've been had in that sense.

Most people are covered by private insurance coverage, which is sanctioned

and regulated by the state. So in a way, we are part of that picture, but it still fails to answer the question what importance we attach to the unborn. Does it have any rights at all? I think it's too simplistic to say that those rights are completely preempted by reproductive rights.

So it's a very, very difficult issue, and I have to agree with Senator Paterson and to some extent Senator Waldon when the question is taken up, what can we -- what is our answer? I don't think this is the ideal way of tackling it because it doesn't attack the basic issue, but it is the only way in which we can address a feeling at this point.

Our jurisprudence was settled some 20 years ago, and I suppose it took a very decided turn when Justice Souter came on the bench and gave it its last definitive twist, but we have this great problem. It's the only way we can speak to the very issue of abortion. It's not about the funding. It's not about financing. It's not about a lot of things, but

it is the vehicle by which we express our feelings on the rights of the unborn.

And for this reason, Mr. President, I am going to vote for this bill.

ACTING PRESIDENT VOLKER: Senator Espada on the bill.

SENATOR ESPADA: Thank you, Mr. President.

ACTING PRESIDENT VOLKER: Senator Espada on the bill.

SENATOR ESPADA: Thank you, Mr. Volker.

I, too, didn't mean to debate, don't have much to add to the actual coverage, but I must confess that I have been ambiguous at times about not this issue as the debate indicates, but I have resolved that issue by, you know, I may have differed with reasonable men on the issue of reproductive rights and abortion, but that's all it is. It's an opinion. It's an opinion that must always come in second place to a fundamental right that belongs to a woman -- to my wife, to my mother,

-- to abort, and it has to stay that way.

We can have passionate debate on it, but it's a woman's choice. I must also say that the moral inconsistencies are somewhat frightening. Someone close to me, I used to pay close attention to them and especially on this issue because I confessed my ambivalence, but he sought some consistency here. He said, You know why we fight for the unborn. We pass death penalties. Why we fight for the unborn we pass a death penalty of sorts, a life of poverty and neglect onto children, babies.

We just passed a bill a little while ago that essentially would not provide welfare, Medicaid, basic subsistence to babies that are born, to babies because we said that that wouldn't be right.

SENATOR MARCHI: Mr. President.

ACTING PRESIDENT VOLKER: Senator Marchi, why do you rise?

SENATOR MARCHI: I just wanted to -- you were aware of the fact that I did vote against the death penalty.

SENATOR ESPADA: I'm not -- I only address -

SENATOR MARCHI: You know that.

SENATOR ESPADA: Yes, I do; yes, I do.

ACTING PRESIDENT VOLKER: Senator Espada, on the bill.

SENATOR ESPADA: So the inconsistencies are equally upsetting as well as to weigh this in terms of just a moral issue. But it is not a moral issue because we have heard debate about the fact that it's really an abortion versus reproductive rights issue, and we've also heard about how this is the vehicle. What is the vehicle? The vehicle is picking apart women to make our case about abortion and I think that is immoral because, if you have a case, you have a case. We just don't pick on a sector that is of least resistance, the least organized lobby up here, because it will make their case.

I think that not only is in consistent; it is totally immoral, and so we

come back to this whole issue of this bill. It's immoral in its purpose and what it says on its face, and it conditions it on what is called a medical necessity. We should not play God nor should we not play physician here. What is a medical necessity? Is it just based on what our physical, medical condition or by psycho social, by family, what about a whole set of complex issues which, according to this bill, do not enter into the equation, into the decision that a physician and a family must make.

So it is very narrow, although it seeks to make a very broad sweep, and a comment on our morality and our women's rights and for those reasons, I have to tell you that I must vote no.

Thank you, sir.

ACTING PRESIDENT VOLKER: Senator Farley to sum up on the bill.

I'm sorry. Senator Montgomery. I didn't realize. Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Yes, Mr.

President. Thank you. I just want to speak very briefly on this legislation.

As I said last year when the same bill came up, and I believe Senator Farley was the sponsor of that legislation last year, I take the same position that this is, in my opinion, anti-women, and more significantly it is anti-poor women.

This is legislation which represents, I believe, the notion that women do not have the right to decide what to do with their own body. They should not have a choice in the matter of whether or not to bear a child, and since it is their constitutional right to do so, there are those among us who look for ways to curtail that constitutional right and I view this legislation as one of those measures.

I think that, as we try to address the issue of preventing unwanted pregnancies in the first place, and as we try to address the issue of making health services available to young women, to poor women, there are those who also oppose us doing that.

We do not have at this moment - I realize that there is legislation, I believe it's sponsored by Senator Cook in our house and the chair of the Health Committee in the Assembly, legislation that would make available to young people in this state primary health care and education services in their schools on a permanent basis as a permanently funded program by the state of New York. That legislation has not seen the light of day. It has not been brought to the floor of this house. So if you really want to address the problem of unwanted pregnancies, why don't we do it in such a fashion that it can be prevented?

We have people who are opposed to reproductive rights and counseling, opposed to young people having access to information about how to prevent premature pregnancy, how to prevent a contact with sexually transmitted diseases including AIDS and others, people who are adamantly opposed to young people in particular having information in the same way that they are opposed to women having access to

reproductive health services.

And, Mr. President, I know that although we are talking about Medicaid funded abortions, that is not the ultimate motivation. The ultimate motivation is to deny women reproductive services in general. So this is just symbolic. It's not an agreed upon measure at all. It's a measure that's introduced year after year after year because it satisfies the need for some people to -- to say symbolically that they are anti-women. It satisfies a certain -- a certain group in the state whose philosophies are reinforced by this measure but it is wrong, and every year we debate it and every year I will continue to say that this is the wrong thing to do. It is not in keeping with what New York State represents, and that is a progressive attitude about all of the people in our state and their rights, including and especially women.

So I'm opposed to this legislation, and I hope that my colleagues will stand up, stand up and say in no uncertain terms

that we in this Legislature respect and regard the right of women in New York.

Thank you.

ACTING PRESIDENT VOLKER: Senator Farley -- Senator DiCarlo, on the bill.

SENATOR DiCARLO: Mr. President, I wasn't going to speak on this bill, but the statement that just came from my colleague I think demands a response of some kind.

Those of us who vote for this bill are not anti-women. The abortion issue is a very difficult issue for a lot of people. For those of us who believe that the unborn child, the fetus, is a human life, take that very seriously and those who believe as you do in the right to abortion take it very seriously also. If you believe that the unborn child is human life, in my opinion, you must be opposed to abortion plain and simple. If you don't believe that it is human life, then I can understand your position, but to say that those of us who support this legislation are in some way anti woman, I think, is a statement that demands a

rebuttal, and I would support this legislation.

ACTING PRESIDENT VOLKER: Senator Farley, to sum up.

SENATOR FARLEY: Thank you, Mr. President.

I won't go over everything that I said in -- on the opening of this, but I would like to compliment my colleagues because I have heard this debate close to 20 years, and some times it got very rancorous and personal. This has not been the case.

Let me say that I feel very deeply on the sanctity of life personally, and I don't really see this bill as one that is overly pro-life. As a matter of fact, it's a very modest approach. It's a budget bill, if you want to think of it as such. It says that this state of New York is number one in all the wrong places. It spends $26 million on Medicaid abortions. 43 states do not take this approach. 43 states say that they will pay under the federal guidelines for rape, incest and the life of the mother.

This legislation brings us into conformity with the rest of the nation. We can do that in a lot of areas and I think be better off.

I feel very deeply on this issue and I just want to repeat a little call that I got a few years ago from a reporter who was quoting an elected official, rather significant elected official. He said, "Senator Farley, so and so said on abortion you either pay for 'em now or you pay for 'em later. What do you think of that statement?"

I said, "I think it's a disgusting elitist statement." I grew up poor, the seventh child in a family. I didn't end up on welfare. I'm -- our Majority Leader, Senator Bruno, grew up poor as poor can be. He didn't end up on welfare.

What we're talking about is the right for -- we're not talking about somebody outlawing abortion, which always seems to come up during this -- this debate. We're saying unfortunately life is not fair. Medicaid

doesn't pay for everything. We spend, and it's been said before, we spend more on Medicaid than the states of California and Texas combined. This is just one other area where we're way out of line.

This is a reasonable bill. It's one that is going to pass, I hope. It's one that is going to go over to the other house and be alive, and I certainly hope that you might want to support this legislation because, as I've said before and I cherish and I'm grateful for every vote for this, because there's a number of pro-choice people that are voting for this legislation because they believe that it's the right thing to do fiscally.

As I said, abortion is a personal and a private decision. It should be paid for by personal and private funds.

I'm going to vote aye, and I'd like the last section to be read.

ACTING PRESIDENT VOLKER: Read the last section.

SENATOR PATERSON: Slow roll

call, please.

ACTING PRESIDENT VOLKER: Slow roll call called for.

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

ACTING PRESIDENT VOLKER: Slow roll call called for. Five members stand. O.K. Read the roll slowly.

THE SECRETARY: Senator Abate.

SENATOR ABATE: No.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Bruno.

(Affirmative indication.)

THE SECRETARY: Aye.

Senator Connor.

ACTING PRESIDENT VOLKER: Senator Connor to explain his vote.

SENATOR CONNOR: Thank you, Mr. President.

We've had this measure year after year now for many years, and I still can't see the logic on the part of someone who is opposed

to abortions in saying let's cut it off for the poor women because it's state funds when, in fact, the state's fiscal system provides part of the cost of health insurance for employees of the state, for employees and family members of all of us here, and those insurance benefits include the right to abortional services.

So given that fact, the only distinguishing feature between what this bill would have done and the fact that those other services would continue to be paid for, for the family and staff of members of the Legislature, is that poor women somehow or other ought to be denied paying reimbursement to their service providers for medical services that the Supreme Court has ruled are available, are legal and are the right of women to choose.

The fact is that in our state and in our society, many people conscientiously believe that abortion is wrong, but they are by no means in the majority nor when we do polls does that translate to a majority of the opinion among the public. Logical consensus are not

moral positions in our state, and our nation.

The Supreme Court has rightly set forth that it's a matter of conscience and the right of women to freely choose between them and their -- the advice they receive from their physician. It is not the business of the government to be in anyone's personal private life to that extent of denying that choice, and I respectfully submit that it's not the business of the state of New York to say to poor women, you can't have a right to be exercised the way middle class and wealthy women have a right, and you can't say to these poor women, you can't use a penny of state money when, in fact, the hypocrisy is that state money does pay for abortions for the staff and family members, and so on, of all of our state workers including the members of the Legislature.

I vote no, Mr. President.

ACTING PRESIDENT VOLKER: Senator Connor in the negative. Continue the roll.

THE SECRETARY: Senator Cook excused.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.

SENATOR DiCARLO: Aye.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: No.

THE SECRETARY: Senator Espada.

ACTING PRESIDENT VOLKER: Senator Espada to explain his vote.

SENATOR ESPADA: Mr. President, by way of explanation, I think Senator DiCarlo said it correctly, said if you're against abortion then you are for this bill. You can not be -- you cannot have your cake and eat it too. You can't sit on both sides of the aisle. Pro-choice people do not support this bill. If you are pro-choice, you have to go -- to vote on this bill, simple as all of that.

Just for the record, Medicaid and the expenditure, the increased expenditures are -- that go along with Medicaid have to be understood before they attach. Medicaid is not

a poor person's program. Medicaid in this state is a middle class and upper middle class program that is serving in place of a quality, a welfare long-term policy, so let's be right about that, but fundamentally you can not attach a price tag to a fundamental right unconditionally as we're about to do by passage of this bill. So I have to vote no.

ACTING PRESIDENT VOLKER: Senator Espada in the negative. Continue the roll.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: I vote aye.

THE SECRETARY: Senator Galiber excused.

Senator Gold.

(There was no response.)

Senator Gonzalez.

SENATOR GONZALEZ: No.

THE SECRETARY: Senator Goodman.

SENATOR GOODMAN: No.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoblock.

(There was no response.)

Senator Hoffmann.

SENATOR HOFFMANN: No.

THE SECRETARY: Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Jones.

SENATOR JONES: Explain my vote.

ACTING PRESIDENT VOLKER: Senator Jones to explain her vote.

SENATOR JONES: Yes. Again we are here discussing a very emotional issue, and many people have certainly expressed the pros and cons far better than I could. I think something Senator Espada said is what always comes home to me, that I truly believe these things are a choice between yourself, your loved ones and your God or however you need to make that choice, but it is a choice that I as a woman believe I have, and I believe that it's my duty to make sure every other woman has that same right.

I will gladly join you in promoting education that will help youth understand the dangers of sex and the importance of abstinence when they're not ready to take on the responsibility of a family.

I'll join you in educating and providing all women with whatever they need for the tools for a safe sexual experience if that be their choice.

I will join you in extolling the virtues of family and the right of every child to have a secure home with both parents there to take care of them because that's really what we need to be focusing on.

I say many times when you come to the point of an abortion or not an abortion, it's already too late. We've missed all those other pieces that we should have been focusing on.

But the part I won't join you in is taking away this right of women to choose. Again, it's a choice that they need to make themselves and certainly this choice should have

no bearing on economics. It is constitutional, allowed to all women, and we have no right to deny that choice to poor women.

I again vote no.

ACTING PRESIDENT VOLKER: Senator Jones in the negative. Secretary will continue to call the roll.

THE SECRETARY: Senator Kruger.

SENATOR KRUGER: No.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Yes.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Aye.

THE SECRETARY: Senator Leibell.

(There was no response.)

Senator Leichter.

SENATOR LEICHTER: No.

THE SECRETARY: Senator Levy.

SENATOR LEVY: Aye.

THE SECRETARY: Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Maltese.
Senator Maltese.
SENATOR MALTESE: Aye.
THE SECRETARY: Senator Marcellino.
SENATOR MARCELLINO: Yea.
THE SECRETARY: Senator Marchi.
SENATOR MARCHI: Aye.
THE SECRETARY: Senator Markowitz.
SENATOR MARKOWITZ: No.
THE SECRETARY: Senator Maziarz.
SENATOR MAZIARZ: Yes.
THE SECRETARY: Senator Mendez.
ACTING PRESIDENT KUHL: Senator Mendez to explain her vote.
SENATOR MENDEZ: Mr. President, the bill before us today does not take away the right of a woman to choose. The bill that we are voting on today, what it really does is that it does not allow a woman who is poor to have

the money to seek an abortion after deciding that that is what she must do.

I was not planning to speak on this issue. I feel very strongly that the law of the land is that a woman has the right to choose. On the other hand, it is undeniable the fact that any woman who commits or who goes through an abortion is stealing a life. I don't care what anybody says, those are my personal beliefs, but I think that eventually that woman will have to -- will have to, you know, explain her actions once she dies so personally, I believe that abortion is wrong. Personally I believe it's a terrible things to do because you are killing a life, but as a citizen of a great nation and remembering that a woman should not be denied the right to choose, I support this; and finally, Mr. President, as a person that is always fighting for those double standards I must tell you it is a horrible thing to know, as Senator Spano mentioned, that Medicaid, Medicaid -- the Medicaid program in New York State benefits economically more those who have than

those who do not have. The working poor doesn't have access to primary health services.

I don't want to compound that situation either by denying a woman who is poor the right to the -- to make available for her to have an abortion if she chooses to do so.

I vote no.

ACTING PRESIDENT KUHL: Senator Mendez in the negative. The Secretary will continue to call the roll.

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: No.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: No.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Aye.

THE SECRETARY: Senator Oppenheimer.

(There was no response.)

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: No.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Yes.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Santiago.

(There was no response.)

Senator Sears.

SENATOR SEARS: Yes.

THE SECRETARY:

SENATOR NOZZOLIO: Mr. President.

ACTING PRESIDENT KUHL: Senator

Nozzolio.

SENATOR NOZZOLIO: Mr. President, sorry to interrupt this roll call to inquire as to how I'm recorded on this vote?

ACTING PRESIDENT KUHL: Secretary has you reported in the negative, Senator Nozzolio. Is that how you wish to vote?

SENATOR NOZZOLIO: No, it isn't, Mr. President. I vote aye.

ACTING PRESIDENT KUHL: Senator Nozzolio will be recorded in the affirmative. Secretary will continue to call the roll.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: No.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Yes.

THE SECRETARY: Senator Smith.

SENATOR SMITH: No.

THE SECRETARY: Senator Solomon.

(There was no response.)

Senator Spano.

SENATOR SPANO: No.

THE SECRETARY: Senator

Stachowski.

SENATOR STACHOWSKI: Yes.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: No.

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

SENATOR WALDON: Briefly to explain my vote, Mr. President.

ACTING PRESIDENT KUHL: Senator Waldon to explain his vote.

SENATOR WALDON: Those who support this bill -- excuse me, not all but some

of our people, because they thought it is too costly, that we are, in effect, creating a problem in terms of our Medicaid funding by allowing these abortions, but as so clearly pointed out by some of my colleagues on this side of the aisle, the truer picture is that Medicaid funding is not being abused by those who are least able to pay for these abortions and we are, by this action, drawing a line in the sand and declaring war on those who are most unable to take care of themselves, the poor and the defenseless of our society.

In that war, I want to be on the side of the victor. The victors, in my opinion, are those who are least capable of fighting, but they will have justice on their side, justice on their side in the person of Pedro Espada, Olga Mendez, Marty Markowitz and other right think ers.

I vote against this legislation, Mr. President.

ACTING PRESIDENT KUHL: Senator Waldon will be recorded in the negative. The

Secretary will continue to call the roll.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

SENATOR FARLEY: Absentees.

ACTING PRESIDENT KUHL: Secretary will call the absentees.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Gold.

(There was no response.)

Senator Hoblock.

(There was no response.)

Senator Leibell.

(There was no response.)

Senator Santiago.

(There was no response.)

Senator Solomon.

(There was no response.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 32, nays 22.

ACTING PRESIDENT KUHL: The bill

is passed.

Senator Skelos?

SENATOR SKELOS: Is there any housekeeping?

ACTING PRESIDENT KUHL: Yes. We have several things, Senator Skelos.

Senator Levy, why do you rise?

SENATOR LEVY: Yes, I'd like unanimous consent to be recorded in the affirmative on Calendar 1137.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Levy will be recorded in the affirmative on Calendar Number 1137.

Senator Marcellino, why do you rise?

SENATOR MARCELLINO: I rise to ask unanimous consent that my vote be in the affirmative for 1137.

ACTING PRESIDENT KUHL: Senator Marcellino, without objection, will be recorded in the affirmative on Calendar 1137.

Senator Kruger, why do you rise?

SENATOR KRUGER: Mr. President, I would ask unanimous consent to be recorded in the negative on Calendar 1145.

ACTING PRESIDENT KUHL: Without ob...

SENATOR KRUGER: Print 1145, I'm sorry.

ACTING PRESIDENT KUHL: Without objection, Senator Kruger will be recorded in the negative on Calendar 1145.

Senator Larkin.

SENATOR LARKIN: Mr. President, on behalf of Senator Bruno, I'd like to call up Senate Print 5319 which is at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar Number 1147, by the Senate Committee on Rules, Senate Print 5319, an act to amend the Criminal Procedure Law.

SENATOR LARKIN: Mr. President.

ACTING PRESIDENT KUHL: Senator Larkin.

SENATOR LARKIN: I move to reconsider the vote by which the bill was passed and ask the bill be restored to the order of third reading.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: Senator Larkin.

SENATOR LARKIN: Mr. President, I now move to discharge from the Committee on Rules Assembly Print 7993A, and substitute it for the Senate identical bill.

ACTING PRESIDENT KUHL: Substitution is ordered. The bill is before the house.

Senator Larkin.

SENATOR LARKIN: I now move that the substituted Assembly bill have its third

reading at this time.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 1147, by member of the Assembly -- by the Assembly Committee on Rules, Assembly 7993A, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT KUHL: Senator Skelos, we have a message of necessity on this bill at the desk. What's your pleasure?

On Senator Skelos' motion to accept the message of necessity at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: All those in favor of accepting the message at the desk signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect August 1st.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

Under housekeeping, Senator Skelos, Chair recognizes Senator Wright.

SENATOR WRIGHT: Mr. President, on behalf of Senator Holland, I wish to call up bill Print Number 1247 recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 87, by Senator Holland, Senate Print 1247, an act to amend the Education Law, in relation to contracts for the transportation of school children.

ACTING PRESIDENT KUHL: Senator Wright.

SENATOR WRIGHT: Mr. President, I now move to reconsider the vote by which this

bill was passed.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: Senator Wright.

SENATOR WRIGHT: Mr. President, I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Senator Wright.

SENATOR WRIGHT: On behalf of Senator Stafford, please place a sponsor's star on Calendar Number 660.

ACTING PRESIDENT KUHL: At the request of the sponsor, Calendar Number 660 will be starred.

Senator Wright.

SENATOR WRIGHT: On behalf of Senator Goodman, on page number 23, I offer the following amendments to Calendar Number 802,

Senate Print Number 4632, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: Calendar Number 802 will be amended as proposed.

Senator Wright.

SENATOR WRIGHT: Mr. President, on behalf of Senator Goodman, on page number 39, I offer the following amendments -

ACTING PRESIDENT KUHL: Excuse me, Senator Wright. Dinner is over. It's time we have a little order in the chamber. The Secretary can't even hear the motions when they know what's coming. Thank you.

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

On behalf of Senator Goodman, on page 39, I offer the following amendments to Calendar Number 98, Senate Print Number 1367A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 98 received and

adopted. Bill will retain its place on the Third Reading Calendar.

Senator Wright.

SENATOR WRIGHT: Mr. President, on behalf of Senator Maziarz, on Supplement Number 1, page number 3, I offer the following amendments to Calendar Number 1131, Senate Print Number 4435, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 1131 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Markowitz, why do you rise?

SENATOR MARKOWITZ: Thank you. I would like approval to vote in the negative on Calendar Number 1145 and also, if I may, Senate Number 16A, back on April the 10th, in reviewing my records, I should have voted in the yes and a letter will go to the clerk of the Senate. Thank you.

ACTING PRESIDENT KUHL: Without

objection, hearing no objection, Senator Markowitz will be recorded in the negative on Calendar Number 1145. Senator Markowitz, the record will reflect that had you been in the chamber back in April, you would have voted in the negative on Calendar Number 16.

SENATOR PATERSON: In the positive.

ACTING PRESIDENT KUHL: Excuse me, in the positive -- unusual -- on Calendar Number 16. Thank you, Senator Markowitz.

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, we just passed Calendar 1088 by a vote of 32 to 22. However, my records shows that the vote was 33 to 22.

ACTING PRESIDENT KUHL: Senator Paterson, just for the record, why don't we read the negatives. You want to read the roll, read the negatives so we can straighten that out now, Senator Skelos.

Senator Paterson, I'll ask the

Secretary to read the affirmative votes recorded here first and then the negative votes. You can compare your roll call and address the protocol.

Secretary will read the affirmative votes. Secretary will read the affirmative votes first, and then the negative votes.

THE SECRETARY: In the affirmative: Senators Bruno, DeFrancisco, DiCarlo, Farley, Hannon, Holland, Johnson, Kuhl, Lack, Larkin, LaValle, Leibell, Levy, Libous, Maltese, Marcellino, Marchi, Maziarz, Nozzolio, Onorato, Padavan, Rath, Saland, Sears, Skelos, Stachowski, Stafford, Trunzo, Tully, Velella, Volker and Wright.

Those recorded in the negative: Senators Abate, Connor, Dollinger, Espada, Gonzalez, Goodman, Hoffmann, Jones, Kruger, Leichter, Markowitz, Mendez, Montgomery, Nanula, Oppenheimer, Paterson, Present, Seward, Smith, Spano, Stavisky and Waldon.

Senators excused: Cook,

Galiber.

Absent on the roll call: Babbush, Gold, Hoblock, Santiago and Solomon.

ACTING PRESIDENT KUHL: Senator Skelos, what's your pleasure?

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Rules Committee and the Senate will stand at ease pending the report of the Rules Committee.

ACTING PRESIDENT KUHL: Be an immediate meeting of the Rules Committee in the Majority Conference Room, Room 332, immediate meeting of the Senate Rules Committee, Majority Conference Room, Room 332.

The Senate will stand at ease awaiting the report of the Rules Committee.

SENATOR SKELOS: Senate will stand at ease, and the Rules Committee will be getting together. When we return, we will have a meeting of the Rules Committee and we will then stand adjourned until tomorrow at 10:00 a.m.

(Whereupon at 8:45 p.m., the

Senate stood at ease until 9:18 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT VELELLA: Senator Skelos.

SENATOR SKELOS: On page 42, I offer the following amendments to Calendar 564, Senate Print Number 4182. I ask that the star be removed and that the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT VELELLA: So ordered.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT VELELLA: Senator Skelos.

SENATOR SKELOS: If we could return to reports of standing committees, I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT VELELLA: The Secretary will read.

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

Senate Print 594, by Senator Montgomery, an act authorizing the city of New York to reconvey its interest in certain real property;

1085A, by Senator Maltese, an act to amend the Administrative Code of the city of New York;

1414, by Senator Present, an act to amend the Vehicle and Traffic Law and the Parks, Recreation and Historic Preservation Law, in relation to the registration of snowmobiles;

1151, excuse me, 1701, by Senator Spano, an act to amend Chapter 78 of the Laws of 1989, amending the Arts and Cultural Affairs Law;

2789, by Senator Johnson, an act restoring Emil G. Pavlik, Jr. to Tier II membership in the New York State and local employment -- employees' retirement system;

3125, by Senator Marchi, an act to allow Michael Acito to receive credit in the New York State and local employees' retirement system;

3177, by Senator Rath, an act to require the New York State Teachers Retirement System to accept a retirement application;

3725A, by Senator Sears, an act to amend the General Business Law, in relation to prize award schemes;

3940, by Senator Saland, an act to amend the Executive Law, in relation to penalties for unauthorized disclosure of information;

3976, by Senator Spano, an act to amend the Labor Law, in relation to dismissal payments to allow certain successor employees to consider wages paid to an employee;

4230, by Senator DeFrancisco, an act to amend the Civil Practice Law and Rules, in relation to the confidentiality of certain privileged information;

4245, by Senator Marcellino, an act authorizing the assessor of the county of Nassau to accept an application for the exemption for specified real property owned by the Chabad Lubavitch of Plainview, Incorporated;

494, by Senator Marcellino, an act to amend the General Municipal Law, in relation to establishing the town of Huntington Industrial Development Agency;

4387, by Senator Tully, an act authorizing the assessor of the county of Nassau to accept an application for exemption from real property taxes;

4514, by Senator Tully, an act to amend Chapter 972 of the Laws of 1962, relating to the Shelter Rock Public Library;

4518, by Senator Nozzolio, an act to amend the Executive Law, in relation to preliminary and final revocation hearings;

4553, by Senator Lack, an act to amend the Court of Claims act, in relation to abolition of a requirement to file notices of intention;

4908, by Senator Tully, an act to authorize and direct the county of Nassau, town of North Hempstead, village of Westbury and Westbury Central School District to refund certain taxes paid upon real property;

4969, by Senator Velella, an act to amend the Insurance Law, in relation to eliminating certain criteria for multi-tiering program rewarding risks;

4991, by Senator Holland, an act to amend the General Municipal Law, in relation to authorizing certain entities to make purchases through the General Services Administration;

Senate Print 5000, by Senator Bruno, an act to amend the Public Authorities Law, in relation to the Saratoga County Water Authority;

5017, by Senator Nozzolio, an act to amend the Correction Law, in relation to providing notification to law enforcement officials when a convicted felon is released;

5043, by Senator Tully, an act authorizing the assessor of the county of Nassau to accept an application for exemption from real property taxes;

5117, by Senator Goodman, an act to amend the Election Law, in relation to

accessible polling places;

5164, by Senator Cook, an act in relation to authorizing the town of Greenville, Orange County, to sell and convey certain park land;

5201, by Senator Leibell, an act to amend the Public Authorities Law, in relation to loan insurance;

5241, by Senator Tully, an act to amend the Public Service Law, in relation to revenues earned by water works corporation; and

2807, by Senator Larkin, an act to amend the Education Law, in relation to the reporting of school safety inspections and review thereof.

All bills ordered directly for third reading.

ACTING PRESIDENT VELELLA: Without objection, all bills ordered to third reading.

SENATOR SKELOS: The Senate will stand at cease.

ACTING PRESIDENT VELELLA: The

Senate stands at ease.

(Whereupon at 9:25 p.m., the Senate stood at ease briefly.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT VELELLA: Senator Skelos.

SENATOR SKELOS: Would you please recognize Senator Hoblock.

ACTING PRESIDENT VELELLA: Senator Hoblock.

SENATOR HOBLOCK: Thank you, Mr. President. Unfortunately, I was out of the chamber on official business when Calendar Number 1088 was debated and voted on and had I been present in the chamber, I would have voted in the negative.

SENATOR SKELOS: The record will so indicate that had -

ACTING PRESIDENT VELELLA: So ordered.

SENATOR SKELOS: O.K.

ACTING PRESIDENT VELELLA: Senator Skelos.

SENATOR SKELOS: Mr. President, there being no further business, I move we adjourn until tomorrow, June 7th, at 10:00 a.m. sharp.

ACTING PRESIDENT VELELLA: The Senate stands adjourned until tomorrow, Wednesday, June 7th, at 10:00 a.m.

(Whereupon at 9:30 p.m., the Senate adjourned.)