ALBANY, NEW YORK

June 14, 1995

10:05 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. Members please find their places; staff their places.

I ask everybody in the chamber to rise and join me in saying the Pledge of Allegiance to the Flag.

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

ACTING PRESIDENT KUHL: We're very pleased to be joined by Rabbi Jeffrey Miller of the Marathon Jewish Center of Douglaston, New York, to lead us in prayer.

Rabbi Miller.

RABBI MILLER: The scriptural reading for this week is taken from the book of Numbers, Chapters 8 through 12. This selection will be read in its entirety on Saturday morning in synagogues throughout the world:

And the Lord spoke unto Moses saying, "Speak unto Aaron and say to him, 'When you kindle the lights so that the flames go up

the southern lamps will light and give light against the face of the candelabra.'"

The Bible then continues: And Aaron did so as God commanded him to do.

Our sage's comment is that it is unusual for the Bible to have to take the time to explicitly tell us that Aaron obeyed the will of God. Wouldn't anyone obey God's will? Surely the high priest of Israel would do precisely as he was commanded.

Our sages explain that the verse offers us a great insight into the character of Aaron. Aaron obeyed God not only this once but throughout his 39 years of service to the people of Israel in the desert. Aaron, we are told, never lost his enthusiasm for doing even the most routine of functions, the daily lighting of the lamps.

Aaron's greatness was his consistent love for God and for the people Israel. He strived to demonstrate that commitment through personal example.

When we perform any act

repeatedly, no matter how important it initially seems, we run the risk of making it routine or forgetting its great significance; we run the risk of treating a holy task as a bad habit.

Other rabbis suggest a second explanation for the verse, "And Aaron did as God commanded." Not only did Aaron change the manner in which he performed the duties of his office, but he didn't change himself. Despite being given the highly public honor of leading a nation, Aaron the high priest continued to be Aaron the father, Aaron the husband, the neighbor, the brother and the friend. He didn't change his character as a result of the public role he assumed.

Later in the scriptural reading, we learn that Moses also remained Moses after he became Moses, the law giver, "And the man Moses was exceedingly humble from all the men on the face of the earth." Surely, if anyone had a right to be just a little bit proud, it was Moses, who spoke with God Almighty.

What made these brothers great

was the constant focus on the responsibilities of their role rather than the power of their office, and we today have a great deal to learn from Moses and Aaron.

Almighty God, may the men and women of this great body lead us by their personal example; may they continue to guide in their service to our state so that their hearts remain focused on the holy task they have been granted. May You, dear God, bless them with the greatest gift any public servant can have, the humility and peace of mind to remain true to the ideals that led them to seek office, the enthusiasm to perform even the most routine of legislative functions.

Amen.

ACTING PRESIDENT KUHL: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, June 13th. The Senate met pursuant to adjournment, Senator Kuhl in the Chair upon designation of the Temporary President. The Journal of Monday, June 12th, was read and

approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Bruno, we have one substitution.

SENATOR BRUNO: Mr. President, please make the substitution.

ACTING PRESIDENT KUHL: Secretary will read the substitution.

THE SECRETARY: Senator Saland moves to discharge the Committee on Rules from Assembly Bill Number 4608A and substitute it for the identical Calendar Number 1320.

ACTING PRESIDENT KUHL:

Substitution is ordered.

Chair recognizes Senator Larkin.

SENATOR LARKIN: Mr. President, would you please remove a sponsor's star on Calendar Number 215, Senate Bill 2090C, and Calendar 557, Senate Bill 3069.

ACTING PRESIDENT KUHL: Sponsor stars will be removed.

Senator Larkin, that brings us to the calendar. What's your pleasure?

SENATOR LARKIN: Mr. President, can we start with the noncontroversial, please.

ACTING PRESIDENT KUHL: Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 15, by Senator Kruger, Senate Print 302A, an act to amend the Penal Law, in relation to increasing the penalties for loitering.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 130, by Senator Cook, Senate Print 724.

SENATOR LARKIN: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 743, by Senator Seward, Senate Print 3827B, an act to authorize the city of Ithaca in the county of Tompkins to discontinue the use of certain real property.

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

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 34.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 745, by Senator Kuhl, Senate Print 3909B, an act in relation to authorizing the city of Elmira, county of Chemung, to transfer a portion of Diven Park.

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

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 34.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 747, by Senator Kuhl, Senate Print 4218A.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 923, by Senator Kuhl, Senate Print 3172B, an act to amend the Tax Law, in relation to extending the additional one percent rate of sales and compensating use taxes.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 937.

SENATOR LARKIN: Lay it aside.

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

Lay the bill aside.

THE SECRETARY: Calendar Number 993, by Senator -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1214, by Senator Larkin, Senate Print 1736A, an act to amend the Real Property Tax Law and the Public Service Law.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

1266, by Senator LaValle, Senate Print 5372, an act to amend Chapter 311 of the Laws of 1920, relating to the assessment and collection of taxes in Suffolk County.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1272, by Senator DiCarlo.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1284, by Member of the Assembly Dinowitz.

SENATOR STACHOWSKI: Lay it

aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1285, by Senator Hannon, Senate Print 5026A.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1287, by Senator Hannon.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1292, by Senator Padavan, Senate Print 701, an act to amend the Social Services Law.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

1294, by Senator Skelos, Senate Print 2829, an act to amend the General Obligations Law.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1296, by Senator Padavan, Senate Print 3092, an act to amend the Social Services Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1297, by Senator Padavan.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1299, by Senator DeFrancisco, Senate Print 3520, an act to amend the Social Services Law, in relation to the transportation of certain persons.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1300, by Senator Rath, Senate Print 3882B, an act to amend the Tax Law, in relation to extending the effectiveness of the one percent increase in sales and compensating use taxes.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1301, by Senator Rath, Senate Print 3883, an act to amend the Tax Law, in relation to imposing a hotel and motel tax in the county of Genesee.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1302, by Senator Leibell, Senate Print 3908, an act to amend the Local Finance Law, in relation to contracting indebtedness for the abatement of nuisances and other conditions.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1303, by Senator Cook, Senate Print 4170, an act to amend the Tax Law, in relation to the imposition of additional taxes in the county of Ulster.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1304, by Senator Saland, Senate Print 4509, an act to amend the Not-For-Profit Corporation Law, in relation to eliminating limitations on certain corporations.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1305, by Senator Seward, Senate Print 3514A, an act to amend the Executive law, in relation to Fire Prevention and Building Code standards.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1306, by Senator Maziarz, Senate Print 4805, an act to amend the Public Health Law, in relation to notification of patients.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1307, by Senator Maziarz, Senate Print 4811A, an act to authorize and validate the creation of a volunteer fire fighter service award program.

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

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1308, by Senator Cook, Senate Print 4871A, an act to amend the Tax Law, in relation to the rate of sales and compensating use tax imposed on Greene County.

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 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1309, by Senator Sears, Senate Print 4902A, an act in relation to the calculation of average daily attendance and minimum days of session for an experimental kindergarten program.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1310, by Senator Skelos, Senate Print 4958A, an act to amend the Public Service Law, in relation to the elimination of the mandate for the Public Service Commission.

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 1311, by Senator Skelos, Senate Print 4960A, an act to amend the Arts and Cultural Affairs Law, in relation to copyrights.

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 1312, by Senator Velella, Senate Print 5045.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1316, by Senator Kuhl, Senate Print 5308, an act to amend the Public Health Law, in relation to continuing the Agricultural Health and Safety Advisory Board.

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 1317, by Senator Velella.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1320, substituted earlier today, by Member of the Assembly Brodsky, Assembly Print 4608A, an act to amend the Environmental Conservation Law, in relation to the taking of Atlantic Menhaden.

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 1321, by Senator Jones, Senate Print 4546, an act authorizing the town of Irondequoit, Monroe County, to make available to Samuel Soprano, Jr. membership in the 20-year optional retirement plan.

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

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.

Chair recognizes Senator Larkin.

SENATOR LARKIN: Mr. President, may we return to reports of standing committees for a report from the Judiciary Committee.

ACTING PRESIDENT KUHL: Before we do that, Senator Stachowski, why do you rise?

SENATOR STACHOWSKI: Mr. President, could we possibly reconsider the vote by which Calendar 1310 passed the house?

ACTING PRESIDENT KUHL: The bill is still in the house, Senator Stachowski.

SENATOR STACHOWSKI: Could we reconsider the vote and lay the bill aside?

ACTING PRESIDENT KUHL: The motion is to reconsider the vote by which the Calendar Number 310 passed the house.

SENATOR STACHOWSKI: 1310.

ACTING PRESIDENT KUHL: -- 1310 passed the house.

The Secretary will call the roll on reconsideration.

THE SECRETARY: Calendar Number 1310, by Senator Skelos, Senate Print 4958A, an act to amend the Public Service Law.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

Now, there is a report of the Judiciary Committee at the desk. I ask the Secretary to read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nomination:

Donald J. Corbett, of Rochester, for the New York State Court of Claims.

SENATOR LACK: Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I'm happy to begin a group of six nominations this morning to the New York State Court of Claims nominated by Governor Pataki, a wonderful group of appointees, a very disting uished group of appointees.

Mr. President, the lead appointee is a current sitting judge of the Court of Claims, the immediate past Presiding Judge of that court, Donald J. Corbett, of Rochester.

He went before the screening committee. He has been nominated by the Governor. His bona fide credentials have been examined by staff of the Judiciary Committee, and this morning he appeared before the committee and was unanimously recommended to the floor for confirmation.

And, Mr. President, I would like to yield for purposes of seconding to Senator Michael Nozzolio.

ACTING PRESIDENT KUHL: Chair recognizes Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President. My colleagues. As stated in the Judiciary Committee meeting this morning and will be echoed before us this morning on a number of occasions that the caliber and quality of candidate placed in nomination for the Court of Claims is certainly an excellent one. That cadre of candidates is lead in the first nomination by a renomination of Judge Donald J. Corbett Jr. to serve in continuance of service on the Court of Claims.

Judge Corbett was appointed to the Court of Claims in July of 1983 and has served with distinction this last period, during which he rose to the rank of presiding judge of the court.

Judge Corbett brings to the court

a great wealth of experience and background both in private practice and in public experience. In 1974, he was elected to the Monroe County Family Court and has served in a variety of judicial capacities since that time.

During his tenure as a member of the Court of Claims throughout the Central New York and Western New York Region, he has gained and earned the respect of the judiciary in that region. I can attest to many judges who have claimed and commented about Judge Corbett's integrity and his activity relative to strengthening the judiciary in our region.

In 1993, Judge Corbett was appointed a member of the New York Judicial Committee on Women in the Courts by Chief Judge Judith Kaye; and along with this experience, I compliment the Governor in this renomination of Judge Corbett to continue on the Court of Claims and urge my colleagues to join in support.

Thank you very much.

ACTING PRESIDENT KUHL: The question is on the nomination of Donald J.

Corbett of Rochester, New York.

Excuse me. Senator Dollinger to speak on the nomination.

SENATOR DOLLINGER: To speak on the nomination. Don Corbett of Rochester has been a fixture in our legal community for the better part of 25 or 30 years.

I note that he went to -- he was a graduate of Aquinas High School and, in deference to Senator Gold, he went to the Cornell of the Midwest, a little school run by the Jesuits out in South Bend, Indiana, from which he graduated. He then went to Albany Law School, an institution that I also call a home, and came to Rochester, practiced in private practice, was elected to the Family Court and then appointed by the prior governor to a seat on the Court of Claims. He has distinguished himself in that position.

He has, I think, more than adequately represented the high standards of the Rochester legal community. I applaud Governor Pataki for renominating him.

And I will add one other thing, with respect to Senator Velella, who said, "Is there a stenographer present?" when I praised Governor Pataki for his nominees to the bench. I think, based on my experience on the Judiciary Committee, limited and short as it may be, that the nominees that Governor Pataki has put forward to fill vacancies on the Court of Claims, as well as local judicial vacancies, has been of extremely high quality.

As someone who has, at times, been critical of the Governor's choices in other areas, I want to announce publicly that I support the Governor's continuing to put quality on the bench in the State of New York so that from top to bottom, from the Court of Appeals, down to the Court of Claims, down to the Supreme Court, down to the Family Court, to all the trial level courts in this state, we will continue to have highly qualified men and women who reflect the best in the Empire State.

Judge Donald Corbett is a great example of that. I commend Governor Pataki for

reappointing him, and I wish Judge Corbett well in the future.

ACTING PRESIDENT KUHL: Chair recognizes Senator Volker.

SENATOR VOLKER: Mr. President. Very briefly, I want to further echo what has been said about the appointments that the Governor has made to the judiciary, and especially I want to say that Don Corbett is recognized as one of the leading judges in all of Upstate New York and the Rochester area, I think, has an immense amount of respect for him, and I want to also say that he is not only a great lawyer and a great judge but a fine gentleman and a wonderful credit to the bench, and I think it was a tremendous appointment by Governor Pataki.

ACTING PRESIDENT KUHL: Chair recognizes Senator Stafford on the nomination.

SENATOR STAFFORD: Mr. President, probably today we shouldn't be correcting each other, but in South Bend, Jesuits? Oh, no. No, not Jesuits. So I thought we'd just -- however,

a very good school.

On a serious note, Mr. President, many of us, including myself, have gotten to know Don Corbett very well, as has been said here today. He is an excellent lawyer. He's a hard worker. He is approachable, and he's got that sense, frankly, that all six do here today, of making decisions, proper decisions, and we're fortunate that he is continuing on the Court of Claims.

ACTING PRESIDENT KUHL: The question is on the nomination of Donald J. Corbett, of Rochester, New York, to become a Judge of the New York State Court of Claims.

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

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The nominee is unanimously confirmed.

Judge Corbett has joined us in the chamber to your left in the gallery.

Judge Corbett, congratulations on your reappointment. Thanks for joining us.

(Applause.)

Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nomination: James Preston King of Ticonderoga, judge of the New York State Court of Claims.

ACTING PRESIDENT KUHL: Chair recognizes Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I proudly rise to move the nomination of James Preston King, for the next couple of minutes anyway, a member of the New York State Assembly, as a judge of the Court of Claims.

I'm going to yield to his longtime friend, Senator Stafford, in a moment, but I can't help but take notice of the presence of the Minority Leader of the Assembly in this chamber and a whole passel of members of the

Assembly standing behind me, who I assume are here this morning in testament to their long time friend and colleague, Jim King.

So it's a privilege, Mr. President, for me to stand up and tell you that the Judiciary Committee unanimously moves the recommendation of Jim King today, having been found well qualified by the screening committee and nominated for the position of judge of the Court of Claims by Governor George Pataki, in another excellent appointment.

Mr. President, I would yield to Senator Stafford for purposes of a second.

ACTING PRESIDENT KUHL: Chair recognizes Senator Stafford.

SENATOR STAFFORD: Thank you, Mr. President.

This is one of the most pleasant days that I have had in the few years that I have been here in the Senate. Some people sometimes say, "Why do you say the same thing all the time?" And I tell them, "Because I haven't got anything else to say," but the point

is, as we've said about the Governor's nominations and appointments, they have been excellent, and we stand here day after day saying these are of the best nominations that could have been made, and these are today.

James King is no exception. He served in the Marine Corps, and he rose to the rank of General. We could just stop there, because how many get to be a General? But he was the Judge Advocate of the Marine Corps, responsibility for all the legal work in the Marine Corps during a very, very difficult time in our history, during the Korean and Vietnam War Era.

Jim has been a law professor at Stetson University. He also has been an assistant to a Supreme Court Justice, and I could go on and on. Finally, one day, he said he was going to run for the Assembly, and I said to him, "Well, you are better than any of us in the Legislature," and he proved I was right. He got down here and he worked hard, respected, so well liked, and now ascends to the bench.

As I said and so many have said, the Governor could have made no better choice, and for Jim and his family, today it's a great day. But it's also a great day for the State of New York to have Jim King on the Court of Claims. New York will be better for his past efforts and for his future efforts, and we all congratulate him.

ACTING PRESIDENT KUHL: Chair recognizes Senator Gold on the nomination.

SENATOR GOLD: Yes, thank you.

Mr. President. There are six nominees, and they had a wonderful start with the Presiding Judge, former Senator Mega, telling us about them. But I was looking through the list, and Judge Brunetti I didn't have a problem with because he is from Syracuse and he knows my former roommate from law school; and, of course, Judge Corbett is a legend, that wasn't a problem. Mr. Midey was a former legislative counsel which I respect, so that wasn't a problem. Ron Tills I knew from the Assembly, and Judge Ruderman with her M.A. from

Cornell is no problem.

But, with Mr. King, I didn't know what to do, so I decided to consult the highest possible authority available, and since Assemblyman Rappleyea said to go for it, I'm going to do that. Thank you, Assemblyman.

ACTING PRESIDENT KUHL: Senator Farley, on the nomination.

SENATOR FARLEY: Thank you, Mr. President.

I rise to support the nomination of Jim King, a true renaissance man, a guy that not only grew up in humble circumstances but went on to distinguish himself in so many different avenues, as a law professor, assistant attorney general, as a General in the Marine Corps, as a combat veteran.

As a distinguished Assemblyman, he served as one of my Assembly people in Fulton County and Montgomery County in several areas that I represent, and I never saw anybody in their first year in the Legislature accomplish so much and do so much as Jim King did.

He is not only a splendid person and a delightful person to be around, he is a great family man, has a beautiful family and a lovely wife, who is with him today up in the gallery.

But it's a terrible loss. I see all these Assemblymen all over the chamber here. I don't know whether they are for or against him, because I'm sure they don't like to lose him to the chamber over there, but I'm sure that everyone in this chamber, including your colleagues, is thrilled and happy for you, Jim.

I'm going to vote enthusiastically for his appointment to the Court of Claims, and the state of New York is very, very grateful for the service that you have given us and, not only that, but the service you have given to your country.

Best wishes to you, Jim.

ACTING PRESIDENT KUHL: Senator Leibell on the nomination.

SENATOR LEIBELL: Thank you, Mr. President.

I could not let this opportunity pass by without rising to comment on this nomination. I have had the chance to speak here previously on Governor Pataki's nominations, and he has certainly, without question, sent us some excellent men and women to serve New York State, but, as was noted, we have someone here today who is particularly special and who is someone that myself and my family consider to be a close and dear friend.

It's been noted that Jim King has had a distinguished career, a great military career in that naval service, the Marine Corps. He served as the senior Marine Corps attorney, as was noted, during some very difficult times and, rather than retiring to the South or the Southwest, he came back to the state of his origin and continued and expanded upon his career of public service.

I think it says something that we have so many of my former colleagues who are here today and, while they do not have the opportunity to speak as I do now, I know they

are here and share my thoughts as does our leader "Rap" Rappleyea in expressing our great affection for Jim King. He certainly was one of those people who came into the Legislature and by his character and skill and good humor changed the course of many of our activities and certainly created a finer Legislature than it might otherwise have been.

I am very pleased to stand here today and support this nomination. It's an excellent one, Mr. President.

ACTING PRESIDENT KUHL: Senator Larkin on the nomination.

SENATOR LARKIN: Mr. President, I proudly rise to second the nomination of Jim King for the Court of Claims.

Some of you in this chamber remember Desert Storm, when we were trying to find out how to protect the families of those individuals who were called to active duty 24, 48, 72 hours notice, one of the compelling problems was, how do we protect the families. In some of the insurance plans, the little group

policy written up, it didn't provide any protection for those families and none of them knew about it.

I went to Jim King, because I knew that General King had been in the Judge Advocate -- he was the Judge Advocate of the Marine Corps, a highly sought position and only few can serve. I went to Jim King, and we sat down, and we went over what we were trying to do with the law, how we would protect these families that were unprotected because there was no facilities for them where they were called up from to use the military facilities.

Jim King suggested I call a Navy captain in the Pentagon.

Thanks, Jim.

I called him and, after discussion, he faxed me some material of how this could be accomplished. He said, "By the way, why did King tell you to call me?"

"He said he thought you should know."

He said, "No, Senator, you got it

wrong. General King wrote this directive to protect families of those who were called up."

General King isn't just another ordinary individual that served three terms here. I don't know how many of you ever been a young lieutenant in a foxhole. He's been there. I don't know how many of you ever needed an excellent trombone player. He's been there.

He's been a friend, a colleague; and I know, as Vin Leibell said, our colleagues from the other house that were with us with Jim would like to speak but, as I just told Gordon, the Governor took a round peg and put it in a round hole to make this system work. Jim King is the right person for the right job at the right time.

General, I congratulate you.

ACTING PRESIDENT KUHL: Senator Stachowski on the nomination.

SENATOR STACHOWSKI: I, too, rise to second the nomination of Jim King.

I don't know him all that well, but I did have the pleasure of serving with him

on the Ethics Commission, which most of you would agree isn't really a pleasure. But he always had a nice word and was nice to everybody that came and very cordial, and he showed a quiet dignity that I think will serve him very well as a judge.

And I would like to point out that I think one of the reasons all those Assemblymen are here is to make sure that "Rap" sees them here supporting King so that he won't pick them to be the next person on the Ethics Commission.

ACTING PRESIDENT KUHL: Senator Leichter on the nomination.

SENATOR LEICHTER: Mr. President, as many of you know, I'm very fortunate to have a country home up in the North Country and, therefore, I have had a wonderful summer Senator representing me, Ron Stafford; but I have also had, and I'm afraid about to lose, a wonderful summer Assembly member in Jim King.

I think it says something of the North Country that they can produce such

outstanding leaders as Senator Stafford and General King.

But let me tell you, if we're judged by the people who know us best, you can't get a better grade than Jim King. He is really beloved in the North Country. They know him as the gentleman he is, as the fair person he is, as the one who provides service, and the thing that has always impressed me about Jim King is that he is so unassuming and yet he leads, by the force of his personality, by the example that he sets, and I think he is going to be just an excellent addition to the Court of Claims.

As an old trial attorney, I would want to be before a judge like Jim King, who is going to be fair and firm, who is going to listen to you and is going to do the right thing.

It's really an excellent appointment the Governor has made.

ACTING PRESIDENT KUHL: Senator Hoblock on the nomination.

SENATOR HOBLOCK: Thank you, Mr.

President. I am, indeed, proud to rise and join with so many others in seconding the nomination of Jim King as judge of the New York State Court of Claims.

You know, so much has been said about Jim and, you know, there's a saying in the service that, if you're an officer, you become a gentleman and, particularly, if you are a flag officer, by act of Congress you become a gentleman.

Well, in the case of Jim King, it certainly did not take an act of Congress to make Jim a gentleman and, as has been said here, he has been very unassuming.

I knew Jim first by reputation as a member of the Marine Corps and his rise through the ranks to become the Judge Advocate General, which there is only one position for that in the United States Marine Corps, and Jim rose to that position, and that was because of his character, his integrity and his work as an officer in the United States military.

And then he went on to serve his

state, and I got to know him a little bit better when he was in the Attorney General's office, and the one thing that we all spoke about at the Judiciary Committee is that, when you think of Jim King, you think of the word "gentleman", and that's what Jim is.

He has truly served everyone who has come in touch with him, and he has correspondingly served his country, his town, his county, his state, and now he goes on to sit in judgment where he truly belongs, and it does give me great pleasure to join with so many others to congratulate my good friend, Jim King, in seconding his nomination.

ACTING PRESIDENT KUHL: Senator Wright on the nomination.

SENATOR WRIGHT: Thank you, Mr. President.

I, too, join my colleagues to rise and second the nomination of Jim King.

One of the unique opportunities that you have as a member of the Senate is to vote on confirmation matters and to cast your

vote for individuals of the caliber of Jim King.

Jim and I have had the opportunity now to serve together representing the North Country as colleagues here for the last three years and, throughout that tenure, he has been, as he has been throughout his career, a gentleman, a scholar, and certainly his legal career is testimony to his qualifications to the bench.

But all of that aside, what Jim's career has exemplified is that of a dedicated public servant, and I think that's more important in terms of the caliber of the individuals that we place on our bench.

So I'm very proud to be here and rise in support of the nomination, encourage my colleagues to join with me in voting to confirm Jim King, and extend our best wishes and congratulations to him.

ACTING PRESIDENT KUHL: Senator Sears on the nomination.

SENATOR SEARS: Thank you very

much, Mr. President.

I, too, want to be very brief in seconding the nomination of Jim King to be a Court of Claims judge. It has all been said. There's nothing that I could add to the accolades that have been said here today, and I'm happy to join my former colleagues in the Assembly who are not over here and also the ones that are who have moved over.

We're all so proud of you, Jim. Godspeed. I know you're going to do a great job. It's great to have served with you as a member from the North Country. I'm very happy to second the nomination of Jim King for Court of Claims Judge.

ACTING PRESIDENT KUHL: Is there any other member wishing to speak on the nomination?

(There was no response.)

Hearing none, the question is on the nomination of James Preston King to become a Judge of the New York State Court of Claims.

All those in favor, signify by

saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The nominee is unanimously confirmed.

Judge King is joining us in the chamber. Also with him are his wife, Jane, his son Jim and his wife Lisa, his sons David and Glenn and his sisters Ruth Mullaney and Carolyn Charleton. I think the rest of Ticonderoga is here also.

Judge, congratulations on your new appointment. We wish you well.

(Applause.)

Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nomination: Nicholas Midey, Jr. of Seneca Falls.

ACTING PRESIDENT KUHL: Senator Lack.

SENATOR LACK: Thank you, Mr.

President.

I rise to move the nomination of Nicholas Midey, Jr. of Seneca Falls as judge of the New York State Court of Claims. Once again, he's been examined by the committee, endorsed unanimously by the committee. His credentials have been examined by the committee staff. He has passed the steering committee appointed by the Governor and has been nominated by the Governor, and it's with extreme pleasure, because now I don't have to hear from Senator Nozzolio every day on what's happening, that I ask Senator Nozzolio to please second the nomination.

I yield to him.

ACTING PRESIDENT KUHL: Chair recognizes Senator Nozzolio on the nomination.

SENATOR NOZZOLIO: Thank you, Mr. President.

And thank you, Senator Lack, for the tremendous leadership you have shown as chairman of the Judiciary Committee, and I think it cannot be overstated that the caliber of

judge who this Senate is reviewing today in each of the nominees is the par excellence that I believe this court has never seen before, and that I rise, Mr. President, my colleagues, in endorsement of Nicholas Midey, Jr. as a nominee of Governor George Pataki for justice of the New York State Court of Claims, and it is with the most tremendous pleasure that I do so.

We rise often on behalf of nominees that we represent or know. I rise today with not only the knowledge of this nominee but an intimate friendship and kinship with him throughout my entire life. We both went to school together. We both played on athletic teams together. We worked together, played together, grew up together, and lived in one of the best small towns the Empire State has in its jurisdiction.

During these last few years, I have sought the counsel of Nick on a number of occasions both during my tenure as an Assemblyman and here, in service in this great body. I found Nick Midey to be extremely

conscientious, an excellent public servant, a successful private attorney, a selfless community volunteer and a dedicated husband and father.

He is a lifelong resident of my hometown of Seneca Falls, a graduate of Miners Academy, Georgetown University, and the Syracuse University College of Law. He went home to practice law in a very successful law practice and worked very hard, working with the people of our community, the institutions of our community, and served in areas of municipal law, banking law and criminal law, and working for 14 years as Seneca Falls and Seneca County's Public Defender, for 12 years as Seneca Falls Town Attorney.

During his private practice also found time to volunteer, to serve on the very important Committee on Character and Fitness for applications to admission to the State of New York State Bar for the Fourth Department, one of the only small town attorneys to have that distinction. Also Nick worked very hard on the

Fourth Department's Committee on Gender Fairness, a particularly significant position, because in that his hometown is the birth place of women's rights in this nation. Nick worked on that committee and sought very high - received very high marks as a result of that involvement.

I believe, Mr. President, my colleagues, by advancing this nomination, the Governor has shown -- and I believe significantly to his credit -- that he understands and appreciates the hands-on, personally-oriented, people-oriented experience that a small town lawyer can bring to the bench.

Something I believe that is extremely important is service to people, service to people in everyday opportunities, and that service can only enhance the bench, can only serve to make our judiciary a more responsive one and one that we all can continue to be proud of. Nick Midey has served his clients, his neighbors, his family and his

employers with marked excellence and distinction, and it befits me and it befits him to serve on a place on the New York State Court of Claims, one of the highest courts in this country, one of the most distinctive courts in this nation.

Nick will bring a perspective and an energy and an enthusiasm unparalleled, in my view. Mr. President, I can not overstate my honor and my happiness in bringing this nomination to the Senate, and I urge my colleagues to support the nomination of Nicholas Midey, Jr. to the New York State Court of Claims.

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

(There was no response.)

Hearing none, the question is on the nomination of Nicholas Midey, Jr. of Seneca Falls to the position of judge of the New York State Court of Claims.

All those in favor, signify by

saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The nominee is unanimously confirmed.

We are happy to be joined by Nick Midey, who is in the gallery above us to your left, and his wife, Marie.

Nick, congratulations and good luck.

(Applause.)

Chair recognizes Senator Larkin.

SENATOR LARKIN: Mr. President, may we now please take up Resolution 1619, sponsored by Senator Velella.

ACTING PRESIDENT KUHL: We will return to motions and resolutions. I will ask the Secretary to read the resolution in its entirety.

THE SECRETARY: By Senator Velella and all members of the Senate, Legislative Resolution, commending the New York

Urban Search and Rescue Task Force for its initiative in responding to the disaster in Oklahoma City.

Whereas, It is the sense of this Assembled Body that those who give positive definition to the profile and disposition of the communities of our nation do so profoundly strengthen our shared commitment to the exercise of freedom; and

Whereas, Attendant to such concern and fully in accord with its longstanding traditions it is the intent of this Assembled Body to commend the New York Urban Search and Rescue Task Force for its initiative in responding to the disaster in Oklahoma City; and

Whereas, The New York Urban Search and Rescue Task Force NY TF-1 came into existence about three years ago as the result of a need to augment local emergency response personnel at the scene of catastrophic emergencies throughout the United States; and

Whereas, Federal Emergency

Management Agency defined the need to have a rapid mobilization, NY TF-1 can, within six hours of notification and activation, travel to a point of departure with an entire cache of rescue, logistical, technical, communication and medical equipment that will be necessary to operate independently for ten days or longer; and

Whereas, as part of the deployment, 58 skilled and experienced personnel from New York City's fire, police and emergency medical services operate as a single team; the team's knowledge, skills and experience are broad and extensive in search, rescue, heavy rigging, structural collapse, hazardous materials, K-9 search and emergency medical care.

All members of NY TF-1 are veterans of the World Trade Center bombing and some task force members operated at the Bridgeport building collapse in Connecticut several years back.

Under the leadership of the Mayor

of the City of New York, Rudolph W. Giuliani, the NY TF-1 members were dispatched to Oklahoma City in response to the devastating events to help provide relief at the bomb site.

Upon activation for the Oklahoma City bombing, the NY TF-1 mobilized and deployed, operating the first 35 hours without relief; after being relieved, NY TF-1 began working 12-hour shifts from 1900 hours to 0700 hours until ordered to stand down.

During the search and recovery operations, NY TF-1 recovered approximately 30 percent of all victims and identified the location of a significant number of other victims; this is extraordinary considering 10 other FEMA Task Forces operated in the same area.

Members of the New York City Urban Search and Rescue Task Force are: Fire Department: Raymond Downey, John O'Connell, Craig Shelley, Jack Fanning, Edward Beban, Terry Hatton, John Ferry, William J. McCarthy, James Ellson, Michael Milner, Timothy Brown, Stephen

J. Casani, Michael Esposito, Peter Martin, Kenneth Memmen, Philip H. McArdle, Billy Lake, John V. Tighe, Steve Spall, Kevin Dowdell, Richard Evers, Al Fuentes, Hugo Herold, Dan McDonough, Sam Melisi; Police Department: Donald LaSalla, Curt Wargo, John McArdle, Timothy Farrell, James Buscemi, Juan Garcia, John English, Michael Corr, Dennis O'Connell, Kenneth Winkler, Peter Conlin, Manuel Hernandez, Mark D. Rippel, Michael Hanson, Michael Curtain, Charles Ruppert, Thomas Rowe, Eric Becker, Joseph Amato, Lawrence Johnston, Thomas Langone, Kevin Clark, John Ryan, Michael Berg, Stephen Berger, Michael Firgurski, Robert Schnelle; and Emergency Medical Service: Charles Wells, James Booth, Carl Tramantana, Raymond Bonner, Dario Gonzalez and Michael Kindschuh; and

Whereas, through their valiant concern for the victims of the Oklahoma City disaster, the members of the New York Urban Search and Rescue Task Force have so unselfishly advanced that spirit of united purpose and shared concerned which is the unalterable

manifestation of our American experience; now therefore be it

Resolved, That this Assembled Body pause in its deliberations and most proudly commend the New York Urban Search and Rescue Task Force for its initiative in responding to the disaster in Oklahoma City, fully confident that such procedure mirrors our shared commitment to preserve, to enhance, and to yet effect that patrimony of freedom which is our American heritage; and be it further

Resolved, That a copy of this Resolution, suitably engrossed, be transmitted to the New York Urban Search and Rescue Task Force.

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

SENATOR VELELLA: Mr. President. April 19, 1995, was the day that shocked everybody across the world. The vulnerability of each and every one of us as a victim of whether it be terrorism or natural disasters was brought home to each and every one of us.

As a response, our nation called upon 25 teams from 17 states to address the problem of the Oklahoma bombing and help search for the bodies that were there and help save lives.

New York State was pleased in having one of those teams from the City of New York which consisted of 58 men who are here with us today, men that came from the fire depart ment, the police department and the emergency medical services of the city of New York. They were ready to respond. They worked diligently. Their first shift was a 35-hour shift working in that building trying to recover bodies. After they took a break from that 35-hour shift, they worked successive 12-hour shifts searching for bodies, searching for people, saving lives.

We're all very much aware of the fact that, whether it be a natural disaster or an act of terrorism, this can strike anywhere at any time, whether it be us or one of our loved ones, these are the people who stand ready 24 hours a day to respond at their own personal

danger to help save lives and recover bodies.

I certainly am proud to say that they are here with us today and, while we're happy to see them, just pause for a moment and think of the people trapped in that building that were even happier to see their faces as they were reached and their lives were saved because of the dedication of these men.

I ask you to join with me in giving them a welcome from the Senate and ask them to stand and receive our accolades.

Thank you for a job well done.

(Standing ovation.)

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

SENATOR PATERSON: Mr. President, to speak on behalf of the Minority.

As Senator Velella said, April 26th is a date that will mark one of the great disasters in American history and certainly the one that claimed the most lives in one single incident. I'm sorry, April 19th is the date that that occurred. April 26th, one week later,

we gaveled in at 10:00 a.m. in the morning to observe the national silence. The Majority Leader had us gavel in early that particular day in recognition of that tragic event.

And so these individuals of distinction from the police department, the fire department, and the emergency medical services, not only served with great honor but also served with great distinction, as the resolution says. These individuals recovered actually 30 percent of the bodies that were recovered in that disaster in spite of the fact that there were eight other FEMA (Federal Emergency Management Administration) teams that were present at that particular time.

What they didn't say was how many lives they actually saved and how many people they helped. They can't put a count on that and can't assess a value to that tremendous service. One of the saddest things I ever read were about the individuals who were part of the recovery teams after the Beirut bombing in 1983, after the tragic air disaster of PanAm Flight

103 in December 1988, and, of course, the situation with the World Trade Center where there weren't as many lives lost but, in 1979, the Jonestown massacre, and those rescue teams that went to those areas, many of them incurred psychological damage from having to dig through the remains and remove the bodies and also accept the senselessness of the tragedy.

These individuals who went to Oklahoma City knew of the disasters that had occurred before, and they went to Oklahoma City with the understanding that not only were their lives at risk but even their psychological nature was at risk, but they went anyway and they fought and they suffered and they paid and they worked, at one point, 35 hours without any rest or delay, and they certainly have earned our gratitude, our respect, and certainly our admiration, and all of us want to lend our voices to those who are in recognition of their heroic efforts that we celebrate today.

ACTING PRESIDENT KUHL: Senator Abate on the resolution.

SENATOR ABATE: As former Commissioner of the New York City Department of Correction and also the Department of Probation, I have had the honor to work directly with the New York City Police Department, the Fire Department and the Emergency Medical Services. I have seen first-hand and close up their dedication and courage. We know it in New York City, and I'm extremely proud that this august body today is paying recognition to the extraordinary efforts that you all gave in Oklahoma City.

So I join with my colleagues and commend you and applaud you; because it's because of your actions, you are willing to serve the people not just in New York State but people who are in need throughout this country. It is because of your efforts lives were saved, and we're eternally grateful to you.

Thank you very much.

ACTING PRESIDENT KUHL: Senator Padavan on the resolution.

SENATOR PADAVAN: Thank you, Mr.

President.

I would like to join with my colleagues who have already spoken to echo their gratitude to these men who reflect the very best of the very finest police force in the world. It's unfortunate from time to time we see newspaper reports that sensationalize some of the things that happen that should not have happened; but as we look up at these brave individuals and men who put themselves on the line, we know that the 38,000 some-odd men and women who serve in the police components in the city of New York that they are indeed the nation's finest, and not only in this instance did they demonstrate their courage and commitment to their responsibilities but, as Senator Paterson pointed out, that is their heritage and their history.

And so I'm delighted to be among all of you who stand here and to express my gratitude, not only for what you did because that speaks for itself but, most importantly, for what you are and that all too often is not

made clear in the general public. So thank you, each and every one of you, particularly those from the 11th Senatorial District.

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

Senator Waldon on the resolution.

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

Having served in the city of New York for 13 years as a police officer with the New York City Housing Authority Police Depart ment I have a sensitivity and an awareness of what you do perhaps better than many of my colleagues. I know the drill from John Jay, having graduated from that school as well. I know the drill from Quantico with the FBI Academy, having been there on three different occasions. But it is impossible for anyone who has not served as a law enforcement person to understand not only the dangers you face but the camaraderie which builds because each of you with your partner faces danger in a special way

not known to other citizens, and so we're here today to applaud you, to show our gratitude and to be very grateful not only on behalf of our constituents but ourselves, because you gentlemen -- and I don't see any ladies up there, but ladies as well -- are the first line of defense. You are truly the modern day good Samaritans, and we all owe you a great debt.

Thank you very much.

ACTING PRESIDENT KUHL: The resolution was previously adopted but, on behalf of Senator Velella, Senator Bruno, the Majority Leader of this house, all the members of the chamber, I would like to personally congratulate you, all of you, on your effort. I commend you for your commitment, your dedication and your service above self. You are truly the example of the best of the best, the volunteers that this country has to offer, and we thank you for your commitment and thank you for coming and joining us and sharing just a moment of your lifetime with those of us in the New York State Senate. We applaud you.

Thank you for being here.

(Applause.)

ACTING PRESIDENT KUHL: Senator Larkin.

SENATOR LARKIN: Mr. President, may we now return to reports from the Judiciary Committee.

ACTING PRESIDENT KUHL: We will return to the reports of standing committees. Ask the Secretary to continue to read the report of the Judiciary Committee.

ACTING PRESIDENT KUHL: Senator Lack, from the Committee on Judiciary, reports the following nomination: Ronald H. Tills of Hamburg, New York State Court of Claims.

ACTING PRESIDENT KUHL: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

It's again my privilege to rise to move the nomination of Ronald H. Tills of Hamburg as a Judge of the New York State Court of Claims, a distinguished former member of the

Assembly, and we continue to be joined by the Assembly Minority Leader, Assemblyman Rappleyea, and Assemblyman Reynolds.

And, to second and further describe to you the illustrious career of Ron Tills, one who knows him best, I most respect fully yield to Senator Volker.

ACTING PRESIDENT KUHL: Chair recognizes Senator Volker.

SENATOR VOLKER: Mr. President. Let me -- I always tell the truth.

Let me just say that it is a very happy and proud day for many of us who have known Ron Tills for so many years and, as I said to my Assembly colleague, Tom Reynolds, Ron Tills is sort of like the godfather of our Republican delegation in Erie County. For instance, he brought Tom Reynolds to Albany, who is now not only a distinguished Assemblyman but also is our county Republican chairman.

He also is a person who -- the first person actually to call me and suggest to a young police officer who was working in the

village of Depew at the time that maybe he should run for the Assembly.

Well, I made that decision and Ron sort of guided me through my two years of the Assembly before I came over here, as somebody said, "escaped from the big house," and came over here to the Senate.

But let me say that not only is Ron Tills my friend and a former colleague - and, of course, "Rap" Rappleyea is here, the Minority Leader, who came to the Assembly with me also, and served with Ron for a number of years -- not only is he a friend and a former colleague but also an excellent attorney, a former town justice, town attorney, one of the leading attorneys in upstate New York.

His firm, in fact, and Ron personally and his firm have practiced law for as many years as I can remember. In fact, my father and myself dealt with Ron and his firm for a long, long time.

I can't think of a better appointment to the Court of Claims. In fact, as

we have previously said, the group that is being appointed today is just such a class group that I think it gives tremendous respect to the Judiciary, and it's pretty clear, I think, that the Governor really has made just tremendous appointments.

To Ron, let me just say my very best for the future. I know you will make an excellent judge and although we had missed you from your days in the Assembly, I know you will grace the bench, and you and Beth, I'm sure, will have a much more regular schedule now maybe in the court. My very best to you and to the whole family and Godspeed.

ACTING PRESIDENT KUHL: Senator Rath on the nomination.

SENATOR RATH: Thank you, Mr. President.

I rise, as has Senator Volker, to second the nomination of Ronald H. Tills to the New York State Court of Claims.

Ron, for those of you who do not know -- I think Dale probably said it -- is from

Erie County, but the town of Hamburg wouldn't have said that, and you wouldn't have known that. But let me just tell you a tiny bit about Erie County. We kind of divide up into north towns and south towns, and Ron and Beth are from the south towns. Dale is from the east, and I'm from the north towns, but that hasn't at all stopped us from knowing each other and working together and being friends for many years.

I'm so happy to see "Rap" Rappleyea here and Ron's friend and colleague Tom Reynolds, who is also another son of the south towns, as it were.

Let me tell you little bit about Ron. Ron is one of these people who I think I could pay one of the highest compliments that has ever been said to someone, and it was said about someone recently, and I thought, "Now, there is a phrase you can't say about everyone," but Ron is one of these people who never met anyone he didn't know. He never met anyone he didn't know, because inside the first five seconds he's established something with you that

is of mutual interest and he is drawing you into his circle of light, as it were. This is the Ron Tills, the man that I know.

Dale has spoken eloquently about Ron's credentials. Now, I'm going to speak a little bit about the Ron I know. His resume that you have all had the opportunity to look at has no less than 25 civic and fraternal organizations. I have come to know Ron and Beth very closely through a fraternal organization. Ron will be in, I'm sure, proudly so, the Potentate of Ismalia Temple within another year or two. In these kinds of organizations as many of you have served, you know that very often there are leaders who tell people what they think should be done, and the people go out and do them, and that's one kind of leader. There are other kinds of leaders who work with people deciding what needs to be done, and they go out and they work side by side with the people who are doing, quote, "the dog work." That's the kind of leader Ron Tills has always been in his professional and in his personal life. It's a

very important quality.

Inside the 25 organizations that Ron has listed, there were some that were kind of buried in the middle, and not because Ron wasn't proud of them, but I'm going to talk about them: Hamburg Men's Garden Club, the American Fresh Garlic Association, and the Erie County Farm Bureau.

Now, what does that say about Ron Tills, the man? Well, first of all, I have to tell you Ron specializes in garlic and hot peppers. So if any of you have an interest, we have an expert who is about to be on the bench, and he might have a little more time to share some of his expertise. But gardening has long been a simile that people have used in conversa tions to talk about a person's characteristics. There's a gentleness and a caringness about this person, Ron Tills, that comes from his interest, longstanding, in people and in the things of the earth. In the south towns in Erie County is where everything grows. You're right next to Eden Valley, and I had a lot of relatives who

were from Eden Valley, so I know about the south towns' interest in growing things.

The bench and the bar in Erie County are delighted. You have reason to know that I would have reason to talk with lots of folks from the bench and the bar. When your nomination came through, Ron, the bench and bar were delighted, because they have a way -- and you among lawyers know that they evaluate judges very quickly and very systematically as to how they work with these various judges. You are rated before you even get there as going to be a superb judge, one the bar is delighted to be seeing coming to Erie County, and one that the bench is delighted to welcome as a colleague.

And in my final comment, I would indicate -- Senator Larkin mentioned on Judge King's nomination, and it's something that women don't relate to very easily, about the foxhole. This is a man kind of a phrase, but in my office we have a number of women who work together and we periodically get into a political foxhole, and when we're in a foxhole, we point out people

that we think would be good to work with when we're in the foxhole, and, Ron, I want you to know you won't be able to go there any more because you are going to be on the bench, but I would have always welcomed you in a foxhole that I had to fight my way out of because you would have been the kind of colleague, and are the kind of colleague, that we've all worked with and I'm sure "Rap" and Tom could attest to that.

Good luck, Godspeed, and welcome to the bench.

ACTING PRESIDENT KUHL: Senator Maziarz on the nomination.

SENATOR MAZIARZ: Thank you, Mr. President.

Mr. President, I rise in support of the nomination of a fine Western New Yorker. As a former County Clerk in Niagara County, I had the occasion to deal with many attorneys in Western New York and when the rumor started circulating shortly after last January 1st that Ron Tills was under consideration for appointment to the Court of Claims, there was

probably not any attorney that ever had a negative word to say about Ron. He is very well respected in the legal community not only in Erie County but in all of Western New York and, as Senator Rath has alluded to, a fine record of community service. I see the volunteer fire service in there amongst his work with the Masonic fraternity, the Lion's Club. Just a fine record not only on the bench but of community service.

Ron Tills also has the distinction, as Senator Volker mentioned, of starting Senator Volker along the path of his political career. Ron Tills also has that dubious distinction of having given Tom Reynolds his first job in public service. If "Rap" Rappleyea can forgive him for that, I think we can too, Mr. President.

I proudly rise in seconding the nomination of Ron Tills.

ACTING PRESIDENT KUHL: Chair recognizes Senator Stachowski on the nomination.

SENATOR STACHOWSKI: Mr.

President, I too rise to second the nomination of Ron Tills.

Up until the past reapportionment Ron Tills was a constituent of mine. I had Hamburg. As a Democrat, I probably should be careful what I say because Reynolds is always pointing out how Ron Tills is his mentor, and if you're a Democrat in Erie County, you always have to deal with Reynolds and not always on the most pleasant of terms.

So I guess we owe that to Ron Tills. But all that being said, I would have to say that the most important thing I noticed about Ron Tills -- and it's from members that served with him here -- to my knowledge, Ron Tills still holds the land record from Buffalo to Albany on the Thruway in the shortest amount of time, and it's only coincidental that we would be confirming Ron Tills to the bench the day after we did the new Superintendent of the State Police, in light of that record. He often tried to break that record, it's my understand ing and, obviously, from the fact that he's here

and in one piece, he did it very safely.

Ron Tills is a lawyer that's been very, very well respected in his community. I think that Buffalo Raceway as an institution has leaned on him heavily for his expertise in not only legal matters back home but also when they needed some help in working with the Legislature down here. Besides the delegation, they always had the luxury of having Ron Tills to give them extra advice in who to see, who to talk to, what they should be looking for and I think that, unfortunately, they'll probably miss that, but I wouldn't be surprised if they call him off the record to find out different pieces of advice from him anyway, even though he will be a judge now.

I think that Ron Tills will be great judge. He will be an asset to the court, and I'm glad to have the opportunity to second the nomination.

ACTING PRESIDENT KUHL: Senator Leichter on the nomination.

SENATOR LEICHTER: Mr. President,

I came to this Legislature a long, long, long time ago. I was member of the class of '69 in the Assembly. It was a very interesting class. It had in it somebody who became Speaker, Stanley Fink; a person who became a leading voice in foreign affairs in this country, Steve Solarz, who served in the Congress; we had Peter Berle, a DEC Commissioner and became the National President of the Audubon Club. There was Vito Batista, a strong populist. I don't know how many people remember him. I'm sure those from New York City do. Ray Skuse, who all of us know, who for many years has played such an important role in educational policy in this state. There was Gene Levy, one of the nicest and most productive members this Legislature has ever seen, and there was also Ron Tills, and I remember Ron as somebody with a great deal of energy, intelligence, and fairness, and one of the things is when you are in the minority - some of you have never been there and some of you have probably forgotten what it's like to be in the minority, but you get a pretty good sense

of who is fair and who deals with you in a straightforward manner, and that was certainly Ronald Tills.

I enjoyed serving with him. I was impressed by the service that he provided to his constituents, and I'm sure that he is going to be an excellent member of the Court of Claims.

ACTING PRESIDENT KUHL: Senator Sears on the nomination.

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

I'm going to say a few things about Ron Tills; but before I do that, "Rap", I know it's a great day for you, and I'm happy to see you here and guys like Chris Mega and Tommy Reynolds, because we all served with Ron Tills and we scored twice today with former members of the Assembly, and it certainly makes me proud.

And, Tommy, yes, I can remember when Ronnie brought you down to Albany. We were up on the 7th floor, and I was right across from you. Mary Goodhue was right next door, as I

recall, and Tommy and I were just talking about the great times, just a couple of days ago, that we used to have; and Ronnie, you know, is a great lover of the Adirondacks. He's the only guy that I know that when he goes on a camping trip up there, he gets so many of these cast iron kettles and frying pans in his car that you can hardly tell where he is going, and I see his wife is up there with him, and sometimes he never remembered to get gas ahead of time, so he had to wake me or my brother up in the middle of the night to get to my brother's gas station and diner at one time, but he won't be like that when he gets to be a Court of Claims judge.

But I do have to say I've served with Ron from the time that he came to the Assembly right up until the time he left. I'm going to end on this note. He and I had the distinct pleasure and joy of serving not only in the Assembly with the great gentleman, former Senator, and that was Gene Levy, and we both served as roommates with Gene over a long period of years, and most of you know the great Senator

that left us back in 1990. When I eulogized him here on the floor, that was after I became a Senator. Gene Levy had died the day he filed his petition to run in 1990, and we looked forward to many years down together down here, but it just didn't happen.

So I have to say, Ron, that for "Geno" -- and that was his pet nickname -- who -- Ronnie and I talked just recently. We talk to him every once in awhile. So I'm happy to not only second this nomination for myself, Ronnie, but and also for "Geno", and good luck to you and keep talking to "Geno."

Thank you.

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

(There was no response.)

Hearing none, the question is on the nomination of Ronald H. Tills of Hamburg, New York, to the position of judge of the New York State Court of Claims.

All those in favor of the

nomination, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The nominee is unanimously confirmed.

Judge Tills is in the gallery to your left along with his wife, Beth.

Judge Tills, nice to see you again. We're happy for you, sir, and good luck on your appointment. Congratulations.

(Applause.)

Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nomination: Terry Jane Ruderman of Scarsdale, New York State Court of Claims.

ACTING PRESIDENT KUHL: Chair recognizes Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I rise to move the nomination of Terry Jane Ruderman of Scarsdale as a judge of

the New York State Court of Claims.

Ms. Ruderman, as with our previous nominees this morning, has appeared before the screening committee, has been found qualified, has been nominated by the Governor. Her credentials have been examined by the staff of the Judiciary Committee who also found her well qualified. The nomination was moved to the Judiciary Committee which met this morning. She was unanimously endorsed by the committee with a recommendation to the floor, and I would very proudly yield to the Senator on my left, Senator Nicholas Spano for a second.

ACTING PRESIDENT KUHL: Senator Spano on the nomination.

SENATOR SPANO: Thank you, Mr. President.

My colleagues, it is indeed my pleasure to join with Senator Lack in seconding the nomination of Terry Jane Ruderman to the Court of Claims. I have known Terry Ruderman for a number of years and have had a chance to see her involvement in Westchester County not

only in many different activities affecting our community in Westchester, but also her involvement in the legal profession, starting as an arbitrator in the City Court, moving on as an assistant district attorney to deputy county attorney, as a assistant to the county executive in Westchester and currently serving as the principal law clerk to a Supreme Court judge in the 9th Judicial District.

She is someone who's got the credentials, who has distinguished herself in her own career, and it's my pleasure to second the nomination of Terry Jane Ruderman to the Court of Claims, and to say, Terry, that today is a proud day for you and for your family and not only for your husband, Jerry, but certainly for your mom and dad who are here as well.

And it's my pleasure, Mr. President, to second this nomination to the Court of Claims.

ACTING PRESIDENT KUHL: Senator Leibell on the nomination.

SENATOR LEIBELL: Yes, Mr.

President. I rise to second this nomination and I join with my colleagues Senator Lack and Senator Spano. I think they have both given a recitation, although a very brief one, of Terry Jane Ruderman's excellent credentials for this position.

She has had a long and distinguished career as an attorney. She brings to the court a wide variety of background in so many different areas. She also, if you had the opportunity to look at her resume, you will see that not only does she have the training as an attorney, an excellent academic record prior to that, but that she has also acquired throughout her career strong administrative skills which will be of great value to her as a judge and to the court.

I'm very pleased to rise on this occasion to second the nomination of Terry Jane Ruderman. She is a tremendous asset to the court and to the entire state of New York, Mr. President.

ACTING PRESIDENT KUHL: Is there

any other Senator wishing to speak on the nomination?

(There was no response.)

Hearing none, the question is on the nomination of Terry Jane Ruderman to the position as judge of the Court of Claims.

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

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The nominee is unanimously confirmed.

We're very pleased to be joined by Judge Ruderman and her husband, Gerald, and her parents, Samuel and Thelma Schwartz, who are in our chamber to our left.

Congratulations and good luck.

(Applause.)

Secretary will read

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nomination: John J. Brunetti of Baldwinsville, New York State Court of Claims.

SENATOR LACK: Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Lack on the nomination.

SENATOR LACK: Thank you, Mr. President.

I rise to move the nomination of John J. Brunetti of Baldwinsville as a Judge of the New York State Court of Claims. As with Judge Midey, I can't think of two Senators in this chamber more than Senators Nozzolio and DeFrancisco, who have been contacting me constantly as to the status of potential appointees to the judicial system.

I'm proud to stand up to move this nomination. I have examined personally the credentials of Mr. Brunetti, what he has done. He's been examined by the screening committee of the Governor. He's been found qualified, nominated by the Governor, examined by the staff

of the committee, appeared before the committee and unanimously confirmed by the committee and moved to this floor, and I can't say anything else because, if I do, Senator DeFrancisco will immediately jump up and interrupt me.

So I will very nicely yield to Senator DeFrancisco. Do you want to stand up, John, and say a few words about Mr. Brunetti?

Sorry to take your position, Mr. President, but he's already up.

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

SENATOR DeFRANCISCO: I'm very pleased and proud to stand here today to second the nomination of John J. Brunetti for judge, Court of Claims of the State of New York.

I have known John for about 20 years now, and we first met when we shared office space as younger attorneys -- maybe not young attorneys -- and we got to know each other very well. During that period of time, I recognized an individual with unquestioned

integrity and character. It wasn't until later that I realized the abilities that he had as an attorney, both criminal and civil.

This Court of Claims position happens to be a criminal part and, if you look at his resume, you can clearly understand that there can't be anybody more qualified for this position and a person more balanced in his experience.

He started off with the Public Defender's Office. He worked as a Chief Assistant District Attorney in Onondaga County. He worked as an Assistant U.S. Attorney in the Northern District of New York. He has taught and still teaches a course at Syracuse University Law School, and he's even been on Court TV -- an incredible background for an incredible person.

For many years, I have called him "colleague" and "friend." I'm very proud today to be able to soon call him "Judge."

Congratulations, and it's a happy day for all of us.

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

(There was no response.)

Hearing none, the question is on the nomination of John J. Brunetti of Baldwinsville, New York, to the position of Judge of the New York State Court of Claims.

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

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The nominee is unanimously confirmed.

Judge Brunetti is joining us in the chamber in the gallery to your left, along with his wife, Rockette.

Judge, congratulations. We're happy to see you. Good luck.

(Applause.)

ACTING PRESIDENT KUHL: Chair recognizes Senator Larkin.

SENATOR LARKIN: Mr. President, I believe there is a resolution sponsored by Senator DeFrancisco at the desk. I ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT KUHL: Senator Larkin, there is a privileged resolution at the desk. I will ask the Secretary to read the title.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution honoring 60 students at the Shea Middle School of the City of Syracuse School District for their participation in the 49th Senate District "Good News Good Kids" Student Recognition Program.

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

SENATOR DeFRANCISCO: Thank you, Mr. President.

I am honored today to have some students from Shea Middle School from Syracuse, New York, as part of the program that we have in

our district honoring good kids, because there's good news out there and we should share it with everyone, that there are young people out there doing what they should be doing.

These students are gifted vocalists, and they have shared these talents on a volunteer basis, after hours and on their own time, and doing such things as sing-alongs with kindergarteners and first graders and also providing entertainment at senior citizen functions. They've also done a Martin Luther King tribute, featuring the singing of freedom songs and choral arrangements. They've had programs concerning patriotic music for New York citizens at the swearing in of new citizens of the United States at the courthouse, and it goes on.

The point I'm trying to make is that we should pause periodically, as we do today, to honor young people who are doing what they should be doing, and I'm proud to honor today the Shea Middle School.

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.

On behalf of Senator DeFrancisco and Senator Bruno and all the members in the chamber, we welcome the students from the Shea Middle School to the chamber and thanks for being good kids.

(Applause.)

Chair recognizes Senator Larkin.

SENATOR LARKIN: Mr. President, would you please call up Calendar Number 728, Senate Print 973C, by Senator Levy, for the purpose of opening the rolls for two people.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 728.

THE SECRETARY: Calendar Number 728, by Senator Levy, Senate Print 973C, an act to amend the Vehicle and Traffic Law, in

relation to operation of a motor vehicle by persons under the age of 21.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Trunzo.

SENATOR RATH: Aye. Senator Rath, aye.

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

Senator Trunzo.

SENATOR TRUNZO: Yes.

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

Roll call is withdrawn.

Senator Larkin.

SENATOR LARKIN: Let's take up

the controversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar, beginning with Calendar Number 130, by Senator Cook.

SENATOR PATERSON: Explanation.

SENATOR COOK: Lay the bill aside for the day.

ACTING PRESIDENT KUHL: Calendar 130 will be laid aside for the day at the request of the sponsor.

Secretary will continue to call the controversial calendar.

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

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Senator Levy has already -

SENATOR LEVY: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

SENATOR PATERSON: Senator Levy has already laid the bill aside.

ACTING PRESIDENT KUHL: Thank you for the acknowledgment, Senator Paterson.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 747, by Senator Kuhl, Senate Print 4218A, an act in relation to authorizing the city of Elmira, county of Chemung, to transfer parklands.

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

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 53.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 937, by Senator Saland, Senate Print 4009A, an act to amend -

SENATOR LARKIN: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 993, by Senator Leibell, Senate Print 5009, an act to amend Administrative Code of the city of New York, in relation to access to correct housing maintenance code violation.

ACTING PRESIDENT KUHL: Senator Leibell, an explanation of Calendar Number 993, Senate Print 5009, has been asked for.

SENATOR LEIBELL: Mr. President, this legislation will allow a landlord to correct violations of the housing maintenance code where a tenant has denied the landlord access to the unit and where the violation has occurred or where access is necessary to correct the violation.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: Mr. President. If the sponsor will yield for a question?

ACTING PRESIDENT KUHL: Senator Leibell, will you yield to Senator Paterson?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator, I am reminded of Calendar 994 which we passed on Monday. It's very similar in its approach, so I hope you will yield for a question, and I hope you will understand that the question is very similar to what I asked you on Monday.

First of all, how are you going to pay for this bill? And replete with that, you might want to also inform us as to how you think this is actually going to clear up congestion in the court system when there are going to be enough hearings and enough activity in here that will further clog the court system from my point of view.

SENATOR LEIBELL: Mr. President. Could I get some order in here?

ACTING PRESIDENT KUHL: I'm missing my big gavel, Senator Leibell, but your point is very well taken. It is very noisy.

Ask the members -- we're now commencing the controversial calendar. There's going to be serious debate on a number of issues. Could we please quiet it down so that the members can participate in this and hear what their other colleague is saying.

If there are staff discussions, please take them out of the chamber.

SENATOR LEIBELL: Senator Paterson.

ACTING PRESIDENT KUHL: Senator Leibell for a response.

SENATOR LEIBELL: I'm going to ask Senator Paterson if he could just ask me that question again, because I -- even standing this close, I couldn't hear him that well.

ACTING PRESIDENT KUHL: Senator Paterson, could you please present the question

to Senator Leibell? Again, he yields to the question.

SENATOR PATERSON: Thank you, Mr. President.

Actually, it was an auditory hallucination, and I don't know if I can repeat the question, but it relates to the congestion in the Housing Court system.

Under this legislation with the types of hearings that would be necessary, I am contending that it will clog the Housing Court further, and I wanted Senator Leibell, Mr. President, to explain how he feels this will alleviate the caseload in the Housing Court system.

SENATOR LEIBELL: Senator, I believe that this bill before us today will, in fact, reduce some of the burdens on the Housing Court because I think we will be able to correct some of the problems that we are confronting in a more timely fashion. There is no question that the Housing Court has had a good deal of backlog. There is no question that it's a court

-- I think all sides have agreed this -- that could withstand some serious scrutiny as to how to improve its workload.

This legislation, far from adding to that burden, I think will go a long way probably towards addressing that problem and will expedite proceedings within the Court itself.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President, and through you, Mr. President.

Senator Leibell, how would we verify that the tenant is not giving the landlord access to the actual apartment?

SENATOR LEIBELL: As you can tell from the bill, the court will summon the tenant in to court and the tenant at that point in time will have the opportunity to explain to the court whether, in fact, he has been giving access. In other words, there will be, in effect, a hearing.

SENATOR PATERSON: Mr. President.

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

SENATOR LEIBELL: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: Senator Leibell, now the tenant has been summoned to court. We don't know that the tenant has denied the landlord access. So the tenant likely misses a day of work. The tenant has been burdened by having to come to court. The tenant risks a fine if the tenant doesn't cooperate with the court, and we have yet to establish a finding that the tenant ever denied the landlord access to the premises.

So I'm just asking whether or not this bill is somewhat pecuniary in its effect on the tenant.

SENATOR LEIBELL: Senator, I think in the vast, vast majority of the cases, we are going to find that landlords are going to want to fix their establishments, their units,

as quickly as they possibly can. They are not going to be desirous of spending any time in court. It stretches the imagination to think that that be a severe problem. Landlords are going to want to come in to court only when they have been denied access. They are going to want to come in, in order to get access so that they can quickly remedy the problem, and I think many other tenants will benefit from this also.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

Thank Senator Leibell for his answer, and if Senator Leibell will continue to yield?

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

The Senator yields.

SENATOR PATERSON: Senator Leibell, with the exception of small property owners, I would say that the landlord through his or her attorneys is often represented in

court every day and what I'm suggesting is that, if you want to raise the threshold of penalty, that the threshold be raised uniformly.

I don't see in your legislation any restrictions or fines applied to the landlord for the exact noncompliance for which you have levied a penalty on the tenant. Can you explain to those of us in the chamber why it is that you haven't created that sort of equal penalty for the violation of what would be something that is, first of all, hard to prove; but secondly, if we're going to accept it, then why aren't we going to apply it to both sides of the complaint?

SENATOR LEIBELL: In the first place, when you say with the exception of small landlords, there is an implication, I believe, there that there are a limited number of small landlords. In fact, there are many thousands of landlords in the city.

SENATOR PATERSON: I'm sorry, Mr. President, if I could just interrupt. In making that point, I was not in any way trying to

diminish that number. I was just trying to distinguish the landlords who I think would be affected. So, in other words, I'm not really disputing you on that.

SENATOR LEIBELL: Senator, there's also provisions that provide for penalties for landlords that do not fix their units and do not repair them as they should.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Yes, but Mr. President, we are talking about attendance, and this is a new area that Senator Leibell is actually approaching through this piece of legislation; and so what I'm saying is that, if we are going to set up a law, which is what we are enacting in this kind of chamber, I don't think it's really fair to say that because there is a subjective determination right now that the laws are levied in such a way that they are more beneficial to the landlord than the tenant, so now we're going to make a law that's going to hurt the tenants, and then we're going to say in

the greater scheme of law that balances out.

We're in a whole new area of law, so I think that there is a duty on the lawmaker to make sure that the coverage is uniform. If there is a feeling that in the past that the laws have, in a sense, been balanced in favor of either party, then perhaps we need to go back and correct those laws.

But, Senator, you are addressing a new area. You are addressing court attendance, and this is something that I would recommend be applied fairly in this particular case, and I think we would both notice from reading that bill that that doesn't -- it doesn't exist in this bill.

SENATOR LEIBELL: Senator, I think what we're trying -- I know what we're trying to address here is a problem that many perceive to be quite substantial in the New York City housing market especially. It's a problem that impacts on the Housing Court system.

This legislation is not a new concept. This legislation, in fact, has been

before this house on previous occasions.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Gold.

SENATOR GOLD: Yes. Will Senator Leibell yield to a question?

ACTING PRESIDENT KUHL: Senator Leibell, do you yield to Senator Gold?

SENATOR LEIBELL: Yes, I do.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR GOLD: Senator, one of the advantages, real advantages of having a citizen legislature is that people from all walks of life come here and we bring problems from the community, and we all talk it out and look for solutions, and I understand the problem that you are talking about.

However, once we acknowledge that

there's a problem, unfortunately, we do get into some legal machinations; and there is a memo that was filed by the New York State Tenants and Neighbors Coalition which discusses problems. It doesn't say that there is no way that we can ever deal with the problem from the side you're looking at, but it acknowledges that there are issues which are not taken care of; and my question is a very broad one, but why is it that the bill does not -- I mean you indicated it was here before. It was here in '94.

Have any of the concerns listed by the tenants been taken care of in this '95 print?

SENATOR LEIBELL: Actually, I think there was an amendment in the '95 print which provided for the hearing aspect of it. I think that's a change from the prior year's print.

SENATOR GOLD: What do you mean the hearing aspect?

SENATOR LEIBELL: That you can come into court and it's not, in effect, ex

parte. You can be summoned into court, and the tenant will have an opportunity to be heard on this.

SENATOR GOLD: Well, Senator, when you say the tenant will have an opportunity to be heard, the concern -- if the Senator will yield to another question?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield, Senator Gold.

SENATOR GOLD: Senator, I have spoken over the years with lawyers who deal in this area. For example, there may be a minor issue between a landlord and tenant, and they go to court. Why? Because from the landlord's point of view, they're afraid of a precedent, so a landlord will pay big fees to a lawyer even though the tenant's rent is a small amount because they are afraid of precedents.

From the tenants' point of view, what are they concerned about? Most of the tenants that you are talking about are working people. In today's market, in today's real

world, we have two working parents in many, many homes. They are concerned about this word called "harassment," being taken away from their job and losing a day's pay. While everything goes on in the hearing, they are losing money. They can't face the big landlord in their mind.

Is there any protection that the landlord, for example, has to do something before the tenant ever gets drawn in?

SENATOR LEIBELL: There's this protection, in that, I think there is a logical one to this extent, that I think it would be a very rare occasion when that series of facts that you just cite would occur but, in addition to which, you are going to have the opportunity, once you come in, to have that hearing in front of the court, and I might add the landlord also has to come in so that landlord, he or she, may be similarly impacted, and there will be costs involved. That's true of parties to any litigation.

SENATOR GOLD: On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Gold, on the bill.

SENATOR GOLD: Yeah. I don't think there is any thinking person in the room who really does not understand the bill, Senator, and what you are trying to accomplish.

But the problem is that in an open society, an open forum, we get input from all segments of society and, generally speaking, in those situations where we have success in the legislative process, we deal with both sides, and we talk it out and, Senator, I'm not convinced -- through no fault of yours, I guess, but I'm not convinced that there has been an attempt to take the bill and make it fair so that in those situations -- and believe me, Senator, there are probably more than you think in the city of New York -- where landlords want, for economic reasons, to move tenants around and about and to harass tenants, that those protections on their side have not been built into the bill. If they were, I think some of us would take a look and want to be fair.

I always hear from the landlord lobby that, you know, "Well, you're pro tenant" or "You're pro..." this. Unfortunately, up here, everybody is labeling everybody, but I like to think most of us are fair, and we would take a look at some of these bills if they were sort of drawn down the middle and given the opportunity of this side or that side to do what was equitable.

So, Senator, I'm not saying that there is not a problem that you are dealing with. I'm only concerned that in dealing with your side of the problem, your bill eliminates the other side, and that's why I would find it difficult to support it.

ACTING PRESIDENT KUHL: Senator Solomon.

SENATOR SOLOMON: Yes.

ACTING PRESIDENT KUHL: Excuse me, Senator Solomon, before you embark upon your debate -

SENATOR LARKIN: Mr. President. Would you lay the bill aside temporarily.

ACTING PRESIDENT KUHL: Do you want to lay the bill aside?

SENATOR LARKIN: Lay it aside temporarily.

ACTING PRESIDENT KUHL: The bill will be laid aside temporarily.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 1214, by Senator Larkin, Senate Print 1736A, an act to amend the Real Property Tax Law and the Public Service Law, in relation to the definition of special franchise property.

ACTING PRESIDENT KUHL: Senator Larkin, an explanation of Calendar Number 1214 has been asked for by the Acting Minority Leader, Senator Paterson.

SENATOR LEICHTER: Mr. President.

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

SENATOR LEICHTER: Mr. President, just on a matter of clarification, for some weeks now I've heard you refer to the

distinguished Deputy Minority Leader as "acting minority leader," somehow indicating as if he were a pretender or holding this seat just for a short period of time. I believe his correct title is Deputy Minority Leader and, because he has served with such distinction, I think we ought to recognize his full title.

ACTING PRESIDENT KUHL: Your admonishment is well taken, Senator Leichter. I was trying to promote him, not demote him or denigrate him in any way or another.

So, Senator Larkin, an explanation of Calendar Number 1214 has been asked for by the Deputy Minority Leader, Senator Paterson.

SENATOR LARKIN: Mr. President, it's my honor to respond to the Deputy Minority Leader who's been so distinguished since he started the session.

Senator, this is an extension of the exemption of central office equipment of telephone companies from real property tax that was done back in '85 and 1987. This equipment

is approximately a foot square, can accommodate many small customers if located on a telephone pole in a right of way. As long as it's inside the building, it's currently exempt. If they move it outside, it's a greater asset.

Last year, as you might remember, Senator Paterson, the Conference of Mayors had put an objection to it. We still passed it. This year, they have given us a letter they lifted their objection.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Actually, Mr. President, I would like to compliment Senator Larkin, who I often engage in debate here, but he has amended the bill and if he would just yield for this one question?

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

SENATOR LARKIN: Yes, sir.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: As the bill

stands amended, which addresses some of the concerns that I had -- in fact, it addresses basically all the concerns that I had. The only question I would like to ask you is what the fiscal impact will be to local governments. What will it cost local governments to actually endure the enactment of this legislation?

SENATOR LARKIN: As far as we're defining it, we don't feel that there will be anything because this is prospectively, and that was the big issue that the association of the Conference of Mayors wanted.

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

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: I won't even, in the interest of time, go into what it actually was, because it was addressed in the amendment, and we thank Senator Larkin for taking our concerns up.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1272, by Senator DiCarlo, Senate Print 3486A, an act to amend the Public Authorities Law, in relation to the powers of the Dormitory Authority.

SENATOR PATERSON: Explanation.

SENATOR LARKIN: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1284, by Member of the Assembly Dinowitz, Assembly Print 5975, an act to amend the Mental Hygiene Law, in relation to service as president of boards of visitors.

SENATOR SMITH: Explanation.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1285, by Senator Hannon, Senate Print 5026A, an act to amend the Executive Law, in relation to enacting the engineers' and architects' good Samaritan act.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1287, by Senator Hannon, Senate Print 5238, an act to amend the Public Health Law, in relation to quality assurance of managed care plans.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1292, by Senator Padavan, Senate Print 701, an act to amend the Social Services Law, in relation to the ineligibility of lawfully admitted aliens.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Padavan, an explanation of Calendar Number 1292 has been asked for by the Deputy Minority Leader.

SENATOR PADAVAN: Thank you, Mr. President. I think everyone is familiar with the federal requirement that a legal alien seek a sponsor's agreement which provides for econo mic support of that individual for a limited period when entering this country. Consistent with that federal law, in 1977, New York State enacted a provision of the Social Services Law containing a deeming provision addressing that very issue, namely, that a sponsor would be available to a legal alien for a period of three years after his entry into the United States. Subsequent -

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PADAVAN: I'm trying to give you an explanation, Senator. I'm not quite through yet. Do you want me to finish?

SENATOR PATERSON: Yes.

SENATOR PADAVAN: Okay.

Subsequent to that, in 1992 a landmark case known as Mannino versus Perales occurred in New York State which said that that 1977 provision in state law was in violation of our state Constitution. In effect, it eliminated any requirement provided for in federal law uniquely to New York State of the economic responsibility of a sponsor and a sponsor's affidavit for the three-year period. That's the history.

Now, the bill before us seeks to eliminate that anomaly in a very, very limited way. What the bill says is, number one, that we would like a legal alien to seek out that sponsor to the extent of that sponsor providing what previously had been law, support for the several years required; but acknowledging the Mannino versus Perales case, we state very directly that, if that sponsor is unable to provide the support engendered in the sponsor's agreement, is no longer in the state, and so on, then that person is able to receive full social

services benefits provided in this state.

So it's really an effort, to some degree, to make that sponsor or the legal alien aware that there was certainly not only an im plied but a federally statutory responsibility, but we acknowledge the Mannino case by taking out the mandate.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

I see this as a law that we would be enacting that's going to be very similar to a law that we have on the books. It's really just going to shift the burden of proof, and I would like to engage Senator Padavan in a couple questions.

But what I would like to do preliminarily is to advise you, Mr. President, that the Minority expects to call a slow roll call on this particular bill, and we had this situation come up with Senator Leibell a moment ago on Calendar Number 993. If we're not going

to accommodate the slow roll call, we will probably be not using the time well going through the discussion and then laying the bill aside, so what I would like to ask Senator Padavan is, would he like to lay the bill aside or is he ready to go through the whole discussion?

SENATOR PADAVAN: Lay it aside, Mr. President.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1294, by Senator Skelos, Senate Print 2829, an act to amend the General Obligations Law, in relation to compensation for injury or damage.

SENATOR LEICHTER: Explanation. I ask the sponsor to yield.

SENATOR LARKIN: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1296, by Senator Padavan, Senate Print 3092, an act to amend the Social Services Law, in

relation to the exclusion of illegal aliens from receiving publicly funded health care.

SENATOR PATERSON: Mr. President, on this particular bill, if you would yield to Senator Espada, he has a couple of questions that he would like to ask, but we are going to wind up in the same circumstance that they were in before.

SENATOR PADAVAN: Are you saying that -- if I may ask the Deputy Minority Leader, are you planning on a slow roll call on this bill as well?

SENATOR PATERSON: Senator, I would prefer "supreme commander".

SENATOR PADAVAN: I'm sorry?

SENATOR PATERSON: Senator, I would prefer "supreme commander".

SENATOR PADAVAN: How about the allied supreme commander?

Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

Secretary will continue to call

the controversial calendar.

THE SECRETARY: Calendar Number 1297, by Senator Padavan, Senate Print 3093.

SENATOR LARKIN: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1299, by Senator DeFrancisco, Senate Print 3520, an act to amend the Social Services Law, in relation to the transportation of certain persons.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Before I go through an explanation, I would just like to advise the chamber that the Majority Leader has been here the past three mornings letting us know that he would like to leave on June 15, and we are making every effort to accommodate him with respect to the fact that we would like to debate the bills. We are also trying to do that. So there is no attempt on this side of

the aisle to cause any delay or any inconven ience, but we are ready to go forward on these bills and we just keep laying them aside, and I'm just looking for some direction from you, Mr. President, or from anyone as to exactly what our process should be right now.

ACTING PRESIDENT KUHL: We're on Calendar Number 1299. Senator DeFrancisco is poised and ready for debate. If you would like to ask for an explanation or question, he is in a position to do that, Senator Paterson.

SENATOR PATERSON: Well, then I'm poised and ready for an explanation.

ACTING PRESIDENT KUHL: Senator DeFrancisco, Senator Paterson, the Deputy Minority Leader, has asked for an explanation of Calendar Number 1299.

SENATOR DeFRANCISCO: Yes, Calendar 1299 is a bill that would basically require individuals in need of transportation on public assistance to use the public transporta tion as a first alternative unless the depart ment finds -- that's Department of Social

Services -- finds that such means of public transportation are unavailable or that the nature and severity of the recipient's illness necessitates a mode of transportation other than by public transportation.

The theory behind this obviously is to try to save some money by eliminating transportation costs from a much more costly source; but, secondly, we have had occasion in this body to provide assistance by way of grants to public transportation, and I know we've done it to Centro, which is our public transportation system in Central New York, and it seems sort of odd that we wouldn't encourage or, in this case, require people who are receiving state funds to use public transportation so that we are assisting not only the state in saving money but assisting the transportation systems and, hopefully, avoid us having to continually provide more funds because of shortfalls in operating funds for public transportation. So it has that twofold effect, and that's the purpose of the bill.

ACTING PRESIDENT KUHL: Senator Jones.

SENATOR JONES: Will the sponsor yield to a question?

ACTING PRESIDENT KUHL: Senator DeFrancisco, do you yield to Senator Jones?

Senator yields.

SENATOR JONES: As you know, my other interest in life is emergency medicine. I just want a clarification, Senator DeFrancisco, because I personally am aware of the abuses of the system. I mean as far as ambulances are concerned, people use that as transportation as opposed to driving themselves or whatever.

What would happen, though, under your bill if an emergency service is called if clearly the case was not an emergency? Would then the payment be denied and the company be held? What would happen then?

SENATOR DeFRANCISCO: I would assume that the -- the most important thing is that the emergency be responded to. I would interpret this as not applying to emergency

services, because you would basically provide an incentive for emergency services not to respond as quickly to certain individuals, and that's not the intent of this.

The intent is the doctor's visit. The intent is a situation where it's not an emergency situation to take the most economical method of transportation unless the nature of the injury or the illness prevents that.

SENATOR JONES: Could the sponsor just yield to another question?

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

SENATOR JONES: I guess my other question is, you know, as I say, I'm very supportive of you on this issue because I see this abuse personally.

But would a determination - let's say the person calls the ambulance. As we know, they have to respond. But, after the fact, it turns out the case was not an emergency. Clearly they could have driven.

There won't be a determination at that point not to pay, let's say, if it's a commercial service, and I know many, even, of the volunteers are doing third-party billing. Would there be after-the-fact determination that they're not going to get paid because it really wasn't an emergency?

SENATOR DeFRANCISCO: I think there would be a determination of the local Department of Social Services because, as the exception states in this legislation, unless the Department finds that such means are unavailable to the recipient, and so forth.

I would assume that the Department of Social Services representative would not penalize an emergency services provider because of the abuse made by an individual, when one was not needed, but -- and I think I should leave it at that, because I think it's to be administered by the local Department of Social Services.

SENATOR JONES: Thank you, Senator.

SENATOR DeFRANCISCO: In any event, that was clearly not the intent.

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

SENATOR SOLOMON: Thank you, Mr. President. Will Senator DeFrancisco yield, please?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR SOLOMON: Senator, in this legislation, are we basically dealing with ambulet services, as I'm looking at this, in other words, to take someone to the doctor or take someone back, or is this emergency services?

SENATOR DeFRANCISCO: Any transportation. It may be transportation for a doctor's visit; it may be transportation -

SENATOR SOLOMON: Yes, under Medicaid. That's what I assume this bill deals with is ambulet services, transportation services.

SENATOR DeFRANCISCO: It deals with that as well.

SENATOR SOLOMON: Correct.

SENATOR DeFRANCISCO: If there is no reason for the individual not to be able to take -- or medical reason -- no medical reason for the individual not to take the less expensive method of transportation, then that should be taken.

SENATOR SOLOMON: Mr. President, if Senator DeFrancisco will yield, please?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR SOLOMON: Senator, as I understand the memo, and correct me if I'm wrong, the memo is basically stating that we have to pass this legislation in order to meet federal requirements for reimbursement?

SENATOR DeFRANCISCO: If I can find the memo, I will address it.

That's correct.

SENATOR SOLOMON: Mr. President,

if Senator DeFrancisco will continue to yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR SOLOMON: Senator, if we don't pass this bill, are we in danger of losing federal reimbursement funds?

SENATOR DeFRANCISCO: I don't think so in view of what was passed in the budget this year. There is a much looser language in the budget that probably would follow the federal requirements. The language in the budget basically tells the Department of Social Services to come up with the most economical means of transportation, and it's broad, general language.

This bill mandates the Department of Social Services to provide -- mandates recipients to use the least expensive method of transportation. This is a firmer bill. It's more mandatory than the broad discretion that the budget gave to the Department of Social Services, and I think that what we did in the

budget is enough to satisfy federal requirements.

This bill, by the way, was drafted as was the memo before the budget bills were printed.

SENATOR SOLOMON: Mr. President. If Senator DeFrancisco will continue to yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR SOLOMON: Senator, my understanding of the services, and I'm going to basically -- I'm dealing with ambulet services and what they call car services which is a taxi service in the city of New York, and it's for Medicaid patients -- is that the doctor will generally make the determination as to the type of service that is required. How is this -- in other words, the doctor will make the determination as to whether Patient A needs an ambulet or a car service, an ambulet costing $45, I believe, and a car service costing $15.

How would this alter that

process, because this says, "the most in expensive way"? Is the onus going to be put on the doctor or the Medicaid recipient; and when is Social Services going to review that decision? That's what I'm concerned about.

SENATOR DeFRANCISCO: The ultimate determination of whether an exception is present will be with the department because the legislation says unless the department finds that such means is medically unsound.

Obviously, I would assume that the Department of Social Services representative would take into account medical records and physicians' orders in making that determination, but I think what we're dealing with here -- the intent of this is basically to provide a mandate for those who presently do not use public transportation and could use public transportation.

SENATOR SOLOMON: Mr. President, if Senator DeFrancisco will continue to yield. I agree with -

ACTING PRESIDENT KUHL: The

Senator continues to yield.

SENATOR SOLOMON: I agree with the goal you're trying to reach. My question is in terms of reaching that goal, we have an administrative process and a bureaucracy, and the problem that I have and I'm trying to understand how it works is if John Doe is to see Dr. Smith and in the past John Doe would take a car service to see Dr. Smith and there is public transportation available, who is going to be responsible if John Doe continues to take that car service to Dr. Smith for regular visits and then three months down the road, the Department of Social Services says, "Wait a minute. John Doe should have been taking public transportation."

Is it Dr. Smith who authorized - is it Dr. Smith who does the authorization of the transportation method or is it John Doe, the Medicaid recipient, and then is Social Services going to say he's not going to get paid? That's my problem. Who are they going to point the finger at and say, "You shouldn't take public

transportation", and what's going to happen to that individual when they point the finger? If they made a decision beforehand, I could understand it.

SENATOR DeFRANCISCO: Well, presumably, if the Department of Social Services is doing what they should in managing case files for each of the recipients, these decisions would be made ahead of time, and if they're not made ahead of time, then someone in the Department of Social Services is going to have to make a determination.

I would -- my interpretation of this would be that, in the event that a Department of Social -- the authorization was made by a physician prior to the service being rendered and thereafter it's being reviewed, it would be my belief that the Department of Social Services would pay that and subsequent payments would be subject to whatever mandate the department determined as to that specific individual.

SENATOR SOLOMON: Thank you.

ACTING PRESIDENT KUHL: Senator Abate.

SENATOR ABATE: Yes. I think we all agree -- would Senator DeFrancisco yield to a question?

ACTING PRESIDENT KUHL: Senator DeFrancisco, do you yield to Senator Abate?

SENATOR DeFRANCISCO: Absolutely.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR ABATE: I think we understand the intent of this bill and I applaud you, but I'm concerned about two populations, the disabled and seniors, and clearly we've outlined that, if transportation is unavailable, that's an exception or the nature of the illness will be taken into consideration, and emergencies, one can get there any way that's convenient. I assume emergencies is also an exception, medical emergencies, is that correct?

SENATOR DeFRANCISCO: Correct.

SENATOR ABATE: I guess my

problem is, and I need some clarification, if I'm a senior and I just don't like taking public transportation, it may be three blocks away, but I'm afraid, I've been a victim of a crime, and I don't want to walk those three blocks and I have a next-door neighbor who has agreed -- who stays home, has agreed to take me around by car. What happens in that situation? I haven't taken public transportation for ten years. I was mugged on the way to the subway. I have an enormous fear. I'm 75 years old. What happens in that case?

SENATOR DeFRANCISCO: What happens is that case, since the neighbor was kind enough to provide the transportation, nobody would have to pay.

SENATOR ABATE: There's no - under the current situation, is that neighbor reimbursed for expenses?

SENATOR DeFRANCISCO: Not that I know of. Not that I know of.

SENATOR ABATE: And how about - my second question is the disabled person is not

facing necessarily an illness but the condition. You have no exception for the disabled here. Would they also have to go through a bureaucratic process, call up -

SENATOR DeFRANCISCO: Unless the department finds that such means of public transportation are unavailable or that the nature and severity of the illness necessitates a mode of transportation other than by such means.

SENATOR ABATE: But the disabled person, every time they wanted to go to a doctor would have to do something proactive; even though the condition isn't going to change, they would have to notify Social Services and, in fact, get permission before they can take alternative transportation.

SENATOR DeFRANCISCO: No. I don't think that's the case, especially in the case of a person with a disability. Someone is going to be reviewing that case file and a determination is going to be made as to what services are available or to be provided, what

transportation is authorized under those situations.

The difficult part of the statute is the emergency situation because you can't predetermine those services, and that's where discretion has to be with the Department of Social Services to pay for those emergency services at least in the first instance, but as far as the disabled individual, I would presume that someone is in charge of the case file and in that case file, there should be a perdeter mination as to what mode of transportation would be authorized under what circumstances.

SENATOR ABATE: And you -- but it's not written in the bill that there's a capacity of Social Services to make a predetermination so as to avoid an individual every time they need to get medical care, seek the advice of the department, because I'm concerned, not only the burden placed on seniors and the disabled, but also the bureaucratic morass that will be created through this bill. I just don't know whether it's spelled out in

this legislation.

SENATOR DeFRANCISCO: The Department of -- I don't imagine -- I think the discretion here is with the Department of Social Services. The ultimate determination is with the department. I can't imagine that the preferred process by the Department of Social Services would be to do it by a visit-by-visit determination. The intent is the Department of Social Services is going to determine when transportation can be done by public transportation, which is the most likely in situations where it's not an emergency and there's no disability or no illness that would preclude that, and that's the intent of it.

We can find exceptions or difficulties in any piece of legislation, but the intent is for the department to review these cases initially, make a determination and, if someone is authorized for doctors' visits to go by public transportation only, they should do that. If it's an emergency situation and there's a wrong call by the person because they

felt it was an emergency, well, I would believe that the Department of Social Services would recognize that that was a situation that was not the intent of this particular legislation.

SENATOR ABATE: Would the Senator yield -- continue to yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR ABATE: Obviously, we as a Legislature don't want to micro-manage the department, but it seems to me it might be helpful to the department in terms of guidelines to add a section dealing with seniors and disabled around preconditions so there could be a predetermination and that to avoid administrative -- administrative gridlock and an inordinate inconvenience to seniors and disabled.

Thank you.

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

Senator Smith.

SENATOR SMITH: Thank you.

Would the sponsor yield for one question?

ACTING PRESIDENT KUHL: Senator DeFrancisco yields.

SENATOR DeFRANCISCO: Yes.

SENATOR SMITH: Thank you.

Have you determined or have you thought about how this bill might complicate the district's federal mandate to provide medical - medical transportation?

SENATOR DeFRANCISCO: How it would compromise it?

SENATOR SMITH: How it would complicate.

SENATOR DeFRANCISCO: I don't think it does. I think the bill basically mandates the least expensive transportation costs considering whatever the medical condition might be, and I think that's the intent of the federal government as well.

SENATOR SMITH: Would you -

would the sponsor yield for another question?

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

SENATOR DeFRANCISCO: Yeah.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR SMITH: Okay. If a person is incapacitated in a wheelchair or using a walker, that person isn't necessarily ill but would need special transportation. Your bill states only if a person is ill. How would you provide for that person in a wheelchair or a walker?

SENATOR DeFRANCISCO: Well, I would imagine -- once again, because the Department of Social Services has to manage this on a day-to-day basis, it would depend upon the availability and the type of transportation. In Syracuse through Centro, we're fortunate enough to have buses that do have wheelchair lifts. Other jurisdictions might not have the number that we have, and it would depend upon what services are available. So under those -

SENATOR SMITH: Will the sponsor continue to yield?

SENATOR DeFRANCISCO: Yes.

SENATOR SMITH: Have you ridden on any of these buses lately?

SENATOR DeFRANCISCO: No.

SENATOR SMITH: Are you aware that most of the bus drivers don't have keys for the handicapped ramps?

SENATOR DeFRANCISCO: Not in Syracuse, that's not the case.

SENATOR SMITH: You haven't been in the city of New York recently or rode on their transportation, have you?

SENATOR DeFRANCISCO: Well, then that's the fault of the administrators in New York City, not the fault of the legislation. I think if bus drivers don't have the bus keys, I don't think we should in the Legislature do a law that says bus drivers shall have keys, because that's pretty common sense. If the public transportation people are not doing it, whoever is supervising them should make sure

they're doing it.

SENATOR SMITH: Well, Mr. DeFran... the next time one of your appointees comes up to the MTA, we'll take that up with them.

However, the question still stands. How would the services be provided, because you're not going to have a social worker assigned to every individual, and if they have to make a determination quickly, you would need someone assigned to each individual practically. It's just an impossibility.

SENATOR DeFRANCISCO: I don't think that's the case at all. The Department of Social Services can issue regulations consistent with the statute that say if these particular circumstances exist, you're going to see a doctor on a non-emergency visit, on a regular call, you take public transportation unless you're disabled or unless it's an emergency and -

SENATOR SMITH: But your bill doesn't provide for that.

SENATOR DeFRANCISCO: Any - regulations are promulgated by every department and in -- in providing the specifics of following through with a piece of legislation, and I think that under these circumstances, those regulations would also be done.

SENATOR SMITH: Would the sponsor yield for one more question?

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

SENATOR SMITH: Would you be -

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR SMITH: Would you be willing to take another look at your legislation and provide for those areas which are not provided for?

SENATOR DeFRANCISCO: I would be more than happy to take another look at it. I would like to pass this today and we can amend

it at a later date, but I will definitely look at those areas you brought up, and Senator Libous brought something to my attention that by 1997, all modes of public transportation are supposed to have wheelchair accessible to the ADA.

SENATOR GOLD: Mr. President.

SENATOR SMITH: Thank you.

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

SENATOR GOLD: Senator DeFrancisco indicated that he wanted to pass it today. I thought if there's some concern about that, why don't we have the slow roll call right now and move it along.

SENATOR SMITH: Okay.

SENATOR DeFRANCISCO: In the spirit of cooperation, as Senator Gold always is, if he chooses to do that, that's up to the Majority Leader whether he wants to put everyone through that, but it's up to the Majority Leader whether he wants to go through a slow roll. If he does, that's fine. If he doesn't, that's

fine with me as well.

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

SENATOR PATERSON: Before we actually get to that question, I'm going to yield to Senator Gold in a moment to take that up. I just wanted to ask a specific question on the legislation.

ACTING PRESIDENT KUHL: Senator DeFrancisco, will you yield to Senator Paterson?

SENATOR DeFRANCISCO: Yes, I will.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator DeFrancisco, Senator Smith asked you a question about the bus drivers and the keys in New York City and your answer was that that's really the fault of the administrator, and I guess that is a correct answer; but what I'm asking you is when we draft legislation, we're not drafting legislation in the dark. In other words, she's

bringing information to the chamber that it may be hard to adhere to the new regulations that would be promulgated through this legislation, and what, in effect, you're saying to her is because there is a gap in what might be the correct administrative procedure, we're going to ignore that and pass the legislation anyway, and I'm asking you if you think that that's good law to be legislating into a condition where there is -- where obviously the access is going to be hard pressed as a result of your legislation.

SENATOR DeFRANCISCO: Well, I - I don't agree with the premise, because I don't think the access is going to be impaired at all.

The legislation states that the least expensive mode of transportation is to be taken unless it's not medically appropriate or whatever the exact words are, and I guess what I'm trying to say is that we've passed legisla tion oftentimes that is amended in the future with additional ideas, and I just think this is the start that we need in order to not only

provide a less costly transportation system for Medicaid recipients since we spend more in this state than the next two states combined on Medicaid, but also to assist those public transportation entities that come to us year after year for assistance because they're always in the red. This would provide more revenues for them as well.

SENATOR PATERSON: Yes, Senator. That is an answer that I can accept a lot better than the answer you were giving before. I hope you understand what my concern is and my concern is the concern of access.

Now, it is -- you can say there's a transportation system running near where the individual might be going for treatment, but let's say, as Senator Abate pointed out and Senator Smith pointed out and others have pointed out, that the buses may not come on time. The buses may not come regularly. There may be a problem with access for the disabled, and these are ancillary problems that are built into the system that may not actually be

something that's recognized just on paper.

What I'm saying to you is that members of the chamber are raising them as issues and our response has got to be a fashion of creating legislation such that it can actually apply in a way that will be fair to individuals, and what we're trying to alert you to is that in New York City we have these extraordinary problems that would be created by this kind of an imposition.

I actually grew up on Long Island and the transportation system in Long Island is very sporadic and it would be a real incumbrance and an added difficulty where that would be alleviated by the ability to take a taxi or something like that.

And so I'm just saying that it may work out and it may be designated in such a way in Syracuse, but this is a piece of legislation that you're trying to pass statewide.

ACTING PRESIDENT KUHL: Senator Paterson, is that in the form of a question or

are you asking for a comment from Senator DeFrancisco on that?

SENATOR PATERSON: It was just a statement I guess the few of us that are here might want to reflect on.

So I thank Senator DeFrancisco for answering my questions and would advise the president that Senator Gold just raised a moment ago that we were desirous of a slow roll call on this piece of legislation.

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.)

SENATOR GOLD: Slow roll call, please.

ACTING PRESIDENT KUHL: There's a slow roll call request. Are there five Senators in the chamber standing up? There are five, Senator. I know Senator Onorato is having a

hard time getting to his feet, but the Secretary will call the roll slowly.

THE SECRETARY: Senator Abate.

(Negative indication.)

Senator Babbush.

(There was no response.)

Senator Bruno.

(Affirmative indication.)

THE SECRETARY: Aye.

Senator Connor.

(Negative indication.)

THE SECRETARY: Nay.

Senator Cook.

(There was no response.)

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.

SENATOR DiCARLO: Aye.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Aye.

THE SECRETARY: Senator Espada.

SENATOR ESPADA: No.

THE SECRETARY: Senator Farley.
SENATOR FARLEY: Aye.
THE SECRETARY: Senator Galiber, excused.
Senator Gold.
(There was no response.)
Senator Gonzalez.
(There was no response.)
Senator Goodman.
(There was no response.)
Senator Hannon.
(There was no response.)
Senator Hoblock.
SENATOR HOBLOCK: Yes.
THE SECRETARY: Senator Hoffmann.
SENATOR HOFFMANN: Aye.
THE SECRETARY: Senator Holland.
SENATOR HOLLAND: Yes.
THE SECRETARY: Senator Johnson.
SENATOR JOHNSON: Aye.
THE SECRETARY: Senator Jones.
SENATOR JONES: Aye.
THE SECRETARY: Senator Kruger.

SENATOR KRUGER: No.
THE SECRETARY: Senator Kuhl.
SENATOR KUHL: Aye.
THE SECRETARY: Senator Lack.
(There was no response.)
Senator Larkin.
(There was no audible response.)
Senator LaValle.
(There was no response.)
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.
(There was no response.)
Senator Marcellino.
SENATOR MARCELLINO: Yes.
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.

SENATOR MENDEZ: No.

THE SECRETARY: Senator Montgomery.

(There was no response.)

Senator Nanula.

(There was no response.)

Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Aye.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Aye.

THE SECRETARY: Senator Padavan.

(There was no response.)

Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.
SENATOR PRESENT: Aye.
THE SECRETARY: Senator Rath.
(There was no response.)
Senator Saland.
SENATOR SALAND: Aye.
THE SECRETARY: Senator Santiago.
(There was no response.)
Senator Sears.
SENATOR SEARS: Yes.
THE SECRETARY: Senator Seward.
(There was no response.)
Senator Skelos.
SENATOR SKELOS: Yes.
THE SECRETARY: Senator Smith.
SENATOR SMITH: No.
THE SECRETARY: Senator Solomon.
SENATOR SOLOMON: No.
THE SECRETARY: Senator Spano.
(There was no response.)
Senator Stachowski.
SENATOR STACHOWSKI: Yes.
THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.
THE SECRETARY: Senator Stavisky.
(There was no response.)
Senator Trunzo.
(There was no response.)
Senator Tully.
SENATOR TULLY: Aye.
THE SECRETARY: Senator Velella.
(There was no response.)
Senator Volker.
SENATOR VOLKER: Yes.
THE SECRETARY: Senator Waldon.
SENATOR WALDON: Yes.
THE SECRETARY: Senator Wright.
SENATOR WRIGHT: Aye.
ACTING PRESIDENT KUHL: The Secretary will call the absentees.
THE SECRETARY: Senator Babbush.
(There was no response.)
Senator Cook.
SENATOR COOK: Yes.
THE SECRETARY: Senator Gold.
(There was no response.)

Senator Gonzalez.
SENATOR GONZALEZ: No.
THE SECRETARY: Senator Goodman.
(There was no response.)
Senator Hannon.
(There was no response.)
Senator Lack.
(There was no response.)
Senator LaValle.
SENATOR LAVALLE: Aye.
THE SECRETARY: Senator Maltese.
SENATOR MALTESE: Aye.
THE SECRETARY: Senator Montgomery.
SENATOR MONTGOMERY: No.
THE SECRETARY: Senator Nanula.
SENATOR NANULA: No.
THE SECRETARY: Senator Rath.
(There was no response.)
Senator Santiago.
(There was no response.)
Senator Seward.
(There was no response.)

Senator Spano.

SENATOR SPANO: No.

THE SECRETARY: Senator Stavisky.

(There was no response.)

Senator Trunzo.

(There was no response.)

Senator Velella.

(There was no response.)

ACTING PRESIDENT KUHL: Senator Waldon.

SENATOR WALDON: Mr. President, I zigged when I should have zagged. My statement should have been in the negative, not in the affirmative.

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

Senator Gold.

SENATOR GOLD: No.

ACTING PRESIDENT KUHL: Senator Gold will be recorded in the negative.

SENATOR GOLD: Thank you.

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 34, nays 14.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 1304, by Senator Saland, Senate Print 4509, an act to amend the Not-for-Profit Corporation Law, in relation to eliminating limitations on certain corporations.

SENATOR PATERSON: 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.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1305, by Senator Seward, Senate Print 4513-A -

SENATOR STACHOWSKI: Explanation.

SENATOR NOZZOLIO: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1306, by Senator Maziarz, Senate Print 4805, an act to amend the Public Health Law, in relation to notification of patients.

SENATOR STACHOWSKI: Explanation.

SENATOR NOZZOLIO: Lay the bill aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1310, by Senator Skelos, Senate Print 4958-A, an act to amend the Public Service Law, in relation to the elimination of the mandate for the Public Service Commission.

SENATOR STACHOWSKI: Explanation.

SENATOR NOZZOLIO: Lay the bill aside.

THE SECRETARY: Calendar Number 1312 -

ACTING PRESIDENT KUHL: The Chair recognizes Senator Nozzolio.

SENATOR NOZZOLIO: Yes. Mr. President, please return to Calendar Number 1306, Senator Maziarz' bill.

ACTING PRESIDENT KUHL: Ask the Secretary to read the title to Calendar Number 1306.

THE SECRETARY: Calendar Number 1360, by Senator Maziarz, Senate Print 4805, an act to amend the Public Health Law.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT KUHL: Senator Maziarz, an explanation.

SENATOR MAZIARZ: I thought you were going to read the last section.

ACTING PRESIDENT KUHL: Senator Maziarz, an explanation of Calendar Number 1306 has been asked for by a number of the members from the Minority side.

SENATOR MAZIARZ: Certainly, Mr. President.

This bill very simply provides

for the confidentiality of a patient's records when a physician's practice is closed or sold. Currently, nothing in state law provides standards for physicians as regards to patient notification upon closing or selling their practice.

This is a concern for people who have sensitive information in their medical records and would prefer that their records not automatically go to another physician or unbeknownst to them sit in a storage at an unknown location or even worse yet, an example that happened in my district -

ACTING PRESIDENT KUHL: Excuse me, Senator Maziarz. It's very noisy in here. A lot of conversations going on. Could we please -- if you have to have a conversation, can you take out of the chamber. There's a lot of motion. Please -- members, please take their seats, the staff, stay in their seats. We have a lot of bills to pass in the next 36 hours.

Thank you for your indulgence, Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

My last point is that a patient's records could, unbeknownst to them, be simply thrown into the -- into the garbage.

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

Senator Abate.

SENATOR ABATE: Yes. Would Senator Maziarz yield to a question?

SENATOR MAZIARZ: Certainly, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR ABATE: I have one concern, and I'm not sure if it can be addressed today, but I ask you as the sponsor to look at this issue.

As you know, I represent a district where many members of my district are HIV-positive, and they have communicated to me their concern around issues of confidentiality, and whereas I understand the good intent of this

bill, they're concerned that when someone -- a practitioner sells or disposes of their practice, the records are then forwarded to the address, and -- or a phone call -- there's some communication between the patient and the practitioner that the practice is going to be transferred, and there's a concern that there would be an abridgment of confidentiality that in a sense the material will fall in the wrong hands, and I'm not sure how that gets corrected. I'm waiting to see if there's any suggestions how to correct that. Have you heard that concern?

SENATOR MAZIARZ: Yes, I have, Senator, and -

SENATOR ABATE: What's your reaction to it? Do you think this bill covers their concerns?

SENATOR MAZIARZ: Well, I contacted both the Medical Society who supports this bill and also several physicians within my district and they indicated to me, because I had that same concern, and I received a memorandum

from the Gay Men's Health Crisis regarding that particular issue, and what the physicians indicated to me was that at -- right now when a physician has to deal with the patient either by sending them bills for services rendered or sending them reports of testing information, whatever, that generally a physician will ask - it's part of the standard form when you go to the physician -- where would you like mail sent, either to your business, your home, to a post office box, and that primarily what would happen in this notification -- or in this instance, the -- either the physician would send the information based on the patient's indications to him initially.

SENATOR ABATE: Would you - would the Senator yield -- continue to yield?

SENATOR MAZIARZ: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR ABATE: Would you also consider down the road -- I know that there's another Senate Bill 15-B by Senator Farley which

calls for the creation of a Health Care Information Privacy Advisory Board. I'm hoping that, if this board does become a reality, that they would look at these confidentiality concerns vis-a-vis this bill if it passes and becomes law, because there may be some real concerns. I do not have a solution how to remedy it, but I would hope that if this does pass, we take another fresh look at the -- at the implementation, the execution of this legislation and try to remedy some of these issues.

SENATOR MAZIARZ: I certainly will do that, Senator.

SENATOR ABATE: Thank you.

ACTING PRESIDENT KUHL: Senator Solomon.

SENATOR SOLOMON: Yes. Would Senator Maziarz yield, please?

ACTING PRESIDENT KUHL: Senator Maziarz, do you yield to Senator Solomon?

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

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR SOLOMON: Senator, reading your bill and correct me if I'm wrong, it specifically says that the doctor notifies the patient that he or she may request a copy of their records and to do so, that patient must request that in writing. What happens if that patient's brother writes; it only goes to the patient, I would assume?

SENATOR MAZIARZ: It only goes to the patient.

SENATOR SOLOMON: So, in effect, Senator, this bill is protecting the confiden tiality of that patient. No one in that family can get those records other than the patient because it's a process where, (a) is you send a letter to the patient John Doe, at his residence saying, "Dear John Doe: I'm closing my practice. If you want a copy of your medical records, sign the enclosed letter and send it back to me", so only John Doe, that patient, can request a copy of those records and the only

notice that goes to his house is a notice that Dr. Smith, wherever he might be -- he may be a podiatrist -- is closing his practice, correct?

SENATOR MAZIARZ: That's correct, Senator.

SENATOR SOLOMON: So the medical records are secured only by the patient of the doctor in writing. There must be a written request to secure those records by that patient.

SENATOR MAZIARZ: That's correct, Senator.

SENATOR SOLOMON: So this protects the patient. There is no one besides that patient that can request those records.

SENATOR MAZIARZ: Thank you, Senator.

SENATOR SOLOMON: All right, Senator.

ACTING PRESIDENT KUHL: Senator Solomon, are you -- Senator Solomon, are you asking Senator Maziarz to continue to yield?

SENATOR SOLOMON: Yes. Will Senator Maziarz continue to yield?

ACTING PRESIDENT KUHL: Will you continue to yield, Senator Maziarz?

SENATOR MAZIARZ: Certainly, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR SOLOMON: Senator, in effect -- the patient then in effect literally controls the disbursement of those records and they can refuse to have those records sent by just not forwarding the response.

SENATOR MAZIARZ: That is correct, Senator.

SENATOR SOLOMON: Okay.

Thank you.

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

THE SECRETARY: Section 2. This act shall take effect 120 days after it shall have become a law.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will read Calendar Number 1310.

THE SECRETARY: Calendar Number 1310, by Senator Skelos, Senate Print 4958-A, an act to amend the Public Service Law, in relation to the elimination of the mandate for the Public Service Commission.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT KUHL: Senator Skelos, an explanation by the substitute Minority Leader, Senator Stachowski, has been asked for on Calendar Number 1310.

SENATOR SKELOS: This legislation would remove the Public Service Commission mandate for a complete management audit on certain phone companies every five years and replace it with the concept of only as needed.

SENATOR STACHOWSKI: If the Senator would yield for a question.

ACTING PRESIDENT KUHL: Senator

Stachowski is asking Senator Skelos to yield. Do you yield? The Senator yields.

SENATOR STACHOWSKI: Senator, the only concern is -- and you can probably take care of this. Is there any -- is there -- by making this periodical rather than yearly, is there still all the safeguards dealing with those phone companies by the consumers?

SENATOR SKELOS: Yes, there is.

SENATOR STACHOWSKI: Thank you.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1312, by Senator Velella, Senate Print 5045, an act to amend the Vehicle and Traffic Law, in

relation to authorizing a residential parking system.

SENATOR STACHOWSKI: Explanation.

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

SENATOR GOODMAN: Before this bill is taken up, with the consent of the -

ACTING PRESIDENT KUHL: The bill is on the floor, Senator Goodman, right now. An explanation of the bill has been asked for.

SENATOR GOODMAN: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Is Senator Velella in the chamber? Can we lay this bill aside, Senator Skelos?

SENATOR SKELOS: Lay this bill aside temporarily and please recognize Senator Goodman.

ACTING PRESIDENT KUHL: Lay this bill aside temporarily.

Senator Goodman.

SENATOR GOODMAN: Thank you, Mr. President.

Mr. President, for the record, had I been in the chamber on June 13th, I would have voted in the affirmative on Calendar Number 1187, Senate Bill Number 5173-A, and the same applies to a bill today, Calendar Number 1299, Print Number 3520, in the affirmative.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The record will reflect, Senator Goodman, that had you been in the chamber earlier this week on Tuesday, June 13th, that you would have voted in the affirmative on Calendar Number 1187-A. Without objection, and hearing no objection, you will be recorded in the affirmative on Calendar Number 1299 -- excuse me, Senator Goodman. That was a slow roll call, but the record will reflect that, had you been in the chamber, you would have voted in the affirmative on Calendar Number 1299.

Senator Skelos.

SENATOR SKELOS: Mr. President, again, I would urge the members as their bills come up, if they could please be in the chambers

to debate the bill, if they're prepared to debate the bill or at least lay it aside if they need a little extra time to prepare debate for the bill, but we -- we've asked the Minority to be cooperative with us and they certainly are going to give us their best effort to do so, so we can move expeditiously today as we try to close session by tomorrow, June 15th, so please watch the calendar. If you see that one of your bills are coming up, if you want to explain it, please be in the chambers. If you want to debate it, please be in the chambers.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Rules Committee in Room 332 of the Capitol. The Senate will stand at ease pending receipt of the Rules report, then I believe the Minority has asked for a conference on a bill. So we'll break for about -- we're not going to recess. We're going to stand at ease until 1:30, and we'll have the Rules

Committee meeting right now.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee -- immediate meeting of the Rules Committee in the Majority Conference Room, Room 332. Immediate meeting of the Rules Committee in the Majority Conference Room, Room 332. There will be a Minority Conference immediately following that. The Senate will stand at ease -

SENATOR SKELOS: Mr. President, could you recognize Senator Wright, please?

ACTING PRESIDENT KUHL: The Chair recognizes Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

There will be an immediate meeting of the Senate Task Force on Defense Spending in Room 123.

ACTING PRESIDENT KUHL: Also be an immediate meeting of the Senate Task Force on the Defense Industry in Room 123. The Senate will stand at ease until 1:30 sharp.

(Whereupon, the Senate stood at ease from 12:59 p.m. until 2:05 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Before we have a -- reports of standing committee from the Rules Committee, I would like to ask the members on both sides of the aisle, if they could start coming back into the -- into the chambers. We're going to start off with a reading of the new Rules Committee report and then we are going to have a vote on Senator Levy's bill which - Calendar Number 728 and the Minority has informed me that there will most likely be a slow roll call on that, so if we could get all the members in the chamber at this time.

Mr. President, would you please call up Senator Levy's bill, Calendar Number 728, for the purpose of Senator Leichter voting.

ACTING PRESIDENT KUHL: The Secretary will read the title to Calendar Number 728.

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

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR SKELOS: Please recognize Senator Leichter.

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

SENATOR LEICHTER: Yes.

ACTING PRESIDENT KUHL: Senator Leichter will be recorded in the affirmative. The roll call is withdrawn. The bill is laid aside.

The Chair recognizes Senator

Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there's a report of the Rules Committee, and I ask that it be read at this time.

ACTING PRESIDENT KUHL: There is a report of the Rules Committee at the desk. We'll return to the reports of standing committees, and I'll ask the Secretary to read the Rules report.

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

Senate Print 1059, by Senator Waldon, 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 Queens;

2458-A, by Senator Skelos, an act to amend the Family Court Act, in relation to orders of protection;

2949-A, by Senator Dollinger, an

act validating the conversion of Roselawn Refuse and Garbage District;

3006-A, by Senator Libous, an act to amend the Criminal Procedure Law, in relation to the presence of counsel;

3236, by Senator LaValle, an act to amend the General Municipal Law, in relation to forfeiture of benefits;

3493-A, by Senator Hoblock, an act to amend the Military Law, in relation to the Deputy Commander of the New York Army National Guard;

3631-A, by Senator Stafford, concurrent resolution of the Senate and Assembly proposing amendments to Sections 1, 2, 10, 11 and 16 of Article VII of the Constitution;

3839-A, by Senator Sears, an act to amend the General Business Law, in relation to false price comparisons;

3905-A, by Senator Rath, an act to amend the State Administrative Procedure Act and Chapter 402 of the Laws of 1994;

4253, by Senator Tully, an act to

amend the Public Health Law and the Education Law, in relation to professional misconduct;

4329-A, by Senator Maziarz, an act to amend the Insurance Law, in relation to disqualification of life insurance beneficiaries;

4529-A, by Senator Tully, an act to amend the Environmental Conservation Law, in relation to the harvest and shipment of shellfish;

4799, by Senator Volker, an act to amend the Penal Law, in relation to including certain obscenity crimes in the definition of criminal act;

4815, by Senator Johnson, an act to amend the Insurance Law, in relation to the definition of small groups;

4918, by Senator Jones, an act to reclassify Dorothy L. Barnatones as a Tier I member of the New York State and Local Employees Retirement System;

4924, by Senator Nozzolio, an act authorizing the county of Monroe to participate

in a cooperative corporation;

4932-A, by Senator Farley, an act to amend the Executive Law, in relation to the restoration and display of New York State's military battle flags;

5001, by Senator Connor, an act authorizing the city of New York to reconvey its interest in certain real property;

5012, by Senator Nanula, an act to amend the Local Finance Law, in relation to the private sale of bonds;

5085, by Senator Kuhl, an act in relation to authorizing the village of Penn Yan, Yates County to issue serial bonds;

5094, by Senator Maltese, concurrent resolution of the Senate and Assembly proposing amendments to Sections 1, 5, 6 and 8 of Article II of the Constitution;

5292, by Senator Kuhl, an act to amend the Limited Liability Company Law and the Partnership Law, in relation to certain professional services;

5301, by Senator Maltese, an act

to amend the Penal Law, in relation to the withholding of exculpatory evidence;

5302, by Senator Maltese, an act to amend the Criminal Procedure Law, in relation to jury consideration;

5326, by Senator Levy, an act to amend the Vehicle and Traffic Law, in relation to authorizing the Department of Motor Vehicles to sell to the highest bidder motor vehicle title information;

5329, by Senator Leibell, an act to amend the Private Housing Finance Law, in relation to the state's involvement in the National Affordable Housing Act;

5333, by the Committee on Rules, an act to amend the Tax Law, in relation to extending the effectiveness of provisions authorizing the county of Rensselaer to impose an additional one percent of sales and compensating use tax;

5343, by Senator Marchi, an act to amend the Navigation Law, in relation to pilotage fees;

5348, by Senator DiCarlo, an act to amend the Agriculture and Markets Law, in relation to the enforcement of certain kosher food laws;

5357, by Senator Johnson, an act to amend the Environmental Conservation Law, in relation to the definition of facility;

5377, by Senator Maltese, an act to amend the Criminal Procedure Law, in relation to the powers of the United States Park Police;

5379, by Senator Holland, an act to amend the Social Services Law, in relation to the pass through of federal cost of living adjustments;

5371, by Senator Goodman, an act to amend the Real Property Tax Law, in relation to the determination of adjusted based proportions; and

5321, by Senator Maziarz, an act to amend the Criminal Procedure Law, in relation to period of limitation.

All bills ordered directly for third reading.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Yes. I move we accept the report of the Rules Committee, and I believe they're all being reported to third reading.

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 adopted. All bills are directed directly to third reading.

SENATOR SKELOS: Mr. President, at this time if we could take up Senator Levy's bill, Calendar Number 728. As I mentioned, I believe that this bill has been debated and there will now be a roll call on the bill.

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

SENATOR PATERSON: Slow roll call, Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos, can we -- before we take up this bill, we've got a couple of housekeeping -- we're looking at a couple of rush prints. Can we do that quickly? Okay.

The Chair recognizes Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Velella, on page 36, I offer the following amendments to Calendar Number 1312, Senate Print 5045, and I ask that that bill retain its place on the Third Reading Calendar.

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

SENATOR FARLEY: On behalf of Senator Levy, on page 21, I offer the following amendments to Calendar 876, Senate Print 4986-B,

and I ask that that bill retain its place on the Third Reading Calendar.

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

Senator Farley.

SENATOR FARLEY: On behalf of Senator Spano, on page 21, I offer the following amendments to Calendar 861, Senate Print 3975-C, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 861 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Farley.

SENATOR FARLEY: On behalf of Senator Levy, please remove the sponsor's star from Calendar Number 841.

Thank you.

ACTING PRESIDENT KUHL: The star will be removed on Calendar Number 841 at the

request of the sponsor.

The Secretary will read the title.

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

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 14.

SENATOR PATERSON: Slow roll call.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR GOLD: Slow roll call.

ACTING PRESIDENT KUHL: A slow

roll has been requested. Are there five Senators standing? There are five Senators standing requesting a slow roll call. The Secretary will read the roll call slowly.

THE SECRETARY: Senator Abate.

SENATOR ABATE: Yes.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Bruno.

(Affirmative indication.)

THE SECRETARY: Aye.

Senator Connor.

(Negative indication.)

THE SECRETARY: No.

Senator Cook.

(There was no response.)

Senator DeFrancisco.

SENATOR DeFRANCISCO: No.

THE SECRETARY: Senator DiCarlo.

SENATOR DiCARLO: No.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Yes, Mr.

President.

THE SECRETARY: Senator Espada.

SENATOR ESPADA: Yes.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: No.

THE SECRETARY: Senator Galiber, excused.

Senator Gold.

SENATOR GOLD: Yes.

THE SECRETARY: Senator Gonzalez.

(There was no response.)

Senator Goodman.

(There was no response.)

Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoblock.

(There was no response.)

Senator Hoffmann.

SENATOR HOFFMANN: No.

THE SECRETARY: Senator Holland.

(There was no response.)

Senator Johnson.

(There was no response.)

Senator Jones.
SENATOR JONES: Aye.
THE SECRETARY: Senator Kruger.
SENATOR KRUGER: Yes.
THE SECRETARY: Senator Kuhl.
SENATOR KUHL: No.
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.
SENATOR LEIBELL: Aye.
THE SECRETARY: Senator Leichter voting in the affirmative earlier today.
Senator Levy.
SENATOR LEVY: Aye.
THE SECRETARY: Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Maltese.
SENATOR MALTESE: Aye.
THE SECRETARY: Senator

Marcellino.

SENATOR MARCELLINO: Aye.

THE SECRETARY: Senator Marchi.

(There was no response.)

Senator Markowitz.

SENATOR MARKOWITZ: Yes.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: Yes.

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: Yes.

THE SECRETARY: Senator Nanula.

(There was no response.)

Senator Nozzolio.

(There was no response.)

Senator Onorato.

SENATOR ONORATO: Aye.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Aye.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.
THE SECRETARY: Senator Paterson.
SENATOR PATERSON: Yes.
THE SECRETARY: Senator Present.
SENATOR PRESENT: No.
THE SECRETARY: Senator Rath.
SENATOR RATH: Aye.
THE SECRETARY: Senator Saland.
(There was no response.)
Senator Santiago.
SENATOR SANTIAGO: Yes.
THE SECRETARY: Senator Sears.
SENATOR SEARS: No.
THE SECRETARY: Senator Seward.
SENATOR SEWARD: Yes.
THE SECRETARY: Senator Skelos.
SENATOR SKELOS: Yes.
THE SECRETARY: Senator Smith.
SENATOR SMITH: Yes.
THE SECRETARY: Senator Solomon.
SENATOR SOLOMON: Yes.
THE SECRETARY: Senator Spano.
SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: No.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

(There was no response.)

Senator Trunzo voting in the affirmative earlier today.

Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

(There was no response.)

Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT KUHL: The Secretary will call the absentees.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Cook.
SENATOR COOK: Yes.
THE SECRETARY: Senator Gonzalez.
(There was no response.)
Senator Goodman.
SENATOR GOODMAN: No.
THE SECRETARY: Senator Hoblock.
(There was no response.)
Senator Holland.
(There was no response.)
Senator Johnson.
SENATOR JOHNSON: No.
THE SECRETARY: Senator Marchi.
SENATOR MARCHI: No.
THE SECRETARY: Senator Nanula.
SENATOR NANULA: Yes.
THE SECRETARY: Senator Nozzolio.
SENATOR NOZZOLIO: Aye.
THE SECRETARY: Senator Saland.
SENATOR SALAND: Aye.
THE SECRETARY: Senator Stavisky.
(There was no response.)
Senator Waldon.

(Negative indication.)

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

SENATOR HOLLAND: No.

ACTING PRESIDENT KUHL: The Secretary will announce the results.

THE SECRETARY: Ayes 44, nays 12.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

Senator Lack, why do you rise?

SENATOR LACK: Thank you, Mr. President.

I was unavoidably out of the chamber at a meeting at the Rockefeller Institute when a vote was taken on Calendar 1299. Could the record reflect that if I had been present, I would have voted yes on Calendar 1299, S.3520?

ACTING PRESIDENT KUHL: The calendar will reflect, Senator Lack, that had you been in the chamber when the vote was taken on Calendar 1299 that you would have voted in

the affirmative.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at this time? Could we call up Calendar Number 1272, by Senator DiCarlo.

ACTING PRESIDENT KUHL: The Secretary will read the title to Calendar Number 1272.

THE SECRETARY: Calendar Number 1272, by Senator DiCarlo, Senate Print 3486-A, an act to amend the Public Authorities Law, in relation to the powers of the Dormitory Authority.

ACTING PRESIDENT KUHL: 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Would you please call up Senator Padavan's bill, Calendar Number 12... 1292.

ACTING PRESIDENT KUHL: The Secretary will read the title to Calendar Number 1292.

THE SECRETARY: Calendar Number 1292, by Senator Padavan, Senate Print 701, an act to amend the Social Services Law, in relation to the ineligibility of lawfully admitted aliens.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go a little out of order and the Minority has requested if we could take up Calendar Number 1296 at this time.

ACTING PRESIDENT KUHL: All right. 1292 will be laid aside temporarily.

I'll ask the Secretary to read the title to Calendar Number 1296, by Senator Padavan.

THE SECRETARY: Calendar Number 1296, by Senator Padavan, Senate Print 3092, an act to amend the Social Services Law, in relation to the exclusion of illegal aliens from receiving publicly-funded health care.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Paterson.

SENATOR PATERSON: Mr. President, would you please recognize Senator Espada who would request an explanation.

ACTING PRESIDENT KUHL: Senator Espada.

SENATOR ESPADA: Explanation, Mr. President.

ACTING PRESIDENT KUHL: Senator Padavan -- Senator Padavan, an explanation of Calendar Number 1296 has been asked for by Senator Espada.

SENATOR PADAVAN: Thank you, Mr. President.

I'm taking it out of order, Senator, but I'll certainly try to accommodate you. What this bill will do is strengthen the current prohibitions we have against illegal aliens receiving public health care benefits other than those mandated by the federal government, particularly in the category relating to emergency medical care.

ACTING PRESIDENT KUHL: Senator Espada.

SENATOR ESPADA: If I might, Mr. President, will the sponsor yield to a couple of questions, please?

SENATOR PADAVAN: Yes, certainly.

ACTING PRESIDENT KUHL: Senator Padavan yields.

SENATOR ESPADA: We thank Senator Padavan for yielding.

The first question, Senator Padavan, has to do with the reasonably -- the reasonable suspicion that -

ACTING PRESIDENT KUHL: Senator Espada, excuse me for the interruption. It's

just a little noisy in here. We'll wait until everybody has decided they want to stop talking to listen to you until we continue.

Senator Espada, I think we're ready to continue now. Thank you for the interruption.

SENATOR ESPADA: Thank you.

The determination of a consideration that has to be made rests on a judgment of -- and it reads on line 15, Section 2 -- it starts on 14 that if any publicly-funded health care facility in this state from whom a person seeks health care services other than emergency medical care as required by federal law, et cetera, determines or reasonably suspects based upon the information provided, et cetera, that the person is then worthy of some kind of administrative evaluation as to their legal status.

So my question is since it lacks specificity in law -- in your bill, whether you can provide some more specificity as to what determinations or what criteria one would weigh

with respect to making that determination of what is reasonable suspicion under your bill.

SENATOR PADAVAN: Senator, you read ahead to the middle of the first page, but you skipped over the top of the first page, and I think in that portion of the bill your answer lies.

It indicates that legal status is verified in a number of specific ways, and it lists them. Citizen, obviously, an alien lawfully admitted as a permanent resident, an alien lawfully admitted for a temporary period of time or a person who's otherwise authorized under federal law to be present in the United States.

Now, such persons, obviously, can verify that without any difficulty. If that - such requirements are not met, then obviously we may have a problem and further verification may be necessary.

I might add in answering your question even more fully, the Congressional Commission on Immigration Reform which has been

getting a lot of attention lately in the media, in their report to Congress in the fall -- and I'm going to read the sentence to you -- "the commission recommends that illegal aliens should not be eligible for any publicly-funded services or assistance except those made available on an emergency basis." It goes on to further amplify that statement.

So what our bill is doing here is simply -- perhaps not so simply, but certainly directly responding to this commission's recommendation.

I might also add, and I think I brought this up the other day, the President's May 6th address to the nation on immigration stated very directly that aliens -- "Illegal aliens should not be receiving benefits for public services or welfare." Again, that's a direct quote from the speech.

So what we have before us is a bill that seeks to accomplish those two goals as stated by Barbara Jordan in her commission and by the President of the United States and

certainly I think is consistent with what the people believe is fair and equitable. We must provide emergency services for any person in this country, legal or illegal, but there are many other services that are currently being provided, if you accept the inputs from the state Welfare Inspector General, Mr. Elmer Toro and other credible sources, including the state Department of Social Services gave us specific information relevant to this issue, and if you have had an opportunity to read our two reports, we provide chapter and verse what the various state and city agencies have advised us is the case relevant to this issue and other related issues.

SENATOR ESPADA: Mr. President, if I may follow up.

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

SENATOR ESPADA: We're -- my question, Senator Paterson, and I -- Padavan, and I wanted to have you edify this because the

question still remains unanswered. I am not talking about the criteria that -- that -- and the classes of -- that an immigrant or permanent resident is or is not. I'm talking about when you, myself, any member of our families would go into an emergency room of a public clinic and that person there, be they a doctor, be they a social worker has to pull the trigger, as it were, to see whether or not I am entitled to this service post-adoption of your -- of your bill. How do they -- these people that have been trained as social workers, physicians, mid level management or what have you, how would they implement this exclusion on the basis of my presenting myself for assistance at their desk, at their door?

SENATOR PADAVAN: Senator, I'm sure you've had a driver's license and when you applied for it, you had to demonstrate who you were, what you were, birth certificate, all kinds of things. There are a variety of ways a person can demonstrate that they are a legal resident of this country and have to in so many

other areas.

SENATOR ESPADA: Mr. President, if I may just -

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR ESPADA: Wouldn't this require, Senator Padavan, though, a universal screening because anything short of that would get into the area of being very selective and maybe discriminatory and I know you don't want to enter into the latter, so given the fact that we must be -- it must be an open-ended, universal system of screening, you or me or anybody that presents themselves because we don't carry distinguishing features that say I'm illegal or you're illegal, then I would have to -- upon applying for a license, yes, you're right, we do all of those things. Certainly that screening would then apply and whatever rules, whatever checks they want to implement

would be provided for everyone that presents themselves for care at these publicly-funded institutions.

SENATOR PADAVAN: Any person going to a hospital has to provide under any circumstance certain information, Social Security number, identification. You know, this is true for everyone.

What we're saying here is that while emergency services are mandated, other optional and non-emergency services are not for illegal immigrants, and we are requiring verification.

The city of New York alone and the Health and Hospitals Corporation has $63 million in non-reimbursable costs associated with this population, meaning they did not qualify because they're not legal residents for Medicaid or any other category.

I don't believe it's unreasonable for us to seek this process mandate. It's not already being done, and in parts of the state it is being done. There is no uniformity, however,

and to reflect, it's very sound recommendations that are coming from credible entities such as the ones I mentioned.

SENATOR ESPADA: Senator Padavan, through you, Mr. President.

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR ESPADA: I would take the liberty and let it act as a preface to the next question, that this would create an awesome bureaucratic immigration status determination system, and coming from the not-for-profit sector and the human service delivery sector, we can predict that we're going to have this incredible system where people that are not trained will have a new job description or, for that matter, that new people, new employees would carry this kind of job title. Somewhere in the management scheme of things, someone is going to have to do this job.

My contention may be that that person is not even there now so new costs will be added, but there's no question around the issue of costs in this thing. Where are we going to get the money? I know from hearing past debates that you do not believe in unfunded mandates, so where are we going to get the money?

SENATOR PADAVAN: I have stated to you on this issue and I urge you, whether you agree with the direction we're in or not, read the two studies that we generated which are 99 percent information provided by New York State Department of Social Services, New York City Department of Social Services, Health and Hospitals Corporation, every city and state agency that has any relevance. Read the information they provide.

Now, as far as costs, simply by weeding out illegal immigrants from hospital services to which they are not entitled, we will be saving conservatively -- and this is DSS numbers provided to us for the calendar year

1992 -- between 20- and $30 million. That's their number. I didn't make it up. I'll give you the report. You can read it for yourself.

Now, for us to save that kind of money, I don't know what you're talking about when you say unfunded mandate. Have you -- I'm sure you have, because I have -- been in one of the Health and Hospitals Corporation facilities at the intake area where a person comes into the emergency room and then is processed for admission. If you have, and you're nodding yes, you know they seek documentation from you today. They don't just let you in the door and give all your -- there is someone there today looking for a Medicaid card, if that's appropriate or any other documentation, if that's appropriate.

So there is no cost associated with this. What there is, is millions and millions of dollars of potential savings, and the federal government, the President and many, many people are saying, including the state Department of Social Services, that we do this

sort of thing.

SENATOR ESPADA: If I may, Mr. President.

SENATOR PADAVAN: The only alternative, if I may add one sentence, is to do nothing and, if that's what you're suggesting, then I have no way to answer your question.

SENATOR ESPADA: My question was with respect to costs, and you got caught up in a couple other things, but I want to go back to some cost issues.

These agencies that are going to implement these exclusions have probably in total lost at least $1 billion in various cutbacks. That same Health and Hospitals Corporation that you note admonished us that if we passed the cost containment and Medicaid cuts that we did, that they would lose millions and millions -- $750 million was a conservative estimate. It had nothing to do with illegal aliens or anything of the type, so they already have a major problem that we contributed to, but beyond that, I asked you a question about costs

and you give me the lectures about what I should read.

I'm reading your bill, and I'm asking questions only about your bill, and it says that if I work in one of these places and someone presents themselves, then I have to ask any number of questions that would lead me to ascertain and determine whether or not they are a citizen of the United States, an alien lawfully admitted as a permanent resident, an alien lawfully admitted for a temporary period of time or a person who is otherwise authorized under the federal law to be present in the United States.

No one right now is in a position to ask those questions and make those determinations. Therefore, somebody's going to have to do that. It doesn't sound like a simple task. When I get through doing that, then I have to go to INS and I have to go to the Attorney General. It sounds like a heck of a job.

SENATOR PADAVAN: If I may

respond to Senator Espada.

First, I disagree with your contention that there is no one there to do it now. An intake person at any hospital already requires that individuals provide certain documentation. I might also add that seeking employment, if you are not a citizen, you must provide documentation. You know that's a federal law with some very serious penalties on employers who violate it. So this is not a new concept.

I take issue with your comment that you should not read the supporting documentation, because the information -- if I may -- the information -

ACTING PRESIDENT KUHL: Senator Espada, you asked Senator Padavan a question. He should be allowed to answer it.

SENATOR PADAVAN: The information that we have obtained over the course of two years seeking input from every credible source is the basis by which we move in the direction we're moving.

When I tell you that the state Department of Social Services provided information for us for the calendar year 1992 in terms of illegal aliens and the figure that they estimate in terms of the costs for this particular issue is between 20- and 30 million, that's verifiable information that you can check if you wish. It's not in the bill, but it's a fact, and there is a great deal more.

So I point these things out to you simply to justify the initiative we are undertaking here on this bill and other bills and, as I said before, if we do not do things of this sort, then the only option for us to do is nothing, not to be concerned at all about persons going into our hospitals, both public and private, taking advantage of medical services that are not in the emergency category and falling into the bad debt and charity pool, because that's where they fall, because they're not covered by insurance. They're not covered by Medicaid, and I assume you're familiar with the costs to the state in the bad debt and

charity pool. That's part of this cost, a large part of it, and the Health and Hospitals Corporation is suffering. We know that.

I have two hospitals in Queens that I'm intimately familiar with, Queens Hospital Center and Elmhurst. I know the problems they're suffering, but I have also been in their emergency wards, in the clinics, and if you were there with me, many of your questions would be answered.

So what I'm saying to you here - and by the way, I have also talked to social workers who say, you know, we know this person is an undocumented alien, but current policy here in the city of New York is such that we can't do anything about it, so we have to provide the full range of services because they claim to be whatever.

This is going on -- this is in the real world, not just in New York State and New York City, by the way, it's in Los Angeles. It's in eastern Texas, it's in Miami, and that's why those governors have gone into the federal

courts seeking remuneration from the federal government, and so have we. It's not unique to New York City and New York State, but we're part of six regions and we're being directed. We're being encouraged by the President, by the commissioner and many others to do whatever we can to help ourselves.

If you have problems with that, I can't help you, but nevertheless, when you say you have trouble understanding that we want a hospital to verify whether that person is an illegal or legal immigrant when they seek non-emergency services, well, then we part company, because I don't know how to answer you.

ACTING PRESIDENT KUHL: Senator Espada.

SENATOR ESPADA: Mr. President, if I may. Before we part company, if we can just continue, because in answering my question, you raised some new and related issues.

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR ESPADA: If you and I were to take a walk through your emergency rooms or mine, through the subway stations or the restaurants in your district or mine, I do not think that we would have the requisite skills and orientation to go out there and detect illegal aliens and, you know, identify them. Was that where you were drawing me to, that upon a glance, upon entering an emergency room of a hospital that it would be that crystal clear that it was inhabited by illegal aliens?

SENATOR PADAVAN: Senator, either I'm being inartful in responding to you or somehow the acoustics are not good here, but what I said several times, at least three times, that when you enter a hospital, public or private, if you are a Medicaid person, you must show your Medicaid card. If you're covered by a private third-party insurer, you must indicate who that is. If you are a citizen, you provide your Social Security number or other relevant

information. That is normal procedure now. The person at the counter hands you a clipboard or form and says, "Fill this out. Fill it out." That's what's going on today.

Now, we're saying in this bill that if that person doesn't provide any of the information that's currently required, then - and they cannot verify that they're there in this country as -- legally and they're not there for emergency services, then this kicks in. That's what I said to you. I didn't say anything about walking through the subway or any other place.

SENATOR ESPADA: I thought I heard you say that, if we walked into the emergency room, that the problems would be abundantly clear. Let's leave that to the side. I think we could probably make more ground dispelling some of the other myths that you laid out, though.

Bad debt and charity pool of New York State, respective reimbursement system, I am very familiar with that. You know in your

district -- probably more in yours because it's more middle income than mine -- there are lots of working class people, American citizens that they are, who have no insurance who go to the emergency room, the OBG clinics, have babies, get treated for all kinds of maladies that make up the reimbursement that's in that pool. That's where that money goes.

How can you possibly say that that money is supporting provision of care to illegal aliens when, in fact, it is providing care to working class people who are medically indigent and have no insurance? A major problem in this state and this country. That's what that pool is there for, not to subsidize provision of care to illegal immigrants.

SENATOR PADAVAN: Mr. President, if I may respond. What I said to you, Senator, was that this cost of providing non-emergency and emergency, by the way, health care to illegal immigrants becomes part of a hospital's non-reimbursement income, either Medicaid or third party or any other. I said it becomes

part of that significant sum of money that is a factor in the difficulties that our hospital system in the city of New York is currently experiencing. I did not say it was the entire bad debt and charity pool. I said it was a contributing component.

SENATOR ESPADA: Senator Padavan,.

ACTING PRESIDENT KUHL: Senator Espada.

SENATOR ESPADA: Just on these issues of public health and safety which I know is of concern to you, the -- but before we go there, I just wanted to clarify one point. Is there any social work organization, educational association, physician or public health association that supports your measure?

SENATOR PADAVAN: Senator, I have not received any memos in opposition from any such organizations -

SENATOR ESPADA: I'm saying in favor of.

SENATOR PADAVAN: -- one way or

the other, and I would assume that if they were troubled by this, they would have communicated that, the specific organizations that you're talking about.

ACTING PRESIDENT KUHL: Senator Espada.

SENATOR ESPADA: The public health and safety concerns -- Mr. President, through you.

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR ESPADA: -- will this legislation -- and it's A-B, so if I can just get out the A and B -- will this legislation deny access to children for purposes of immunizations, vaccines and will it also deny women of prenatal care? In addition to that, are you at all concerned that dangerous and contagious disease entities will go undiagnosed and untreated and then, in fact, affect us all,

citizens and immigrants alike?

SENATOR PADAVAN: There were a number of questions there. Let's see if I can respond. Someone who arrives at a clinic and has a communicable disease, that's an emergency situation and under the federal mandate would have to be treated. If an undocumented -- if an illegal alien is identified at a clinic or at a hospital seeking prenatal care, that is not an emergency situation. If a child is born here even of illegal aliens, that child is a citizen and would receive and be entitled to all of the care, including inoculations.

ACTING PRESIDENT KUHL: Senator Espada.

SENATOR ESPADA: Just to press on the issue, though, of -

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR ESPADA: -- if I'm

already here, you don't know my status, then you find out my status and I'm a young child that was not born here, will I be denied immunizations at these publicly-funded clinics?

SENATOR PADAVAN: I didn't hear the first part. Did you say I don't know my status?

SENATOR ESPADA: Yeah. I have not revealed my status. My status is not at issue to me. I'm just a baby who, guardian or somebody is bringing me into the public health delivery system and that person cannot prove that -- my status, will I be denied immunizations and vaccines?

SENATOR PADAVAN: When you use the word "prove", Senator, we've gone over that for a good half hour. If there's no verification in any one of the broad categories, the specific categories we've talked about and that person is identified thereby as an illegal alien, if it is a non-emergency service, then they're not entitled to health care today by law, by federal law. We have been violating it.

SENATOR ESPADA: So we will in some fashion -- clearly in this fashion, we will be denying that access? I hear you loud and clear. You think that that service should be denied. All I'm saying is as a result of that, we will, in fact, be denying children immunizations.

SENATOR PADAVAN: Which children are you -- will the Senator yield?

SENATOR ESPADA: Of course.

SENATOR PADAVAN: Senator, I'm going to ask you two questions: Number one, do you believe that illegal aliens should receive a full gamut, a full range of health care services in New York State, in New York City? That's question one.

Question two, do you differentiate between various age groups in that category?

SENATOR ESPADA: I would uphold whatever the federal statutes and whatever the state statutes are with respect to that -- those exclusions.

SENATOR PADAVAN: Will the Senator yield again?

SENATOR ESPADA: Yep.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PADAVAN: The federal statute says that the only required health care is for emergency situation service and, again, I repeat, the President is saying you've got to do that. The commissioner is saying you've got to do that, Congress and U.S. Senators, and so on, and so forth. Do you agree with that?

SENATOR ESPADA: I not only understand and agree with it, my problem is not with those statutes and my understanding of those statutes. My problem is when you try to make doctors and teachers, social workers, INS agents and when you go about that in this fashion which can -- is fraught with potential -- in terms of discrimination with vigilante self-enforcement and all of those judgments that have to be made about the people that we're talking about and then coupled with the public

health and safety dangers that will be a direct result of having contagions out there untreated, TB, sexually-transmitted diseases, the HIV virus, you name it and you think what we don't even know about right now which your report speaks to, okay, then we can turn our back on that and cite federal statute and state statute, but that's not the issue in this bill. The issue in this bill is that we're creating new INS personnel at the state's expense and at local expense as well.

SENATOR PADAVAN: Mr. President, I'm responding.

ACTING PRESIDENT KUHL: Senator Padavan to respond.

SENATOR PADAVAN: We're not providing new INS personnel at our health facilities. We're utilizing the current system. Let me read something to you, Senator, since we're entering this dialogue. This is again from the report, U.S. Commission on Immigration Reform, by the way, appointed by the prior Congress, been in effect for a couple of

years, going all over the country.

"The Commission firmly believes that benefit policies should continue to send this message, if aliens enter the U.S. unlawfully, they will not receive aid except in limited instances. Federal legislation should permit states and localities to limit eligibility of illegal aliens on this same basis."

Senator, either you accept that or you don't. I don't think we have any choice but to accept it. We cannot be the health care provider for the entire world. We cannot be the place where people come from every conceivable part of this globe seeking health care, particularly during this point in time. Now, either we draw a line somewhere following the federal mandates or we do not.

The current intake process is adequate today to apply this proposed legislation. They are there doing the intake evaluation today, and I would say to you, talk to any person in that category, you will find

that this is no problem. I have, but today by virtue of Executive Order 124 in the city of New York, they're precluded from doing anything about it.

ACTING PRESIDENT KUHL: Senator Espada, you have the floor.

Senator Espada.

SENATOR ESPADA: I would like to go on the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Espada on the bill.

SENATOR ESPADA: These exclusions under the Padavan bill right before this house now and the set of bills that he has proposed seek to mirror, by his own words, Proposition 187 that passed in California, and these efforts in California -- the efforts to implement the California Proposition 187 have been blocked by the courts by a -- multiple court injunctions. There's litigation clogging up the court system there as a result of this because many of these provisions are considered unconstitutional, unconstitutional there, and probably -- and most

likely very, very unconstitutional here given our provisions to provide for the needy irrespective of residency -- I mean, rather, citizenship.

Now, yesterday we had a proposal for a rules change. We sought to have a debate on a ban on assault weapons, and while I don't want to reopen that, there was some comments made about political grandstanding and what have you. I do not believe that Senator Padavan is involved in political grandstanding.

However, his bill does do this: It creates costly unfunded mandates. It creates tremendous administrative burdens for agencies that by virtue of budget actions, whether you come on the side that they were absolutely required, they were cost containment measures or what have you, they result in less money for the Health and Hospitals Corporation, their emergency room clinics and for those involved in human service delivery in the area of pediatric care and other stations where people in need go for care.

There was just no question about that, that it would jeopardize the health and safety of New Yorkers right now. We have a method by which people are being diagnosed and treated for communicable diseases, from contagions known and maybe their derivative in terms of their clinical base may be even unknown as we speak but they are, in fact, being diagnosed, we know, and monitored -- care is being monitored. All of that would disappear as a result of this and, in fact, endanger the public safety.

You know, there's something much worse than all of that with this bill, though. It does get into the issue of the divisions, the scars that are in our community. We have enough of those in the mixed and beautiful, in Mayor Dinkins' terms, mosaic that we have in New York City, but this kind of thing would create tremendous divisions in our community.

I just want to cite for the record what has happened in California and the consequences of Proposition 187 in the everyday

life of people there in that state.

A woman waiting to board a bus was told by the bus driver, quote, "We don't have to let 'wetbacks' on this bus", end of quote, before he drove off without her.

A supermarket check-out clerk demanded to see a Social Security card from a Latino woman as she tried to purchase groceries.

A fifth grade teacher asked students during class if they had immigration papers and then assigned students homework to write about their parents' immigration status.

A Little League coach required team members to show proof of their parents' lawful immigration status before being admitted to the team.

And lastly, I'll cite this one. A 12-year-old victim of leukemia died after his parents decided not to take him to the hospital for fear of deportation.

These are the kinds of real things that happen to real people in an atmosphere of division, in an atmosphere of

vigilante justice and the kind of call to arms that this very distressing bill -- set of bills proposes to accomplish. It proposes ostensibly to save money. In the long run as you look at it, not only does it make us an ugly, ugly, hateful and angry society, but it does cost us money.

If you look at it in terms of the health and safety concerns that we cited in the debate, it becomes clear. Would you rather treat one illegal alien child or adult for a contagious disease? Would you rather keep that monitoring system in place or would you let all of us be infected with that virus, both known and unknown?

It also imposes the kind of tremendous cost on local governments that Senator Padavan will not admit to but anybody who is a county executive or in charge of a municipality or in charge of a hospital will tell you that they must incur new costs as a result of implementing this legislation.

It does exact a huge financial

and human toll on our society and brings us further apart in our mission to be one in this society. Do we want to keep costs down? Do we believe in the federal and state statutes as Senator Padavan attempted to lecture me on? Yes, absolutely we do. However, we do not believe that we ought to make doctors who took an oath to provide care, teachers who take an oath to educate, social workers to heal and provide services to those in need, we ought not make them INS agents and we ought not do that to New Yorkers because we stand for much, much better.

We should not accentuate the divisions that exist in our society with these kinds of provisions that really speak to maybe a modicum of a problem but certainly not a problem that cannot be overcome by more federal impetus and investment in this regard.

We thank -- Mr. President, we thank you and we thank Senator Padavan for answering or attempting to answer some of the questions I've posed today.

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

I'm sorry, Senator Marchi.

SENATOR MARCHI: I just wanted to add a postscript.

Senator Espada, I certainly don't blame you for the sentiment you have because I think it's a shared sentiment in this chamber, and you see human need and you want to respond, and if we had the magic just by saying aye or nay to any particular legislation, of providing plenty of -- producing all the aid possible no matter where people come from in whatever number, we don't have that power. We live in a real world. Our stride can't be much longer than our legs because we simply will not reach that point if we attempt to do it.

We attempt to enlarge on the possible and that's a noble sentiment and we should always keep on doing that, but what happens when the demand is greater than the substance, the public substance that you have to meet it, and you don't reverse this process.

The only way to reverse it is to reverse the process of losing employment in this state and reducing the amount of revenue that might otherwise be available to this state. I'm talking about that substance that we have to meet the problems specifically.

What we do, Mr. President, is to put more water in the soup. That is the only answer. If there are more people at that table, the only way you can do it is to put more water in the soup.

Now, I don't think you're advocating that, Senator Espada, because I know your sentiments are noble and good ones, but it means that either more water in the soup, less money for shelter, for the basic needs that we have simply because it has to be spread out over a greater number. It means perhaps not being able to sustain a fare. It means a lot of things, all going to the dilution of what we can bring to aid human discomfort.

It's not easy for Senator Padavan to get up and advocate something which he, in

his heart, given the opportunity and the circumstances and the wherewithal would like to meet these needs, but if we depart completely from any sense of realism, if we toss realism to the wind, this is exactly what is going to happen.

Do you have an answer? Is there an answer? Do we have that magic here where we can, just by legislation, provide more on the tables of those who hunger? Unless we adopt prudent policy, we do it at the expense of people that have real needs. We cannot respond in measure to people who have real needs -

ACTING PRESIDENT KUHL: Excuse me, Senator Marchi.

SENATOR MARCHI: -- unless we conserve that capability.

ACTING PRESIDENT KUHL: Excuse me, Senator Marchi.

Senator Mendez, why do you rise?

SENATOR MENDEZ: I wonder, Mr. President, if Senator Marchi would yield for a couple of questions.

ACTING PRESIDENT KUHL: Senator Marchi, do you yield to Senator Mendez?

SENATOR MARCHI: Yes.

ACTING PRESIDENT KUHL: The Senator is happy to yield.

SENATOR MENDEZ: You know, Mr. President, I really -- I agree with Senator Marchi and also with Senator Padavan and many other Senators here that are supporting this bill. I agree to the -- because I know that they are not mean-spirited individuals, but if they could, they would put tons and tons of water into the soup, quoting my esteemed college but, see, the problem isn't -- this is going to be my question. The problem is that all of this is being based on false premises.

For example, I have statistics here, Senator Marchi, to the effect that immigrants, including illegal aliens pay $70.3 billion per year in taxes while they received only $42.9 billion in services in education and public assistance.

Do you -- wouldn't you say,

Senator Marchi, that that, in a sense, could be interpreted as these people paying their own way?

SENATOR MARCHI: The pluses and minuses, Senator, Barbara Jordan, who has been working assiduously, has said commenting on this fact, that there is absolutely no substantiation to this. The fact is that we are at the bottom of the list of 50 states and tied with Louisiana in terms of credit, in terms of our credit. 40 percent of the jobs that were lost during a period of revival these last few years occurred in this state. That is the real world. That is the problem.

Our revenues are not adequate to meet many of the problems of people coming in in great numbers and pressing that -- making that -- accentuating that burden.

SENATOR MENDEZ: Senator Marchi, if you will yield.

ACTING PRESIDENT KUHL: Senator Marchi, do you yield to another question?

SENATOR MARCHI: Yes.

SENATOR MENDEZ: Senator Marchi, another often made premise is that people think that our country is being inundated with these millions and millions and millions of people coming here. That is not the case.

The statistics show that, on a yearly basis 1.1 million immigrants arrive into the United States each year. Of these, some 700,000 enter as lawful permanent residents and another 100- to 150,000 enter as legal refugees, an estimated 300,000 undocumented immigrants otherwise who stay over and those 300,000 on a yearly basis.

Wouldn't you think, Senator Marchi, that they are distributed not only in New York State, but in Miami, Texas, Phoenix, Arizona, all the other southern states as well, so that we are not entire... in a sense we are exaggerating the numbers of this invasion of immigrants, illegal and otherwise, coming into our country that would tax our resources to no end? Do you have any comment to make to that?

SENATOR MARCHI: Senator, the

statistics that I have of illegal immigrants in the state of New York range in the area of 75,000 per year, in this state alone. It varies, and, if the federal government which controls immigration and which monitors the coming and going -- you mention the states and you've mentioned them accurately, Florida, Arizona, California, Texas, or whatever states are the states that are the main recipients, but there are 50 states and you named five and those are the five that have the bulk.

Now -

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

SENATOR MARCHI: Let me -- please permit me to finish answering your question. If the federal government having the responsibility and they, you know, they have the responsi bility, they even have sponsorship which must be resorted to in the event -- to guarantee that there is a modicum of support for people coming in, all of these things, if they did what they were supposed to be doing, you know, the other

45 states, forget them. I mean there are five that are obvious for means of propinquity, for means of traveling, for a number of reasons. If they did what they were supposed to do -- and this goes for Democrats or Republicans or whoever is controlling Washington; they don't care. They don't give a darn good -- well, I won't say it all, but they don't care. If they did that, Senator Padavan and myself would rip up all this legislation and toss it to the winds if they accepted their responsibility for a few years. Then they would be in the system where there is contribution, where there is -- where there is compensation for -- for the -- we make our -- we make our contribution, the state does and the federal government does. If they did that, I would get off this bill in a hurry and so would Senator Padavan. We're talking about taking it on a hundred percent on our back, and that's not fair.

SENATOR MENDEZ: Will the Senator yield to another question?

ACTING PRESIDENT KUHL: Senator

Marchi.

SENATOR MENDEZ: I will accept, Senator Marchi, the answer that you gave to me when I mentioned that on a yearly basis there are 300,000 illegal immigrants coming into the United States, and you mentioned that in New York State the figure is 75,000.

Well, O.K. I will accept that. Senator Padavan came up with a figure that, in the city of New York, the Health and Hospital Corporations do spend $63 million in providing medical services to these illegal population. Wouldn't you say that, if we are saying that we have 75,000 illegal immigrants, and they spend $63 million in -- in the state, each one of them is spending more than a million dollars a year, wouldn't you say that that's a little bit exaggerated?

SENATOR MARCHI: I believe that what you're doing, you're taking a year's -- a year's bottom line, but this is cumulative, so it comes into the hundreds of thousands with just -- since 1990, five years, where are we?

SENATOR MENDEZ: We're $63 million dollars spent in a year for medical services provided to -- to illegal aliens and, if we agree that, there's 75,000 illegal aliens in the city of New York that figure of the 3 million would be accounting for over a million dollars, at least over a million dollars in health services for the illegal aliens.

But that's O.K. So that I am going to support, Senator Marchi, with the wrong premise behind this bill, and that is secondly, we all do not want to impose mandates on localities, and you were right, Senator Marchi. The federal government has done a very horrible job in controlling our frontiers. O.K.

SENATOR MARCHI: What would -

SENATOR MENDEZ: My question is, do we want our hospitals in the city of New York and throughout this state to become legal departments in immigration departments? Do we want that, to impose on these health -- the health care legal system a civilized function? We as a state should demand, and I mean demand,

that our federal government takes care of its business.

SENATOR MARCHI: Now, you're talking my language, Senator.

SENATOR MENDEZ: That's instead of the business of doing what they're supposed to do.

SENATOR MARCHI: I agree with you. Now we're in agreement.

SENATOR MENDEZ: Thank you, Senator Marchi. Let me assure you, I am convinced first that this legislation is completely founded in -- in hocus-pocus statistics. I believe that this legislation could be beautifully described as the -- the road to hell is paved with good intentions.

I mean that because we will be - we would be making our city hospitals little immigration officers performing several functions that our government should have been performing well, and they have failed in doing so.

Besides that, the stereotype

about illegal immigrants or immigrants, whether they are legal or illegal, are rather unfounded. I mention here that they do pay more taxes than they use in governmental services. So, therefore, on the last -- and lastly, the most horrible thing about this is that it will end up incurring in acts of horrible discrimination against genuine citizens.

So I urge my fellow Senators to vote against this legislation.

Thank you, Mr. President.

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

Senator Leichter.

SENATOR LEICHTER: Mr. President, I didn't intend to debate this bill. There's two other bills that Senator Padavan has that I'd like to comment on and I think, while I wasn't here, but I heard that Senator Espada and Senator Mendez, I think, have raised some, I think, important points, but I heard you say one thing, Senator Marchi, and it has to be refuted because I think this is really so much the lot

of these Padavan bills and, frankly, it's a statement that I would not have expected from you, and you know the high regard and respect I have for you.

But I came into the chamber and you were debating with Senator Mendez and you said, you know, this state has a debt rating or its bonds are second from the lowest, that we've lost 400,000 jobs and, of course, those are facts. But to, in some way, relate it to either legal immigrants or illegal immigrants, I just think is totally unfair. You know, illegal immigrants, Senator, did not force you or Governor Cuomo or others to do the fiscal gimmicks that -- that were the basis for our having that low rating, and the illegal immigrants didn't cause the loss of 400,000 manufacturing jobs.

Obviously, they were lost for a lot of reasons, most of which had absolutely nothing to do with anything that New York State did or didn't do, because of world economic factors, and so on. But there seems to be this

perception out there that it's the immigrants, whether legal or illegal, that are causing some of the social problems we have, some of the fiscal problems that government has, and it's just wrong. It's totally wrong, and Senator Padavan and I are going to have a chance to debate some of the facts relating at least to legal immigrants.

But whatever the merits or demerits of this bill are, and I understand some of the concerns that Senator Padavan has and you have, that the state of New York shouldn't pick up a cost whether it's what I think is relatively minor or whether, as you think, it's a loss, certainly it's something that we should not be burdened with if the federal government doesn't enforce the immigration laws into this country.

But we should not blame the immigrants for the fiscal problems and the economic problems that this state has, and I just want to say that, and I know that in the heat of debate, things are said that may not

always be particularly relevant or have pertinency as far as the debate goes, but I think we ought to be clear on that because there is -- there is the bashing of -- of immigrants, and as -- as I pointed out in the debate, and certainly nobody knows it better than you because you stood very proudly as a leader of a group that came here, as all of us did, as immigrants.

We did come as immigrants. We've created a wonderful country. That doesn't mean to say that there aren't things that sometimes we need to do in relation to immigration, but we certainly shouldn't blame or scapegoat the immigrants for things that they have absolutely no responsibility for.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Marchi.

SENATOR MARCHI: Mr. President, the immigrants -- the immigrants are not the villains of the piece. They're victims. When they bring them in, when the ship comes in and they -- they've gouged people -- well, there was

one -- one piece in the New York Times today about paying $6,000 per person and coming all the way from behind the Iron Curtain. It's a long, long article today in the New York Times, paying $6,000 so that they come over here, people who probably went through enormous sacrifices. They are victims.

The letter I wrote to Ronald Soloway, Director of Government Relations of the United Jewish Appeal: It is my opinion that, if the federal government was performing its functions under the United States Constitution and the immigration laws, these bills would be unnecessary. Until such time as the federal government lives up to its obligations, these bills are necessary to protect the people of this state.

The enrollment in school, the demographic plateau that it reached about two years ago, three years ago, was 850,000 thousand. It is now a million 1. The difference is not the demographic indigenous increase. It's the people coming in.

Now, we have to -- we have to have some sanity in administering this great human problem, and we can't do it all. We can't take on the whole world. I mean your own home, a hundred people come in, you just can't put them into your house.

So it's -- they're not -- they're not scapegoats. They are not people that we have to point an accusing finger at. It's the people that exploit them and without -- to be perfectly candid, those who abide by it and don't react to it only to the detriment of these very same people.

I -- I still feel that Senator Padavan has undertaken commendable leadership in this effort and I join him in it, and I -- I would hope -- I would hope perhaps we ought to have more dialogue with our own legislative representatives down in Washington, but I have a feeling that probably we wouldn't have too much disagreement with our people down there, but unless they start hearing our voice in Washing ton, I say both parties, any of the politicians

down there who are -- who are the movers and shakers and have a role in what is happening now deserve our -- certainly don't deserve our approbation, and they ought to rise to their responsibilities.

But this article appeared today, A-12, New Road to West for Illegal Immigrants, and it gives you -- it's a very, very fine article by Raymond Bonner, trafficking gangs in Bulgaria.

ACTING PRESIDENT KUHL: Excuse me, Senator Marchi. Senator Marchi.

SENATOR MARCHI: It ranges from 6- to 4,000 -

ACTING PRESIDENT KUHL: Senator Marchi.

SENATOR MARCHI: Yes.

ACTING PRESIDENT KUHL: Excuse me just a moment. It shouldn't be necessary for you to have to yell to be heard in this chamber. It just should not be necessary. So I would ask people, if they feel that they have to have a conversation, to take it outside the

chamber, please.

Thank you for the interruption, Senator Marchi.

SENATOR MARCHI: Thank you, Senator, Mr. President.

In fact, they start out: On a recent Saturday morning, some three score residents of this picturesque mountain community -- this is a community in Poland -- mountain community assembled at the ski jump for a trip to the United States, first by bus to Germany, then on Lufthansa across the Atlantic. They include a grandmother, three-year-old grand child, all people that, golly, we ought to be out there, you know, with open arms and greeting them. Each had paid $6,000 -- can you imagine the sacrifice that was made in these communities to do this, or the -- or in China where they would pile them into a vessel and then they were stranded. I don't know whether some of them were drowned or not, but these are -- these are the circumstances that we're living with, and all I think -- I say if there is an accusing

finger that I point it's the sins of omission by those who have the responsibility and are refusing to discharge it.

This -- I think this legislation makes eminent sense because there is no alter native. I wish there were. The alternative is for people who have the responsibility to do the things that they're supposed to be doing.

SENATOR TULLY: Last section.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: 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 1296 are Senators Abate, Connor, Espada, Leichter, Montgomery, Oppenheimer, Paterson and Santiago, also Senator Markowitz, also Senator Mendez, also Senator

Gold.

ACTING PRESIDENT KUHL: Results.

THE SECRETARY: Ayes 48, nays 11.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Tully.

SENATOR TULLY: Yes, Mr. President. Can we take up Calendar Number 1292, and speaking only for myself, I know that in view of the proximity of the Calendar 1296 and 1292, that I intend to vividly recall in explicit detail all of the stirring remarks that were made by the speakers on Calendar 1296 as we go into 1292.

ACTING PRESIDENT KUHL: The Secretary will read the title of Calendar Number 1292.

THE SECRETARY: Calendar Number 1292, by Senator Padavan, Senate Print Number 701, an act to amend the Social Services Law, in relation to the ineligibility of lawfully admitted aliens.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Padavan, explanation of Calendar Number 1292 has been asked for by the Deputy Majority Leader, Senator Paterson.

SENATOR PADAVAN: Briefly -

SENATOR TULLY: Excuse me, Mr. President.

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

SENATOR TULLY: Sorry to interrupt Senator Padavan in the explanation but could we recognize -

SENATOR PADAVAN: I was about to say, Senator Tully, we had explained this bill before, and then at the request of the Minority it was laid aside, so there may not be a need for another explanation, but if there is a question, I'd be happy to answer it.

SENATOR TULLY: Mr. President.

ACTING PRESIDENT KUHL: Senator Tully.

SENATOR TULLY: Mr. President, I

would ask that you recognize Senator Espada for purposes of voting on this particular bill.

ACTING PRESIDENT KUHL: Senator Paterson, do you need an explanation or can we read the last section?

SENATOR PATERSON: If we could recognize Senator Espada to permit his vote, I'm going to ask a question on the bill, and I believe Senator Leichter would also speak on it.

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

ACTING PRESIDENT KUHL: Call the roll.

Senator Espada, how do you vote?

SENATOR ESPADA: In the negative.

ACTING PRESIDENT KUHL: The roll call is withdrawn.

The Chair would recognize Senator Paterson.

SENATOR PATERSON: I'm asking if Senator Padavan would yield for a question.

ACTING PRESIDENT KUHL: Senator

Padavan, do you yield?

SENATOR PATERSON: Senator Padavan we were talking earlier because you explained this bill earlier, we even got into the discussion a little bit. We were talking about the Mannino case and what I had asked you and I never got to hear your answer, was that if the Mannino case struck down the current law that actually exists, the statute that we have in this state, since we might agree that your legislation has more teeth in it, why do you think a future court in an analogous decision would not strike down your legislation?

SENATOR PADAVAN: Thank you, Senator Paterson. I believe that's an excellent question.

Actually, the -- to repeat what you said, so I can answer the question properly, the 1977 statute that was struck down by virtue of the Mannino versus Perales case, that statute said that the so-called sponsor's agreement was to be enforced, namely, that someone coming here under that arrangement, there was an obligation

on the part of the sponsor to maintain the alien, the immigrant for at least three years. Mannino indicated, in that case, that by virtue of an interpretation of our state Constitution, that that statute was not appropriate, and so in 1992 that statute ceased to exist.

Now, what we have done here is not put in place something with more teeth but less teeth, because all we're saying here is that, if a person coming into this country under a sponsorship agreement which is mandated by federal law, that that person, that immigrant seeking economic assistance from the sponsor, seek it. If the sponsor cannot provide it, as we say very directly here in the bill, is unable to meet such individual's needs, is no longer in the state, then that person is entitled and can qualify under the Mannino versus Perales decision for the full range of services provided by New York State.

So all our proposal here, our proposed bill, is a watered down version of what was law in 1977 up to 1992 and, based on our

very careful reading of the decision and an excellent report done by Senator Marchi largely on the Mannino versus Perales case, that our bill would stand muster in relationship to the state Constitution.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Senator Padavan.

Before yielding to Senator Leichter, I just have one follow-up question. Senator Padavan, regardless of what pressure we, as the state, try to create for the sponsor, if the sponsor reneges on even what we perceive to be an obligation to pay under Mannino versus Perales, my understandings of that case would be that the immigrant would still get care.

In other words, I see what - what you're trying to do and actually, if this were just an action between the state and the sponsor, perhaps it might even be a way to accomplish what you are trying to achieve, but in the dicta from Mannino versus Perales, I get

the impression that they were really instructing -- what they were really instructing us is to the need for care of the immigrant who, in this particular case, we would assume would get the care, is that -- is that not your understanding of it?

SENATOR PADAVAN: Well, I'm not sure I quite understand the question, but let me try my best to answer it.

First, I again wish to refer to the commission that I discussed earlier in the prior bill. Again, we have a very unequivocal statement from the commission, its members and its chairperson. It says, "Sponsors should be held financially responsible for the immigrants that they bring to this country. In particular, the commission believes that the affidavits of support signed by sponsors should be legally enforceable. The contingencies may change, if the sponsor's financial circumstances change significantly for reasons that occur after the immigrant's entrance."

Now, we have an anomaly in New

York State, and that is our state Constitution so we can only go so far and what we are trying to do is go that limit in this bill. Basically what it boils down to is that our legislation would give the state flexibility and require that, at a minimum, the sponsoring -- sponsored alien seek economic assistance from his or her sponsor, and that's really all this does, because that's all we can do unless we are forced to amend the state Constitution which, if you read Senator Marchi's dissertation, his theses on the subject, there's a lot of merit to it, but that's another issue and that's something we need not get into today.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Well, Senator Padavan, I'm going to yield to Senator Leichter but, first, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: I'll have to admit that Senator Padavan has exposed me after

that fine -- after that fine pronouncement by Senator Leichter, I think Senator Padavan is right, I'm not a deputy, I'm just an acting because I'm not making myself clear, and I got to be a deputy for three hours and now I'm just back to an acting.

SENATOR SPANO: Mr. President, it's affirmative action.

SENATOR PATERSON: Affirmative action.

My problem, Senator Padavan, with this bill is we are denying programs to the immigrant. If your bill had been slanted in such a direction where we were actually recouping the amounts from the sponsor, then I think we would have been more in line with the Mannino vs. Perales decision, but my contention is that that decision was made because of the state Constitution and Article XVII, and the whole emphasis on treating those who are in need. That's probably an issue that you and I wouldn't agree on, and neither could we even come to a conclusion on, but that's where I

think the bill might be properly amended to focus the force of what you're trying to accomplish in the right direction.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Leichter.

SENATOR LEICHTER: Mr. President, thank you.

First of all, let me say to Senator Paterson, you, Senator, very definitely have earned not only the title that we now correctly identify you with, but I think you've earned greater titles like Deputy Majority Leader and, in fact, you've made an excellent point and, Senator, if people on the other side of the aisle don't understand it's not a short coming on your part. It's their refusal to understand a perfectly reasonable proposal that you've made, and I'd like to get into that a little further, but I first want to deal with the underlying thesis of this legislation that Senator Padavan has proposed, and I was prompted to get up and say a couple of words in response

to my good friend, Senator Marchi, and let me say nobody, to my mind, more exemplifies the wonders of this country and the contribution that immigrants have made, that when you take a look at somebody such as Senator Marchi, I don't know quite your genealogy and when your parents came here or whether you're second or third generation or whatever, but you stand very proudly for the wonderful accomplishments that immigrant groups have made in this -- in this country.

But what underlies these bills is a feeling that immigrants, whether legal or illegal, are unfairly burdening our system and that's why I was prompted to get up because I was -- I was surprised at Senator Marchi's statement which somehow related all of our economic and financial problems to illegal immigrants.

This bill deals with legal immigrants and there is this perception that legal immigrants are creating a great burden because they overuse Medicaid, other social

services, veteran benefits, and so on. That's not the case.

I want to refer you to a very recent study by the Port of New York, and I think all of us understand or should know that the Port of New York does wonderful demographic and economic analyses of the whole region, and I may also say I shared this report with Senator Padavan. He's going to have some opposite viewpoints, but we're going to -- I think we're going to convince him that I'm right.

Clearly, clearly, what I'm about to say is indisputable because it comes right from the report. Headline on a section of the report: Most recent immigrants -- I'm reading the wrong section.

SENATOR PADAVAN: Yeah, read that section.

SENATOR LEICHTER: I will. We're going to read all sections because we want everybody, we want -

Read this section. "Immigrants do not overload welfare system." Let me

repeat. "Immigrants do not overload welfare system." I'm going to read. It's brief.

"Contrary to popular belief immigrants to the region do not burden the welfare system. The difference between the proportion of native and foreign-born receiving public assistance are small. Of the region's foreign-born population, 4.5 percent received public assistance in 1990, compared to 4.0 percent to the native-born. In New York City, a slightly higher proportion of native-born obtain public assistance than foreign-born, 6.4 contrasted to 5.7 percent."

This is indisputable. These are the facts. This is their study.

Now, you may say, well, there shouldn't be one illegal immigrant who unfairly burdens the system or one foreign-born immigrant illegally who burdens the system or, for that matter, there shouldn't be one native-born person who unfairly burdens the system. I think we all agree on that, and we can write laws and achieve administrative procedures in a way to avoid any abuse whatsoever, we ought to do it.

But we shouldn't do it in such a way that you're going to end up penalizing people who are entitled to services or entitled to governmental help, and that's the problem that I have with Senator Padavan's bill, because in every way, by seeking to focus on those who may be abusing the system, you do it in such a broad-based manner that he inevitably will end up denying needed services, needed help to people who should be receiving it, and it's in our benefit to help some of these people. Doesn't help this state of New York, as was pointed out in a discussion I had with Senator Abate.

Does it help us when somebody is here illegally, and has TB to say, Oh, we're not going to give you services and let them go around and possibly infect other people? Does it help us if we have children who are going to be denied food and shelter and other services and are out on the streets and the problems that that -- that that can create? Obviously not.

Let me -- let me point out another section of this report because Senator

Padavan is going to refer to it, and that's the one that says, "Most recent immigrants have highest poverty levels," but it then goes on to say that, in New York City, the native-born actually had a higher poverty rate than the foreign-born.

This report also shows that the most recent immigrants are less likely to be receiving public assistance, that actually it's the immigrants who have been here a number of years who have a higher rate, but still overall a rate that's comparable to native-born people so let's -- let's get rid of the shibboleth. Let's get rid of the myth that, Oh, my God, we've having such a terrible drain on our financial resources because of legal immigrants or illegal immigrants. It just is not the case.

This is the report by the Port of New York. It's available to all the members. Read it, and I think you will see that what we're dealing with is really not a major problem.

Let me just say on this bill, the problem with this bill is, you think it runs directly into the Mannino versus Perales prohibition because what this bill says is that you cannot get public service unless you establish that the person who provided the affidavit no longer resides in the United States or has become unable to meet such individual needs.

Now, suppose somebody comes and says, "I need meat," and they ask, "Well, have you gone to your sponsor? What did your sponsor say?"

He said, "The heck with you. I didn't really intend to cover you. I'm not going to cover you with anything."

"Have you taken any action?"

"Yes, I'm suing him in court."

"Is that person, is he well off?"

"Yes. He's got a big estate in Westchester and a house on Fifth Avenue, and co-ops," and so on, but under the words of this

bill, since he resides in the United States, and he has the means of helping, the person who applies to the social service agency will be deemed ineligible.

Now, there's an easy way to have dealt with this, and I think that's what Senator Paterson is trying to point out. Why not give the state of New York -- I'm not sure that we have to give it; they may have it already -- the right in those instances to sue the sponsor?

I agree. The sponsor should be responsible. I came to this country. I know somebody who put up an affidavit for me, and, frankly, I was in this recent period where we weren't going to get paid, I was going to go back to him, but apparently it was good only for three years, and I came some 50 years ago.

But -

SENATOR MARCHI: Mr. President, would the Senator yield?

SENATOR LEICHTER: Yes, certainly.

ACTING PRESIDENT KUHL: Senator

Marchi, why do you rise?

SENATOR MARCHI: Senator Leichter yields.

SENATOR LEICHTER: Yes.

ACTING PRESIDENT KUHL: Senator Leichter, do you yield?

SENATOR LEICHER: Yes.

ACTING PRESIDENT KUHL: Senator Leichter yields.

SENATOR MARCHI: My understanding is there is no recruitment. There is a string of cases where rerecruitment was attempted. There is no recruitment under the federal arrangement. Even if you tried, you know, you don't make out in court.

SENATOR LEICHTER: Senator, I know you've studied this area, and I know you're an excellent lawyer, and so I accept what you say and if you would yield, I just want to ask you exploring this point, has recoupment been tried on the basis of third-party beneficiary? That's the first part of my question.

The second part of my question

is, if we now gave -- if we now gave New York State a right of action, and I understand we're dealing after all with a federal law and there's a question whether we can give the right of action, but have you looked into that question? If we had a bill here by Senator Padavan saying New York State -- well, O.K. Let me ask Senator Marchi to yield but, if you want to yield, if you want to answer the question, Senator Padavan.

SENATOR PADAVAN: Go ahead, ask him.

SENATOR LEICHTER: Well, let me ask you the question first, Senator Padavan. I'm sorry, Senator Marchi. Just on the legal period which you might go after the sponsor and whether there have been any cases where the action has been brought as a third-party beneficiary? Why -- I don't know why New York State would not be a third-party beneficiary.

SENATOR MARCHI: Well -

SENATOR LEICHTER: Well, I would suggest that we ask the Department of Social

Services to explore that because it would seem to me that we clearly are third-party beneficiaries.

Let me now ask the second part of my question, Senator Padavan, if you would yield.

SENATOR PADAVAN: I'll answer the first part, if you don't mind, if you would yield.

SENATOR LEICHTER: You can answer it anyway.

SENATOR PADAVAN: We have looked into that, and certainly it would be a desirable thing to do. Let the state go out to the sponsor and say you have signed this affidavit, you're not complying with it, now reimburse us for the money we're spending.

The problem is we're preempted by federal law. The sponsor's agreement, by federal law, does not allow us to seek that avenue of redress. It would have been beautiful to do that, and I would be in agreement with you, but it's just not possible. All right,

Senator?

Now, I hope that answers your question. By the way, may I have that report?

SENATOR LEICHTER: Yes, certainly. And, Senator, the second part of my question, I guess your answer would also take part of the second. Are you saying that we're preempted -- we're preempted also from -- if we give New York State a right of action, you're saying it would be a nullity because federal law governs?

SENATOR PADAVAN: Correct.

SENATOR LEICHTER: May I respectfully then suggest, if that is the case, and I know you've looked into it, that we ought to ask our representatives in Congress to change it because certainly the whole intent and purpose of the affidavit is to see that the immigrant who comes here under the auspices of such a sponsor not become a public charge and, since the person ends up becoming a public charge at our expense, we certainly should have the right to pursue the sponsor.

SENATOR PADAVAN: Mr. President, may I respond?

ACTING PRESIDENT KUHL: Senator Padavan to respond.

SENATOR PADAVAN: The Shields Commission on Immigration Reform has made such a recommendation to the Congress. It is one of the many recommendations that I would want to seek for them to do just that.

SENATOR LEICHTER: Well, Senator Padavan, in view of that, I don't know why we're dealing -- I don't know why we have this bill. We're obviously looking at a resolution which I think is a fair resolution, a sensible resolution and not a resolution which I think is going to penalize immigrants who should be entitled to get help.

Now, let's be very clear. I just want to make it clear again. It's a very, very, very small percentage of immigrants and of recent immigrants, I think it's 2 percent, far less than native born people who apply for public assistance.

Let me just finally say, it was interesting because last night I came home and I've been reading the book, "World of Our Fathers", a wonderful book about the Jewish immigration and life on the Lower East Side and I just happened to be reading the chapter on how the Jews were considered and treated by their fellow New Yorkers and particularly by the press and, of course, they were criticized very severely, and there were some terrible stereotypes and even very respected papers like the Herald, the Herald at that time, and the Tribune wrote about, you know, they're shift less and they don't work and their habits aren't good and they only take baths once a year - Senator Marchi, I'm sure the same things that they said about the Italians when they first came, and the Irish, and so on, and while we are a nation of immigrants and we do really work well together, we unfortunately do have the habit of being unfairly critical of new immigrant groups.

ACTING PRESIDENT KUHL: Excuse

me, Senator Leichter. Senator Marchi why do you rise?

SENATOR MARCHI: I just want to say, not Northern Italians.

SENATOR LEICHTER: Well, I don't think that anybody should have said anything bad about any Italian, north or south, because your contributions to this country have been wonder ful as have been all of the groups that have come here.

My point is that while certainly nobody is saying anything derogatory about the new immigrant groups, and they tend to come mainly from South America and Asia and they are going to make their contribution and many are already, as the Italians have, as the Jewish people from Eastern Europe have made and all the other groups who have come here, but my point is there's that same sort of sense of, well, these people, they're creating problems; they're a burden, and so on, and I think when you look at the facts fairly, when you read this report, you will see that is not the case, and I submit to

you this package of bills that Senator Padavan has put forward which some people have called New York State's version of Proposition 187 in California, really is not needed. It's not appropriate, and I think in some way it demeans us. I think it demeans us, not that we're not justified in trying to protect New York State from unjust burdens, but it demeans us to the extent that we are probably taking away rights from people who are here legally or people who may be here illegally, but require some of basic humanitarian aid, and I think that goes contrary to the tradition, not only of New York but of this country that has made us great.

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT KUHL: Senator Padavan.

SENATOR PADAVAN: Earlier Senator Leichter made reference to a very good report recently published, and he and I talked about this earlier, and when I returned his report to him, I put a paper clip and underlined the section which he did not read. He started to,

but then he stopped himself, and what this section says: Most recent immigrants have highest poverty levels. The most recent immigrants posted extremely high poverty rates. Immigrants arriving between 1987 and 1990 registered a rate of 26 percent higher than the region's minority population.

This, by the way, covers New Jersey and the entire region. That statement tracks very closely the data we recently published in our report, the second report, so when we say that over the past eight years, that the immigrant population coming into this city has had a significant economic burden on our social services system, we are saying exactly the same thing as this report. I find no contradiction.

Let me finish, Senator, I'll be glad to answer.

Senator Leichter was not in the room when we were debating the prior bill when I shared with the members a report from the New York State Department of Social Services, who

stated for the calendar year '92, illegal aliens, just illegal aliens, accounted for approximately $30 million in health care costs in New York State, illegal aliens in 1992 for that calendar year. That is not insignificant.

So I have to say to Senator Leichter, that all of the data that's been available, given the report he's talking about, both macro data in terms of numbers, we have by INS reports conservatively 510,000 of the half a million illegal immigrants in New York State, 80 percent of them in New York City, the balance of them in counties around New York City largely. 35 percent of the population of New York City is foreign born, many of them citizens, many of them immigrants, and certainly some, as I just stated, significant percentage are here illegally.

So we're talking about extensive costs, social service costs, education costs, criminal justice costs, and we look at those numbers both from their total magnitude and as a percentage of the population. If we have half a

million, roughly, people who are here illegally out of a city of 7 million, we're talking about a significant portion of our population, and I don't think we can walk away from it.

This particular bill is not a panacea, nor are any of the bills, and as our dialogue earlier indicated, if our state Constitution permitted, if federal law permitted, there might be better ways of addressing the issue -- not might, there would be better ways of addressing the issue of the sponsor's affidavit, but those options do not exist, and so we are taking this course and, as I said earlier in my dialogue with Senator Paterson, we're simply attempting to have the sponsor seek the economic support of his -- the sponsor -- the person's sponsor, to seek the economic support of the sponsor in line with the affidavit. If that does not become possible, such a thing just doesn't come to fruition, then obviously Mannino vs. Perales kicks in, our state Constitution prevails, and that person receives the full benefits.

But let's not attempt to suggest that the overall magnitude of the problem, particularly in the area of social services, if we listen to the welfare inspector general and the provost, if we look at the reports from the state and city Departments of Social Services, if we look at the data provided by the census pages, if we look at the back of our report you will see the references, pages of credible information, we have a significant economic problem and, Senator, let me say parenthetically I'm the grandson of Italian immigrants also from Northern Italy, so Senator Marchi and I share a common heritage. You may not view us both in the same light, but we do.

In any event, I am sensitive to their contribution, but I think, Senator, something that has not been said here bears being said. In the city of New York with a large immigrant population, most of whom are here legally, they are suffering. When you talk about our classrooms bursting at the seams, as Senator Marchi pointed out, that 150,000

immigrant children coming in over the past three or four years, with social service systems being strained, with health care systems being strained, that lawful immigrant population coming here, as my grandparents did, legally, seeking the benefits that this city, state and nation have to offer, they are suffering because those resources are being strained to the limit, and they should not be.

We have to draw the line somewhere, and I think what we're doing is drawing the line in a very reasonable way. We're saying, if you're here illegally, you're here under certain arrangements, those things should be attended to in a proper manner.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Yeah. Mr. President, Senator Padavan, when I referred to Senator Marchi as a really proud example of how wonderful the Italian immigrant group have done, I mentioned him because I was debating him, but you're certainly a fine example, and there are

many others. In fact, all of us here, since there are no native born -- native born - native born but no native Americans, are all immigrants and by virtue of being here, we've certainly achieved something, and that's exactly my point, how valuable immigration is and how immigrants, once they adjust to this country and accommodate and are able to make the contribution that has made this the greatest country in the world.

And Senator, the figures that you were citing actually prove my point, the point that I just made. First of all, you have made a basic mistake in equating poverty levels with social service. That's absolutely not the case. It's obviously true. I mean it's a truism throughout our history that immigrants who come here tend to have a higher poverty rate. I know my family came here, we had $10. Your grandfather, I'm sure, didn't have much more than that. You were poor when you came here, but that didn't mean these people were on social service.

The social service aspect is the figure that I gave you, lower percentage, lower percentage for recent immigrants who are here legally than for native born and beyond that, and that's the point I was making how we're eventually able, our immigrant group. To make such a contribution, because that section that you referred to goes on to say as the time of arrival moves backward, the poverty rate steadily declines until it reaches 7.4 percent for arrivals between 1950 and 1959. For immigrants who arrived before 1950, the poverty rate takes a leap upwards, because I assume they're older.

Well, I think, if they came here before 1950, they're probably grandparents and that's the reason and, as we know, the elderly in this society often are poor. But the overall point is that there is no great problem in this state where our social service resources are being drained by immigrants. That's the point.

With this bill, the problem is, and I -- as I said, I have no problem with a

bill where we would really focus and find an effective means to go after the sponsor, but I think this bill doesn't do it. I suspect that it is illegal under the reasoning that the court applied, is because we're imposing a pre condition to somebody receiving social services from the state when the state Constitution says that we're obligated to help all needy persons who are in this state.

So I think, both on the basis of the underlying theory of this bill and also on the wording of this bill, I think it's a mistake.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in

the negative on Calendar Number 1292 are Senators Abate, Connor, Espada, Gold, Kruger, Markowitz, Mendez, Montgomery, Onorato, Oppenheimer, Paterson, Santiago, Smith, Solomon, Waldon and Senator Leichter. Ayes 43, nays 16.

ACTING PRESIDENT KUHL: The bill is passed.

Chair recognizes Senator Waldon.

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

I was out of the chamber when Calendar 1296 was before the house. I respectfully request unanimous consent to be recorded in the negative.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Waldon will be recorded in the negative on Calendar Number 1296.

SENATOR WALDON: Thank you, Mr. President.

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

SENATOR SMITH: Thank you, Mr.

President.

I, too, would request unanimous consent to be recorded in the negative on Calendar Number 1296.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Smith will be recorded in the negative on Calendar Number 1296.

Senator Volker.

SENATOR VOLKER: No, just reading.

ACTING PRESIDENT KUHL: Chair recognizes Senator Tully.

SENATOR TULLY: Yes, Mr. President. At the request of the Majority Leader, would you please announce an immediate meeting of the Republican Conference in Room 332 and have the Senate stand at ease.

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

Room, Room 332.

The Senate will stand at ease.

(Whereupon at 4:12 p.m., the Senate stood at ease.)

...At 4:4 p.m....

ACTING PRESIDENT KUHL: The Senate will come to order for an announcement.

Chair recognizes Senator Mendez.

SENATOR MENDEZ: Mr. President, there will be an immediate conference of the Minority in the Minority Conference Room, Room 314.

ACTING PRESIDENT KUHL: There will be an immediate conference of the Minority in the Minority Conference Room, Room 314.

Immediate meeting of the Minority Conference in the Minority Conference Room, 314.

Senate will stand at ease.

(Whereupon, at 4:14 p.m., the Senate stood at ease until 5:00 p.m..)

ACTING PRESIDENT KUHL: Senate will come to order.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Skelos.

SENATOR SKELOS: 4968, by Senator Velella.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 124.

THE SECRETARY: On page 32, Calendar Number 1284, by Member of the Assembly Dinowitz, Assembly Print 5975, an act to amend the Mental Hygiene Law, in relation to service as president of boards of visitors.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT KUHL: Senator Velella, an explanation has been asked for of Calendar Number 1284, by Senator Paterson.

SENATOR VELELLA: This bill would require that -- on boards of visitors, that after two years of service, the presidency would shift to another person to encourage the presidency of a board to move around amongst the members of the board.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President. Senator Smith had a question on this. I believe she heard the explanation. If not, we'll just ask Senator Velella to go over that real quickly again.

SENATOR VELELLA: Do you want me to repeat that, Senator?

SENATOR PATERSON: Yes.

SENATOR SMITH: I have a few questions.

ACTING PRESIDENT KUHL: Senator Velella, do you yield to Senator Smith for some questions?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR SMITH: Senator Velella, would you happen to know how the boards of visitors are appointed?

SENATOR VELELLA: Yes. I believe the Governor appoints them and we confirm them.

Is that correct?

SENATOR SMITH: That's correct.

SENATOR VELELLA: Thank you.

SENATOR SMITH: Are you also aware that the majority of the boards are not at full capacity?

SENATOR VELELLA: Well, Senator, I'm not here to apologize for the negligence of Governor Cuomo; but, certainly, I do realize that they are not at full capacity, yes.

SENATOR SMITH: Are you also aware that most of the boards that require five to nine members, that they are down in some cases down to two and three members?

SENATOR VELELLA: Yes, Senator, and I also realize the fact that we now have a competent governor who will put them up to their full complement and allow them to function the way the law intended them to do.

SENATOR SMITH: Are you anticipating that we will have any nominees for these boards in the near future?

SENATOR VELELLA: Oh, yes,

Senator, absolutely. Do you mean me, personally? Do you mean me, personally, Senator?

SENATOR SMITH: I said, are you anticipating -- you, personally.

SENATOR VELELLA: Me, personally? I don't have any candidates in mind myself, personally, no, but I am sure that amongst this body and amongst the people of this state, amongst the patient advocates, and amongst all the people in the mental hygiene field, we will find competent candidates that the Governor can fulfill his constitutional responsibility and appoint people to the boards, yes.

SENATOR SMITH: I, too, agree with you, Senator Velella.

SENATOR VELELLA: Thank you.

SENATOR SMITH: I'm sure that we will in the near future.

However, at this point in time - on the bill.

ACTING PRESIDENT KUHL: Senator

Smith on the bill.

SENATOR SMITH: The majority of the boards do not even have enough members to constitute a quorum and find it extremely difficult to be able to rotate officers, and I feel that this bill will be an additional burden on the boards of visitors who do not have a full complement and, often, are not even able to have elections; and, therefore, I would urge my colleagues to vote against this bill until the time that these boards reach their full complement, and then I would fully support the bill.

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 1284 are Senators Connor, Hoffmann, Kruger, Markowitz, Montgomery, Paterson, Smith and Stavisky. Ayes 52. Nays 8.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT KUHL: Yes, we have a couple of motions.

Chair recognizes Senator Seward.

SENATOR SEWARD: Yes, Mr. President. I wish to call up my bill, Print Number 4568, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 1279, by Senator Seward, Senate Print 4568, an act to amend the Civil Service Law.

ACTING PRESIDENT KUHL: Senator Seward.

SENATOR SEWARD: 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 60.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator Seward.

SENATOR SEWARD: Mr. President, may I now have the third reading of this bill?

ACTING PRESIDENT KUHL: Yes. Secretary will read the title.

THE SECRETARY: Calendar Number 1279, by Senator Seward, Senate Print 4568, an act to amend the Civil Service Law.

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

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 60.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR SEWARD: Mr. President.

ACTING PRESIDENT KUHL: Senator Seward.

SENATOR SEWARD: I would just like the record to note that on Calendar Number 1299, which passed on a slow roll call earlier today, I was unavoidably out of the chamber on legislative business. I would like the record to indicate that had I been in the chamber, I would have voted yes.

ACTING PRESIDENT KUHL: Senator Seward, the record will reflect that had you been present when the roll call on Calendar Number 1299 was called that you would have voted in the affirmative.

Senator Farley.

SENATOR FARLEY: Thank you, Mr.

President. On page 20 -- this is on behalf of Senator Goodman. On page 20, I offer the following amendments to Calendar 849, Senate Print 1610, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar 849 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President, will you call up Calendar 1317, by Senator Velella.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 1317.

THE SECRETARY: On page 35, Calendar Number 1317, by Senator Velella, Senate Print 5310, an act to amend the Workers' Compensation Law.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT KUHL: Senator Velella, an explanation of Calendar Number 1317 has been asked for by Senator Stachowski.

SENATOR VELELLA: Senator, this bill will allow the State Insurance Fund and the aggregate trust fund to take bonds and securi ties that they hold and allow a dealer or fund manager to invest them and use them to increase the income of the fund. It's anticipated that by doing this, as other agencies have done, that the fund will increase by $1 million its income. It will receive a steady income and the fund manager will be able to invest those funds.

SENATOR STACHOWSKI: Will the Senator yield?

ACTING PRESIDENT KUHL: Senator Velella, do you yield?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR STACHOWSKI: Senator, so the reason that the State Insurance Fund asked for this bill was to increase the amount of money that the fund would have -- generate?

SENATOR VELELLA: Their explanation to me was, it allows them the

opportunity to allow someone to take their securities, invest those securities for them and guarantee them an income. It's done for other agencies, as I understand it, and the bonds, of course, and the securities that are used would be fully collateralized.

SENATOR STACHOWSKI: Would the Senator yield for another question?

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

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR STACHOWSKI: The question that came to us is that if -- would this bill also allow the fund to lend its assets to the state; and, if so, would we find ourselves in a position where the state is borrowing funds from the State Insurance Fund again to possibly balance the budget instead of using that money to pay Workmen's Compensation claims, which is what happened in the past?

SENATOR VELELLA: Yes. Senator,

I hope those days are behind us. I think that was a mistake on the part of all of us to do that; and this bill, as I understand it and as I read it, would require anyone who is taking those securities for investment purposes to pay a fee to the State Insurance Fund and guarantee the income to it.

The question of whether or not the amount of a negotiated fee might be too high or too low would be something, I guess, that would be subject to the prudent man or the reasonable man test in a person who is a fiduciary being responsible for what they do with the funds entrusted to them, but I do not believe under any stretch of the imagination that this would allow us to raid the funds again.

SENATOR STACHOWSKI: Mr. President, if the Senator would yield for one last question?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR STACHOWSKI: The other question we had was that, do we know if the other house is planning on passing this bill?

SENATOR VELELLA: No, Senator. I believe that it is a bill that they are supporting, but I am not 100 percent sure. I couldn't make a representation to you that they are.

SENATOR STACHOWSKI: Thank you very much.

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: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Stavisky.

SENATOR STAVISKY: Mr. President, without objection, I should like to be recorded in the negative on Calendar 1292 and 1296.

ACTING PRESIDENT KUHL: Without objection and hearing no objections, Senator Stavisky will be recorded in the negative on Calendar Number 1292 and Calendar Number 1296.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 1294, Senate 2829.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 1294.

ACTING PRESIDENT KUHL: On page 33, Calendar Number 1294, by Senator Skelos, Senate Print 2829, an act to amend the General Obligations Law, in relation to compensation for injury or damage.

ACTING PRESIDENT KUHL: Senator Skelos, an explanation has been asked for.

SENATOR SKELOS: Mr. President, this bill amends the General Obligations Law to provide that an injured police officer -

SENATOR PATERSON: Mr. President. I'm sorry, Senator.

Senator, would it be permissible to lay this aside just for a moment for Senator Leichter? He is the one that wants to ask you a question on it.

SENATOR SKELOS: Okay. Lay the bill aside temporarily.

Would you call up Senator Seward's bill, Calendar Number 1305, please.

ACTING PRESIDENT KUHL: Lay Calendar Number 1294 aside.

Secretary will read the title to Calendar Number 1305.

THE SECRETARY: Calendar Number 1305, by Senator Seward, Senate Print 4513A, an act to amend the Executive Law, in relation to Fire Prevention and Building Code standards.

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 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Is Senator Leichter in the chambers?

ACTING PRESIDENT KUHL: No.

SENATOR SKELOS: Okay. Could we go to the -

Mr. President. Will you please call up Senator Hannon's bill, Calendar Number 1285.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 1285.

THE SECRETARY: Calendar Number 1285, by Senator Hannon, Senate Print 5026A, an act to amend the Executive Law, in relation to enacting the engineers' and architects' good Samaritan act.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator

Hannon, an explanation has been called for by Senator Paterson on Calendar Number 1205 - Calendar Number 1285, excuse me.

SENATOR HANNON: Yes, Mr. President. This proposal would put into statute an engineers' and architects' good Samaritan act. The idea would be to exempt engineers and architects from liability when they've rendered their services voluntarily during or right after catastrophic natural events. It would be professional engineers or architects who are already obligated by their codes to do something like this but have been holding back because of the liability problems.

So it's only when such services are rendered voluntarily would they get this immunity from ordinary liability. There still would be, in effect, provisions for liability in the event that there would be any type of gross negligence, wanton or skillful or intentional misconduct, and there would be a limitation of 90 days to the question of when the catastrophe occurred.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

Senator Stavisky, why do you rise?

SENATOR STAVISKY: Mr. President, I neglected to ask for unanimous approval to be recorded in the negative on Calendar 993.

ACTING PRESIDENT KUHL: Senator Stavisky, Calendar Number 993 has not passed as of this moment.

Senator Solomon, why do you rise?

SENATOR SOLOMON: Mr. President, I would like unanimous consent to be recorded in

the negative on Calendar 1284.

ACTING PRESIDENT KUHL: Without objection and hearing no objection, Senator Solomon will be recorded in the negative on Calendar Number 1284.

Senator Abate.

SENATOR ABATE: Yes, I also ask unanimous consent to be recorded in the negative on Calendar Number 1284.

ACTING PRESIDENT KUHL: Without objection and hearing no objection, Senator Abate will be recorded in the negative on Calendar Number 1284.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time, could we take up Supplemental Calendar Number 1, noncontroversial.

ACTING PRESIDENT KUHL: Secretary will read the noncontroversial calendar, the calendar being Senate Supplemental Calendar Number 1 for Wednesday, June 14, 1995.

THE SECRETARY: Calendar Number 1295, by Senator Waldon, Senate Print 1059, 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 Queens.

ACTING PRESIDENT KUHL: There is no home rule message at the desk. The bill will be laid aside.

THE SECRETARY: Calendar Number 1322, by Senator Skelos, Senate Print 2458A.

SENATOR SKELOS: Lay it aside.

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

THE SECRETARY: Calendar Number 1323, by Senator Dollinger, Senate Print 2949A, an act validating the conversion of Roselawn Refuse and Garbage District into the town of Brighton, Monroe County.

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 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, whose bill was that?

(Laughter.)

ACTING PRESIDENT KUHL: It's not out of the house quite yet, Senator Skelos.

(Laughter.)

SENATOR SKELOS: No, no. No questions. No questions. No explanation needed.

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

THE SECRETARY: Calendar Number 1324, by Senator Libous, Senate Print 3006A, an act to amend the Criminal Procedure Law, in relation to the presence of counsel.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the

bill aside.

THE SECRETARY: Calendar Number 1325, by Senator LaValle, Senate Print 3236, an act to amend the General Municipal Law, in relation to forfeiture of benefits.

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 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1326, by Senator Hoblock, Senate Print 3493A, an act to amend the Military Law, in relation to deputy commander of the New York Army National Guard.

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 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1327, by Senator Stafford, Senate Print 3631A.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1328, by Senator Sears, Senate Print 3839A, an act to amend the General Municipal Law - General Business Law, in relation to false price comparisons.

ACTING PRESIDENT KUHL: The bill is high. The bill will be laid aside.

THE SECRETARY: Calendar Number 1329, by Senator Rath, Senate Print 3905A, an act to amend the State Administrative Procedure Act and Chapter 402 of the Laws of 1994.

ACTING PRESIDENT KUHL: The bill is high. The bill will be laid aside.

THE SECRETARY: Calendar Number 1330, by Senator Tully, Senate Print 4253, an act to amend the Public Health Law and the Education Law, in relation to professional misconduct.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1331, by Senator Maziarz, Senate Print 4329A, an act to amend the Insurance Law, in relation to disqualification of life insurance beneficiaries.

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 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1332, by Senator Tully, Senate Print 4529A, an act to amend the Environmental Conservation Law, in relation to the harvest and shipment of shellfish.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 8. 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 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1333, by Senator Volker.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1334, by Senator Johnson, Senate Print 4815, an act to amend the Insurance Law, in relation to the definition of small groups.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1335, by Senator Jones, Senate Print 4918, an act to reclassify Dorothy L. Barnatones as a Tier I member of the New York State and local employees retirement system.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1336, by Senator Nozzolio, Senate Print 4924, an act authorizing the County of Monroe to participate in a cooperative corporation.

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

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 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1337, by Senator Farley, Senate Print 4932A, an act to amend the Executive Law, in relation to the restoration and display of New York State's military battle flags.

ACTING PRESIDENT KUHL: The bill is high. The bill will be laid aside.

THE SECRETARY: Calendar Number 1338, by Senator Connor, Senate Print 5001, 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 is no home rule message at the desk. The bill will be laid aside.

THE SECRETARY: Calendar Number 1339, by Senator Nanula, Senate Print 1512, an act to amend the Local Finance Law, in relation to the sale of bonds.

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

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 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1340, by Senator Kuhl, Senate Print 5085, an act in relation to authorizing the village of Penn Yan, Yates County, to issue serial bonds.

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

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 60.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Senator Maltese moves to discharge from the Committee on Judiciary Assembly Bill Number 4958 and substitute it for the identical Calendar Number 1341.

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

THE SECRETARY: Calendar Number 1341, by Member of the Assembly Tokasz.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1342, by Senator Kuhl, Senate Print 5292, an act to amend the Limited Liability Company Law and the Partnership Law, in relation to certain professional services.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect 30 days after it shall

have become law.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1343, by Senator Maltese.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1344, by Senator Maltese.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1345, by Senator Levy.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1346, by Senator Leibell.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1347, by the Senate Committee on Rules.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1348, by Senator Marchi.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Senator DiCarlo moves to discharge from the Committee on Rules Assembly Bill Number 3851A and substitute it for the identical Calendar Number 1349.

ACTING PRESIDENT KUHL: Substitution is ordered.

Secretary will read the title.

THE SECRETARY: Calendar Number 1349, by Member of the Assembly Polonetsky, Assembly Print 3851A, an act to amend the Agriculture and Markets Law, in relation to the enforcement of certain kosher food laws.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1350, by Senator Johnson.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1351, by Senator Maltese, Senate Print 5377, an act to amend the Criminal Procedure Law, in relation to the powers of the United States Park Police.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 59, nays 1. Senator Leichter recorded in the negative.

THE SECRETARY: Calendar Number 1352, by Senator Holland.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Senator Goodman moves to discharge from the Committee on Rules Assembly Bill Number 8137 and substitute it for the identical Calendar Number 1353.

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

THE SECRETARY: Calendar Number 1353, by the Assembly Committee on Rules, Assembly Print 8137, an act to amend the Real Property Tax Law, in relation to the determination of adjusted base proportions.

Senator Skelos.

SENATOR SKELOS: Mr. President,

is there a message at the desk?

ACTING PRESIDENT KUHL: There is a message of necessity at the desk, Senator Skelos.

SENATOR SKELOS: Move to accept.

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

All 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 3. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1354, by Senator Maziarz.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

Senator Skelos, that completes the noncontroversial reading of Supplemental Calendar Number 1.

SENATOR SKELOS: Mr. President, if we could return to the regular calendar, number 1294, I believe Senator Leichter has some questions to ask of me.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 1294, by Senator Skelos.

THE SECRETARY: Calendar Number 1294, by Senator Skelos, Senate Print 2829, an act to amend the General Obligations Law, in relation to compensation for injury or damage.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Mr. President, I first thank Senator Skelos for holding the bill until I came back into the chamber, and I

did want to ask him a couple of questions, if you would yield.

ACTING PRESIDENT KUHL: Senator Skelos, do you yield?

SENATOR SKELOS: Yes, I do.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: I am having some problem in understanding the scope of this bill, and I talked to some lobbyists for the bill, and they may have confused me even more.

As I understand it now, in the state of New York, police officers and other uniform services, and so on, and in most localities, I assume, all employees are covered by Workmen's Compensation. Is that correct?

SENATOR SKELOS: Correct.

SENATOR LEICHTER: Now, you are not saying by this bill that irrespective of the Workmen's Compensation Laws that they can also sue the municipalities, are you?

SENATOR SKELOS: What we're saying in this legislation is, like any other

municipal worker, they have the right to sue somebody, for example, negligence -- policemen and firemen -- which they do have the right now. Policemen and firemen are going to have that same right. That's all this bill does.

SENATOR LEICHTER: Now, if you would be so good as to continue to yield.

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

SENATOR SKELOS: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR LEICHTER: So in those instances where they are covered by Workmen's Compensation, you are not giving them any additional rights?

SENATOR SKELOS: No, we are not.

SENATOR LEICHTER: I understand the city of New York is a somewhat special situation, because the city of New York has, in some respects, opted out of Workmen's Compensation. Is that correct?

SENATOR SKELOS: I believe they are self-insured, and they made that decision.

SENATOR LEICHTER: Right. There was a decision by the Court of Appeals in the Cooper case which has been interpreted by various other courts, and as I understood it from the representatives of the police and the firemen is that they are now in a situation where they can get neither Workmen's Compensation nor have the right to sue?

SENATOR SKELOS: They are correct.

SENATOR LEICHTER: Okay. And, all that your bill seeks to do is, in a sense, restore the status quo before Cooper and give them the rights that they had before, either under Workers' Compensation or if the City prefers to proceed by being self-insured or do it in ways other than Workers' Compensation that they would have the right to sue.

SENATOR SKELOS: Nobody explains a bill better than you, Senator Leichter.

SENATOR LEICHTER: I thank you.

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 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Ask the members if their bills are called that they be in the chambers so we can debate the bill.

Mr. President, at this time, will you call up Senator Saland's bill, Calendar Number 937.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 937.

THE SECRETARY: Calendar Number 937, by Senator Saland, Senate Print 4009A, an act to amend the Tax Law and others, in relation to enacting the Omnibus Mandate Relief Act.

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

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Saland, an explanation has been asked for by Senator Paterson on Calendar Number 937.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this is, as the name implies, an omnibus mandate relief bill. It's intended to, in effect, remove the burden of unfunded mandates currently imposed upon so many of our local and county governments. The intention here is not only to remove those unfunded mandates but to save somewhere in the area of $1.5 billion which are currently being spent by those school districts -- by those local municipalities which will translate to, we believe, tax relief to those very same localities.

There are a number of components to this particular bill. There are six major components. These components would be to reduce

local fiscal burdens, permit localities greater administrative flexibility, reduce the burden of state regulations, eliminate unnecessary state reporting and approval requirements, reform municipal liability, and encourage local consolidation and cooperation.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Saland would yield for about 250 questions.

ACTING PRESIDENT KUHL: Senator Saland, do you yield?

SENATOR SALAND: Only if he promises to let me catch my breath on occasion.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Thank you, Senator.

Obviously, this is a package of legislation that certainly gives an opportunity for local governments and school districts and the like to recoup, and I want to go through

some of the sections, Senator, and just get a reflection from you as to what caused you to do this because there, frankly, are a few things that I find a little disturbing.

For instance, in Section 4, I see that you exempt volunteer fire fighters from the OSHA requirements with respect to the use of the gear and safety procedures. It would seem to me that those volunteers who give of their own time to be volunteer fire fighters should be properly prepared and properly equipped to do the job, and it could be a serious health and safety hazard for them to actually forfeit that opportunity.

So I wanted to know, to commence the discussion, why you decided to include this.

SENATOR SALAND: That provision, in effect, reflects a bill that has been passed, I believe, as introduced by Senator Cook in prior sessions, passed by this house and, I believe, passed overwhelmingly, and what it does is it represents, I believe, the overwhelming

sentiment of volunteer fire companies and fire fighters who feel that the requirements as imposed upon them by the OSHA regulations have been burdensome, at times bordering on the picayune, and many of them feel that, somehow or other, they have become the more singular targets for the zealousness of the OSHA people.

I would think that you would find considerable support coming from the volunteer fire fighters for the removal of this particular provision. These are people who live with risk, are very good at dealing with risk, and they would be among the last people in the world not to proceed carefully and make sure that their gear and all their other equipment wasn't ready to meet the types of crises that they have to deal with.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Senator, thank you for enlightening me, but I still don't understand, even with their consent, how are they supposed to be trained?

These are safety procedures. Obviously, we're talking about prospective situations that incur a lot of life-threatening and dangerous hazards, and what I'm saying is, what is the standard that will -- the volunteers would conform -- with which they would conform? Because, as you know, in these kind of situations, just civilians or just individuals who might care may have all good intentions but may actually take a dangerous situation and make it worse.

We honored today some fire fighters, police and EMS workers from New York who went to Oklahoma City. They, of course, were highly-trained, but you could drop them in the middle of Oklahoma City, where they don't even know where they are, and they can do the outstanding job that they demonstrated by the results of their effort because of their train ing. Now, they are, of course, professionals, and I use it only analogous to the point that the training relates directly to how much care they can give and how much support they can

offer, because of the fact that normally they are not fire fighters.

ACTING PRESIDENT KUHL: Senator Paterson, would you suffer an interruption?

Senator Cook, why do you rise?

SENATOR COOK: Mr. President, at some point, if I might just speak to this particular point, if the two Senators would permit me?

ACTING PRESIDENT KUHL: Senator Paterson, would you like Senator Cook to speak to this particular point at this time?

SENATOR PATERSON: I'm always delighted to have Senator Cook's participation.

SENATOR COOK: Mr. President, only because I had been involved in this issue for some time, and this happens to be very high -- in fact, it may well be the top issue for the volunteer firemen to get this OSHA standard released.

I'll indicate that the way it happened, incidentally, was that some years ago the Labor Commissioner of the state simply

arbitrarily, out of the blue, redefined volunteer fire personnel as being public employees. They never previously had been covered by OSHA until this decision by the Commissioner to include them.

Volunteer fire personnel have to go through their own training procedures. There are courses that are required before they can actually participate in fighting fires. In fact, their own liability -- the companies' own liability policies usually have additional requirements that they have to do.

The problem they have with the OSHA standards is multiple, one being it covers a lot of expensive equipment. Small volunteer companies find it very expensive to replace equipment every two or three years just because the standard changes. In fact, it may be equipment that they have only used one or two times because they don't have all that many fire calls, and yet they have to keep changing the equipment. They have to maintain all these files.

They don't have any clerical personnel to keep the files, and yet people come in and inspect the files.

I have one fire company that was fined because they didn't have medical files on their people, and it wasn't that they hadn't done -- had the physical exams, but it was that the doctor had the files in his office and not in the fire company office where they decided they were going to be.

So it's simply that volunteers, who don't have full-time personnel to do all of the things that a regular municipal employer would be doing as a matter of course, find that having to comply with OSHA regulations really is virtually impossible and is extremely expensive.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you very much, Senator Cook.

I would just add to what I said by saying it's actually the situations that we don't forecast and the extraordinary circum

stances in which I think we would most need the training, but I do understand what Senator Cook is saying, and I'm glad that he brought it up.

If Senator Saland would continue to yield?

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

SENATOR SALAND: Certainly, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: Senator Saland, in Section 5, I believe, of the omnibus bill, the state, as you know, has a duty to protect its workers and its citizens; and there seems to be through a new interpretation of what an in-plant procedure would actually be, in a sense, an opportunity for what we feel would be greater exposure to workers and visitors to asbestos because of a relaxation or reduction in the standard of asbestos removal; and so, at this point, particularly where we in New York City suffered a tremendous penalty of having the

school year actually delayed three weeks because of those buildings, where asbestos levels were at a point that it seemed to be damaging to children, it just raised my eyebrow when I saw that in this particular bill.

I was wondering if you would explain to us why you arrived at a decision to create that reduction?

SENATOR SALAND: I don't think - although I can't speak with any particular knowledge about what occurred in the City, I believe that what occurred in the City, these asbestos conditions were internal conditions, things that occurred within buildings. This deals with roofs.

SENATOR PATERSON: These are municipal roofing projects, and I didn't really mean to compare them, Senator Saland, and so I just want to alleviate your concern that I would.

What I'm just trying to say is that just the issue of the failure to remove or what might be a broader determination that would

prevent removal was what concerned me.

SENATOR SALAND: Let me suggest to you that this is not an effort to remove from the ambit of regulation the requirements that people who perform asbestos removal or asbestos removal from roofs are not, in fact, regulated. These very same people who you and I talked about a bit earlier with regard to volunteer firemen are people whom we would have regulate the roofer who would be removing asbestos, as are currently regulated in the private sector and this would be the infamous OSHA.

We're merely saying that the current labor regulations that require a considerable amount of expenditure, a considerable amount of additional and, to many, burdensome requirements that the private sector does not have to endure should very similarly not be imposed on municipalities. It is estimated that between municipalities and school districts that, conservatively, this would mean somewhere in the area of a $175 million savings. I have been advised by people

representing roofing contractors that they believe that number could be well in excess of $400 million.

We certainly do not believe that we are in any way jeopardizing the health of any students or any employees. Again, we are working only here in this section on removing asbestos from the roofs of buildings.

SENATOR PATERSON: Thank you, Senator. Now that we know how roofing contractors feel, I just want you to know that District Council 37 and the Civil Service Employees Association are virulently opposed to this inclusion in the omnibus package, and their feeling is that the state standard that we have previously had is a lot stricter than what would, I guess, be the federal standard, and that this would really contradict and serve as a departure from that in the area of asbestos removal, which has recently become a serious issue because it really affects a lot more buildings and roofs and edifices than we would have first projected, but it's now, of course,

making it more difficult for contractors and developers, and we understand that, but the point is, that when we prioritize this, the safety of workers and the safety of visitors are really a priority; and it's just -- and as I would see it where we in the state previously tightened what would have been the federal regulations to what we would have wanted them to be, aren't we now going in the opposite direction by adopting this as part of your bill?

SENATOR SALAND: I think we can only talk in relative terms, Senator Paterson. I don't think that, in fact, we are jeopardizing anybody's health or well being. The reality is, these standards have been used, the standards that we are proposing to use, the OSHA standards, certainly by anybody's recognition not diluted or -- nor is OSHA renowned as some how or other being -- being wanton or -- or somehow or other lacking in zeal when it comes to enforcing their regulations.

These are the very same

regulations that the vast majority of roofing jobs in this state, commercial roofing jobs, are performed under. There are no horror stories associated with those roofing jobs, no health stories associated with those roofing jobs, to show that somehow or other the public is being put at risk.

What we have here is something that would seem would be sensible, doesn't put anybody at risk, and affords an enormous savings, and I think this is one of these instances, although I can't say with absolute certainty, that New York has placed itself at such a standard, such a relatively high standard, as to be beyond the realm of anything realistic and, certainly, far above what's occurring all over our own state in non municipal situations and probably throughout most of the country.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Senator, if you will continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: Do we, in fact, have any air monitoring requirements as part of the new regulations that you will be proposing?

SENATOR SALAND: I believe that the OSHA -- I could not tell you exactly what they are, but I believe the OSHA requirements in addition to whatever EPA requirements may currently exist require some air monitoring. I could not tell you what the measurements are, though, Senator.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Senator. Moving to Section 24 of the omnibus bill and further subsections, what you are doing here is eliminating unfunded mandates on localities of a certain size or approximating a certain amount of money.

My question to you relates to our duty, right here, as legislators. I would have thought that this is something that we would be in a sense codifying into law and restricting ourselves from implementing later certain pieces of legislation that would now be barred by the enactment of this law and summarily relieving ourselves of many responsibilities.

Why do you want to take that power away from the Legislature?

SENATOR SALAND: I hate to make you do this again, Senator, but I was looking for Section 24 as you were speaking, and I didn't get your comments in their entirety.

SENATOR PATERSON: I guess, just to simplify it, your rationale for the unfunded mandates provision.

SENATOR SALAND: In Section 24?

SENATOR PATERSON: Yes, and other sections that follow.

SENATOR SALAND: My rationale basically is I think rather elementary. I don't think that we should be in the business of

attempting to impose mandates when we are not providing the funding; and we've had, unfortunately, a history of having done that; and in a rather extended and omnibus fashion, what we're trying to accomplish with this bill is to undo a number of those mandates that we have imposed. It certainly is a history that leaves a lot to be desired, and we feel that this bill can be a cornerstone of changing what have been, unfortunately, far too prevalent of a practice for far too long.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, if the Senator will continue to yield?

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR SALAND: Are you keeping -- excuse me, Senator Paterson. Are you keeping count? Are we approaching 250 yet?

ACTING PRESIDENT KUHL: You're at 19.

SENATOR SALAND: The President is

keeping count.

ACTING PRESIDENT KUHL: You're at 19.

SENATOR PATERSON: Thank you.

But, Senator, my problem with this is that this is really a flat prohibition that you are actually proposing here. In other words -- well, it's really not a flat prohibition. I will correct myself. You do have it limited to over $1 million and where the population is over 10,000. I'm saying that that is a pretty expansive margin that you have left; and to be perfectly honest with you, there have been a lot pieces of legislation that have gone through here in a year where we are -- at least our new governor is talking about his objection to unfunded mandates, and I can understand that and I can understand yours, but I have seen a number of pieces of legislation that have gone through this house that would actually be in violation of what you are proposing.

As long as we're clear on what we're actually doing, I'm just asking you if you

think that that's actually the way to go, when it's actually the Legislature and our elected duty that I thought would have superceded one flat prohibition that would guide us through the rest of time when it comes to what we term unfunded mandates.

SENATOR SALAND: I've struggled to find the exact language to which you are referring; but, nonetheless, let me say that I'm hoping that this really would amount to, in effect, a watershed; that this, in effect, would chart a new course for us, one that I would think would be certainly well received and well appreciated by local government and certainly would set a standard that I think would speak well of us, if, in fact, we could begin the trip down that path.

SENATOR PATERSON: Senator, I want to apologize to you. It really was $10,000 per municipality not to exceed a total of $1 million for all municipalities. That's what your bill reads.

And, my final question on this

subject is just how are we going to keep up with other local governments around the country and what other municipalities are doing and work around what you are trying to achieve in this legislation at the same time?

SENATOR SALAND: I believe, although it's not a majority position, that a number of states have adopted mandate relief type proposals. This proposal, basically, deals with -- primarily with various mandates that are currently on the books that we're endeavoring to, in effect, remove. There certainly is the ability to deal with issues prospectively, as you have more than implied.

I would like to join that ten to twelve states that have adopted mandate relief as, sort of their bylaw, so to speak; and I believe, again, our respective constituencies, whether they be urban, suburban, or rural, would welcome that type of mandate relief and certainly would appreciate having that type of atmosphere in which to go forward.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: Senator, how are you holding up?

SENATOR SALAND: I would assume the President would tell us we're somewhere in the 20s right now.

ACTING PRESIDENT KUHL: 22.

SENATOR PATERSON: Senator Saland, I want to turn your attention to Section 32 of the legislation, and I guess we can cover these together, so, Mr. President, you can put about 50 points on this one.

The section that ascribes to those individuals who are on probation the duty to pay for their parole visits, assuming that they have the financial means to pay, and also for those nonindigent inmates the cost of medical services and food.

Now, we took this up in a bill earlier that was introduced in the session. I'll try not to take much time on it. First of all, how much money do you think the state can save through the -- through implementing this

procedure, and I also want to know who is going to monitor it? Who determines who is nonindigent?

SENATOR SALAND: If I recollect, this bill was a bill, which -- there was a bill introduced comparable to this portion of our omnibus bill by, I believe, Senator Skelos. I don't recall and do not have in my file the amount of money attributed to the savings associated with this particular section. At one time, I did have in this file a breakdown by section. Unfortunately, in looking for it before we started the debate, I could not find it. I would assume that indigency would be determined in the same fashion as might currently be determined by, in effect, documentation that would be provided to either the Probation Department or to an official designated by that department.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Then I'll tell you what I'll do, Senator. I will move on to

another question because we have discussed this on the record earlier this session, and it appears that you don't have the material you would actually need, so I would ask you to turn your attention to Section 92. Now, you can take your winnings home, Senator, like they did on "21" or you can go for another question.

SENATOR SALAND: I'm sorry, Senator, I didn't hear what you said.

SENATOR PATERSON: Oh, no, I'm going to ask you about Section 92, which allows for coroners the transport of a corpse even though they are not physicians, and what disturbs me about this is that they may not be physicians; they may be able to transport corpses, but they also may not be trained to do so.

How are we going to determine whether a coroner has actually achieved in the field to the extent of rising to the level that they might be able to transport corpses, which is obviously something that takes within it a great deal of responsibility?

SENATOR SALAND: I think the assumption underlying this bill is that coroners certainly are -- either by way of training or by way of practice, certainly adept at accomplishing that very thing. We have county coroners in our counties, certainly -- perhaps don't have the type of forensic laboratories and the like that you will find in some of your larger municipalities or larger counties, but these ladies or gentlemen are generally adept at what they're doing, have been trained in what they're doing and are bound to be generally reliable.

SENATOR PATERSON: Senator, if you will continue to yield?

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: I would be curious to know what prosecutors have felt about

this, because what is essential to the criminal prosecution in many situations is the validity of the evidence and as we have seen and read about, particularly recently in some highly profiled cases, it is the handling of evidence and the possibility often for the defense to expose that, even when often the defense has nothing else to hang their hats on, the fact that the presentation of the evidence, particularly in -- where there has been a fatality, and particularly in murder cases, is essential for the physician to provide.

It is beyond the scope of what the coroner's role usually is in the actual investigation; and so I'm asking you, do you think that this is something that possibly can impede a criminal prosecution; and have you received any information from any of the district attorneys' associations as to what they feel about this?

SENATOR SALAND: No, Senator, I certainly share your concerns with regard to maintaining the chain of evidence and certainly

avoiding the polluting of that evidence.

What is being done here is -- and I have received nothing from any district attorney or district attorneys' organization expressing any concern about these provisions; and what these provisions do, basically, is try and deal with some rather unique situations. The bill talks in terms of where it would be - permitting the removal would be impossible or impractical to at once notify a designated coroner's physician to go to the place where the body is, and then goes on to provide further limitations on that particular responsibility.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you. Senator Saland, I just kind of answer that to say that I think that it would probably be better served if there were some allowance in your legislation for what might be termed highly suspicious fatalities because in the normal course of events, you are probably right, but in these situations, I think we've got to have a

higher standard of investigation.

Finally, Senator Saland, Sections 96 and, I believe, 98, involving the opportunity for localities to, with public notice -- and I must add that you did include in the legislation that there must be notification -- the removal of signs from roadways and also the creation of maintenance for the roadways would be somewhat reduced if the locality feels that it actually should.

Do you think that this is applying somewhat of a subjective standard? For people who travel all over the state and are using a lot of these roadways, we are now subjecting ourselves to the safety standards that often might be the whims of individuals in a particular area and, in a sense, decreasing highway safety in toto around the state.

SENATOR SALAND: I believe that there are standards that are contained in here. We're talking basically about rural counties and rural towns. The definition of rural counties and rural towns is provided. A rural county

would be one having a population of less than 200,000. A rural town is defined as having fewer than 150 persons per square mile.

And, for instance, a low volume road is defined as a road, or a portion thereof, located in a rural county or town which has an average daily traffic count of less than 400 motor vehicles. The intent here, again, is to try and relieve the burden on our smaller communities, our smaller counties and towns in a fashion that provides them some degree of flexibility and yet permits that flexibility in those areas where the roads are by definition low volume.

For those of us who represent rural communities, as many of us in this house do, this is something, I believe, that affords not only flexibility but, certainly, relief in the form of real property tax relief to these communities, and I don't believe it jeopardizes anybody's safety or well-being.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Senator, I understand your answer, but I'm wondering if you understand my concern, that people traveling through these particular areas aren't really familiar with what may be a minimum maintenance road, and I would think that in a court case if a person is actually able to aver that at trial that they didn't know what a minimum maintenance road is, that the municipality may open itself up to more lawsuits as a result of the fact that the court might rule that it was not within a reasonable person's contemplation that they were in a circumstance where there was a higher risk than the average one traveling on a road; and I'm just saying, do you think it's worth it to do that and subject what these localities who may think that they are acting -- that they are getting an advantage from this legislation and may wind up with a few lawsuits that will certainly compromise that point of view if the plaintiff prevails?

SENATOR SALAND: If I can, I call your attention to Section 331(f) -- I'm sorry -

331(e), which deals with the signing requirement, and it reads as follows: "The Department shall design a minimum road sign to be posted on the minimum maintenance road in accordance with this article. Such sign shall notify and advise motorists of the need to exercise caution when traveling such roads and shall conform to the Manual of Uniform Traffic Control Devices. Properly posted signs shall be prima facie evidence that adequate notice of a minimum maintenance road designation has been given to the public."

So I think there would be both notice and, certainly, as indicated in the language, at least prima facie evidence of adequate notice.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Well, Senator, if you were Karnak and I were Ed McMahon, "I hold in my hand the last question."

SENATOR SALAND: You've really fooled me, because I thought the last one was

the last one.

SENATOR PATERSON: And this is going to impose on you the duty to explain it to me because I don't understand it. It relates to Section 131 of the bill, and I'm going to give you what I understand from it, and then I would like you to correct me.

Municipalities who would take ownership of property would, as long as they don't manage it, be shielded from the lawsuit if there's environmental spills or some kind of solid waste that is deemed to be contaminated; so, in other words, the municipality -- is what you are saying that the municipality will not be liable if the municipality takes ownership but does not manage the property?

SENATOR SALAND: There are circumstances, whether it be, for instance, taking over a property for delinquent taxes, where a municipality will, in fact, find itself with a piece of property that may be one in which there are hazardous substances or hazardous wastes.

What we're saying is we're doing nothing to impair the issue of liability as it is currently handled with regard to anybody who might be in that chain of title except for that municipality that, in effect, becomes the owner and has done nothing to either foster the condition or done anything to aggravate the condition.

SENATOR PATERSON: What immediately comes to mind, Senator, is that the burden of proof now is vested in the plaintiff because short of acting against the municipal ity, now the plaintiff has to find whoever the violator is and then bring civil suit against them, whereas, if the plaintiff can sue the municipality, the municipality can now interplead and, in a sense, annex whoever may have actually been responsible.

So as I see it, this puts the victim of the hazardous waste in the precarious position of having to go and seek among several suspects or even find among maybe a known entity that can't be located, whoever it is that

damaged the property; and between the plaintiff and the municipality, I suggest that it is the latter who would have more information and greater authority to actually involve the third party who may actually be at fault.

SENATOR SALAND: Let me provide you, if I might, with the converse of that.

I'm not quite sure that the plaintiff might not be able to adequately through their own counsel or through their own investigation determine who the real parties in interest were.

What we're doing here is saying that the municipality which has been basically a passive player in getting involved with this piece of property should not become a deep pocket simply because they happen to be the owner of record and are a municipality and are just sitting out there sort of like a fat cat.

SENATOR PATERSON: That's actually a good answer and a thoughtful answer, Senator, but I've got to ask you this question, which is -- I'm over my question allotment. I'm

on 251 now, but I thought you would yield and give me one last question.

ACTING PRESIDENT KUHL: Would you yield to one last question, Senator Saland?

SENATOR SALAND: Is this what Johnny Carson did, like this (indicating)?

SENATOR PATERSON: Yes. In fact, what I may do is, I will give you the answer and then you give me the question.

Senator, what is to prevent the municipality from going out and hiring a management company that will now manage the property and will, in a sense, serve as the shield for the municipality from suit?

Now, you mentioned liens, but I don't see in your legislation any way that the plaintiff can bring a lien. All I see is that if the municipality attains ownership, there will be actually no way for the plaintiff to actually prevail in any kind of a lawsuit because you set up what might be termed a municipal shield by creating these management companies who really in a lot of ways might be

able to fritter away the actual suit to the point that the plaintiff can't recover.

So what I'm asking you is why did you not include a method in which, in those situations where the municipality is actually responsible, there can be an attachment between the management company and the actual owner?

SENATOR SALAND: Well, I have no recollection of having talked in terms of liens, and what we're again doing here is attempting to, in all candor, shield a municipality from being, simply because of the very nature of it being a municipality, the proverbial deep pocket. To the extent that the municipality or its agents may somehow or other actively contribute to whatever environmental problem exists at this particular parcel, I would say there would be a question of fact that certainly could hold them as a party in interest in whatever litigation might be brought on.

SENATOR PATERSON: Well, Mr. President, I would like you to thank Senator Saland for his tireless and continuing efforts

to answer my questions. I appreciate it very much.

And, on the bill -

ACTING PRESIDENT KUHL: Senator Paterson on the bill.

SENATOR PATERSON: -- just to summarize this last part, Section 131.

Senator Saland is right. He didn't mention a lien. I was a little misleading. What I meant was that the tax lien is the way that the municipality may obtain the property, but, in reality, the municipality doesn't actually know that it has the property, and I think that was the area where Senator Saland has thoughtfully tried to provide some redress for the municipality, where the municipality may not be at fault and may not even know that they actually own the land.

But the issue is that, since he writes in his legislation just that there is ownership, he has not separated the acquiring of the property by tax lien from the, also, incident that occurs in many cases where the

municipality actually owns the land, knows they own the land, may even have been part of the violation and the contamination of the land and, because they now have a management company, they are -- they have thwarted the attempts of recovery on the part of plaintiffs.

And there are a number of issues in this piece of legislation, as consolidated, related to asbestos removal, related to the duty of inmates often to provide financial relief for their own incarceration, and obviously related to -- to the professional ability of the coroners and also the volunteer fire fighters' training; and so there are a lot of good things in this bill as with most consolidations, but there are a number of things that, to me, raise a red flag about whether or not we should be enacting this bill at this particular time.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 140. 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 GOODMAN: Mr. President.

THE SECRETARY: Those recorded in the negative on Calendar Number 937 are Senators Abate, Connor, Kruger, Leichter, Markowitz, Montgomery, Onorato, Paterson, Santiago, Smith, Solomon, Stavisky and Waldon. Ayes 47, nays 13.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR SPANO: Mr. President, can you please recognize Senator Goodman.

ACTING PRESIDENT KUHL: Senator Goodman.

SENATOR GOODMAN: With unanimous consent, may I please be recorded in the negative on Senate 3092, Calendar 1296, and Senate 70 -- I'm sorry -- Senate 3093, Calendar 1297.

ACTING PRESIDENT KUHL: Without objection, Senator Goodman will be recorded in

the negative on Calendar Number 1296.

Senator Goodman, for your benefit, Calendar Number 1297 has not been taken up yet.

SENATOR GOODMAN: Has not what?

ACTING PRESIDENT KUHL: It has not been taken up yet. It has not passed.

SENATOR GOODMAN: I beg your pardon, Mr. President. I withdraw the request.

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

SENATOR SANTIAGO: Mr. President, I would like the record to show that if I had been in the chamber when the Calendar Number 1299 passed, I would have been recorded in the negative.

ACTING PRESIDENT KUHL: Senator Santiago, the record will reflect that had you been in the chamber when Calendar Number 1299 was called that you would have been recorded in the negative.

Senator Gold.

SENATOR GOLD: Yes, Mr.

President. I was out of the chamber while the debate was going on for the last turkey, and I would like to be recorded in the negative on 937, please.

ACTING PRESIDENT KUHL: Without objection, Senator Gold will be recorded in the negative on Calendar Number 937.

Senator Mendez.

SENATOR MENDEZ: (Indicating in the negative on 937.)

ACTING PRESIDENT KUHL: Without objection, Senator Mendez will be recorded in the negative on Calendar Number 937.

Senator Spano.

SENATOR SPANO: Mr. President, can you please have the Secretary read Calendar 1287.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 1287.

THE SECRETARY: On page 32, Calendar Number 1287, by Senator Hannon, Senate Print 5238, an act to amend the Public Health Law, in relation to quality assurance of managed

care plans.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Hannon, an explanation of Calendar Number 1287 has been asked for by the Deputy Minority Leader, Senator Paterson.

SENATOR HANNON: Yes, Mr. President. This legislation which was contained as part of our earlier omnibus Medicaid bill that had only passed this house sets forth that every health maintenance organization in the state has to basically reach the standard set by a national not-for-profit organization known as the NCQA, and that group is the National Committee for Quality Assurance, has set forth a number of very stringent quality levels that deals with consumer rights, members' rights and responsibilities, questions as to how the preventive health services shall be maintained, questions as to appeals by individuals.

So it's basically a national standard, and we were very interested in having this as something that all of the HMOs in the

state would achieve. It would be higher than the standards that are currently in existence, and we thought that was something that would give the assurance to all of our constituents that they would be receiving quality care when they are getting their coverage under an HMO, and that HMO right now is an organization that's delivering care to about 25 percent of New Yorkers, so that's the reason for it.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

Senator Hannon, we don't really have much of a problem on this bill, just a question that kind of comes to mind.

Since we have a state task force on quality assurance, do you think that the legislation is kind of jumping ahead of it? Don't you think we should wait until they come back with a recommendation?

SENATOR HANNON: No. Many of the questions as to who is going to provide the

coverage are being answered outside of the scope of state government. They are being answered by employers who are opting for reasons of cost, for reasons of stabilization of cost, to have their employees get their health coverage through health maintenance organizations.

Let me point out to you that this not-for-profit organization is nationally recognized, has an ongoing, ever-increasing set of standards, publishes in a very open way what they are doing, their standards, looks for increasing input.

So what it is is an ongoing improvement of what's happening, and I think that putting this out there, postulating it, would be a good thing for us to say to people - "Well, I've just gotten switched. How do I know what they are doing is better than my old plan?" Now we can say it's because we've required this as a standard.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Senator -

Senator Hannon. I have been asking Senator Saland so many questions, I almost asked him another one.

The National Committee on Quality Assurance, are they recognized as upholding the national standard, Senator?

SENATOR HANNON: Recognized?

SENATOR PATERSON: I mean do most experts feel that they -

SENATOR HANNON: Yes. Yes.

SENATOR PATERSON: All right. Then -- unless Senator Hannon cares to comment.

SENATOR HANNON: I must tell you, Senator, in the course of the discussions on it, when we were putting it into the earlier bill, the only complaints I heard, and they were never on the record, were, "We don't know if we can be sure that our plan will be able to meet those high standards," and that actually, to my mind, was a good reason to put them forward so that we could say to folks, "Look, this is something we want for the people who will get this coverage."

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: Thank you, Mr. President. I guess you can have the Secretary read the last section.

SENATOR DOLLINGER: Mr. President.

SENATOR PATERSON: I guess not, Mr. President.

ACTING PRESIDENT KUHL: Are you sure?

Senator Dollinger.

SENATOR DOLLINGER: I just have one question, Mr. President, of the sponsor. Does this bill provide that the Health Department will do any kind of periodic review of these national standards to evaluate them for purposes of New York?

My concern is, I think this is a good thing to do, to set a national -- to comply with national standards, and I think if we comply with national standards, we're probably in pretty good hands. But at some point, does the Health Department do any preliminary

evaluation of those standards to make sure they're the right standards for New York, or any kind of certification, that these are quality standards?

SENATOR HANNON: No. First of all, they already have their own extensive set of standards out there but, like most states, they are already outmoded, and they don't have the flexibility that I would think is good; and, second, even if the state does have standards and all of that that would be applicable, they don't apply necessarily to all of the employers.

We're stuck with the problem that many of the big employers -- and actually the cost has become so great, it goes down to smaller employers have the ability to be self-insured and, once self-insured, can get out from under the state regulation.

So to the extent that we have national companies or international companies and IBM, Kodak, Bausch & Lomb, and Xerox and American Express, they have opted into HMOs that

meet these standards because they want to be able to offer plans from state to state that will all be of the same quality level.

So, no, we don't have it, but I can also assure you that given the Health Department, which already has 45 to 50 advisory commissions, task forces, and councils, that there is no lack of groups taking a look at these standards.

The Task Force on Guidelines and Outcomes I spoke to a couple weeks ago is now desiring to transfer themselves just into this, and you can be assured that the Public Health Council, the Planning Council would all be doing the same type of thing. So we have, in essence, the equivalent of what you would be asking.

SENATOR DOLLINGER: One other short one, Mr. President.

Can I assume, Mr. Chairman, that by your comments that those that are self insured, the Kodaks and Xerox and others that have done this, I mean they have an incentive to make sure that these nationwide quality

standards are high ones, because they are buying the products, in essence, by paying the premiums of the HMOs and their employees will be the users of these services. Those employees would want to make sure that high quality health care through the HMOs is part of the process. So we get that added effect of getting a closer linkage between the buyer of the product, the actual payor, and the provider of the product to make sure that the quality standards are consistent. That is part of it, as well?

SENATOR HANNON: Absolutely.

SENATOR DOLLINGER: Thank you, Mr. Chairman. I will vote in favor.

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 60.

ACTING PRESIDENT KUHL: The bill

is passed.

Senator Spano.

SENATOR SPANO: Mr. President, please call Calendar 1327.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 1327.

THE SECRETARY: Calendar Number 1327, by Senator Stafford, Senate Print 3631A, Concurrent Resolution of the Senate and Assembly proposing amendments to Sections 1, 2, 10, 11 and 16 of Article VII of the Constitution.

SENATOR DOLLINGER: Explanation.

SENATOR STAFFORD: Thank you.

ACTING PRESIDENT KUHL: Senator Stafford for an explanation.

SENATOR STAFFORD: I don't know why I'm thanking you for the question, but anyway.

This, Mr. President, is the second passage of the debt proposition which will be before the voters if we pass this proposition.

Mr. President, as we explained

last year when this passed, this has been negotiated with the Assembly, and what it does, in effect, is limit borrowing money, and there are limitations, and I can go over everything, but the key here is that newly revenue-backed debt is not subject to voter approval but subject to a cap based on personal income, and that cap will be -- it begins at 1 percent in the state fiscal year 1996-97 and increases up to 4.4 percent in fiscal year 2008-2009. Doesn't that sound funny? And it isn't going to be long when we are going to be saying that, hopefully, all of us. Hopefully, all of us.

There are other prohibitions, Mr. President. I think maybe we should emphasize this one: Prohibition against contracting any debt for operating purposes.

Also, there's creation of a revenue debt backed by a dedicated trust fund for financing transportation capital projects.

There will be an annual submission by the Governor of a detailed multi year capital projects plan and financing plan to

the Legislature, which I think is welcome.

Thank you.

ACTING PRESIDENT KUHL: Chair recognizes Senator Onorato.

SENATOR ONORATO: Senator Stafford, would you yield for a question?

ACTING PRESIDENT KUHL: Senator Stafford, would you yield?

SENATOR STAFFORD: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR ONORATO: Senator Stafford, I take notice that last year Governor Pataki voted against this bill. I was just wondering if there's any changes now that would make him change his mind into signing it.

SENATOR STAFFORD: I have all I can do to keep track of myself from year to year, how we're voting, and I'm not going to look at anybody's vote other than this year, and I hope we certainly will have the required number.

ACTING PRESIDENT KUHL: Senator

Hoffmann.

SENATOR HOFFMANN: Would Senator Stafford yield for another question, Mr. President?

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

Senator yields.

SENATOR HOFFMANN: Senator Stafford, would this bill allow extreme circumstances in which borrowing could occur in excess of the amount stipulated?

SENATOR STAFFORD: I want to commend Senator Hoffmann for reading the proposition. I inadvertently went over that portion. Yes.

SENATOR HOFFMANN: Mr. President, if Senator Stafford would continue to yield, I would convey to him through you my appreciation for his commendation on my reading of the bill, but I -

ACTING PRESIDENT KUHL: Senator Stafford, Senator Hoffmann is very appreciative of your recognition that she has read the bill.

She wants to know whether or not you would yield to another question?

SENATOR STAFFORD: Well, due to the fact that -- yes. Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR HOFFMANN: Thank you, Mr. President.

I wonder if Senator Stafford could explain to the members of the Senate the situation of economic emergency which might precipitate such additional borrowing on the State's present credit rating.

SENATOR STAFFORD: I recall -- I don't think there's anyone in the room that would remember other than myself -- for instance, Route 3 between Saranac Lake and Plattsburgh -

Oh, you remember that? Well, good.

On a serious note -- was completely wiped out by a flash flood. It was in 1947, and I think it was on a Sunday; and as

a matter of fact, I think it was -

SENATOR HOFFMANN: Explanation satisfactory, Mr. President.

SENATOR STAFFORD: Thank you.

(Laughter.)

ACTING PRESIDENT KUHL: The question is on the resolution. The Secretary will call the roll.

SENATOR HOFFMANN: Whoa! Whoa! Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Hoffmann, on the bill.

SENATOR HOFFMANN: I will - please convey to Senator Stafford my extreme satisfaction at his lengthy explanation about activities in his district on the year that I was born, and my limited frustration at not having a better understanding of those emergency procedures or states within the state of New York that might compel borrowing against the state's debt load in excess of the amount stipulated within this measure.

But I am reading from some

memorandum provided by staff and also from the Senate record from a debate that took place, if you could call it that, at 2:25 a.m. on the 8th of June last year, which was the first occasion when we passed this; and I want to commend you, Mr. President -- you were presiding at the time -- on your even-handed handling of the gavel that evening because it must have been a very stressful debate, judging by the many pages that I have here.

However, it was apparent that time, and it's apparent this time, that there are many unanswered questions about this measure, that it is clearly not the kind of debt reform that we should, in fact, be doing and I would just remind my colleagues again this year, as I did last year, that we do not have to pass this measure now. It does not have to go before the voters for at least another year.

We could hold public hearings on this. We could do many things to make it a better bill. It does not have long-term oversight as was recommended by the Comptroller

in his original bill. It allows a procedure classified as an emergency measure when the State's unemployment rate exceeds -- when there is a 3 percent decline in employment. It doesn't say whether it's a decline over a period of a few days, a few months, or a year, but a decline of employment at the rate of 3 percent could be classified as an emergency, an economic emergency allowing some rather casual and dangerous borrowing in addition to the debt load that we already have.

Probably the most frustrating feature of all in this so-called Debt Reform Act is the fact that it does not address the fact that we already have an excessive amount of debt. It simply allows us additional ways that we could accumulate more debt. I find that to be an unacceptable way for us to address the business of the state, and I find myself, once again, in the unique position of being a Democrat serving in the New York State Senate who is in agreement with another member of this house who served here last term who is now the

Governor of this state, and when George Pataki and I and other members of this house voted against this measure last session, I believe we were correct.

This is not a significant debt reform measure. We should not be perpetuating this fraud. We should not be telling people this is our way of cleaning up the state's finances and not getting us into trouble in the future because it simply isn't true.

We should all have the courage to vote no now, say we made a mistake last year, go back to the drawing board and not claim that we want to put this before the public in a referendum to change the Constitution of this state. It is not debt reform.

I will once again vote no, and I'm sure we have not heard the last of this, Mr. President.

Thank you.

ACTING PRESIDENT KUHL: The question is on the resolution. Excuse me.

SENATOR STAFFORD: Very briefly.

ACTING PRESIDENT KUHL: Senator Stafford.

SENATOR STAFFORD: Senator Hoffmann raises a legitimate issue. As with lawyers, you know, this is what happens. There is a real difference of opinion whether we have to pass this, in other words, a year following when we passed the first one, so in other words, this year. Some people would say we could do it next year, but I would suggest that we should pass it this year because there is a question, and I think it -- looking at it, I think, it would fall if we did not do it this year.

And please let me emphasize this, Mr. President. This is not -- is not perfect, I assure you, but when we have prohibitions in here for contracting any debt for operating purposes, I suggest we're stepping in the right direction.

Also in this emergency, I would just point out that we looked at it, and it is the preceding 12 months of the -- when they want to borrow the money as far as the 3 percent

decline in the level of state employment, and I should have pointed that out.

SENATOR HOFFMANN: Thank you, Senator Stafford.

ACTING PRESIDENT KUHL: The question is on the resolution. Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: Announce the result -- Senator Jones to explain her vote.

SENATOR JONES: Yes. I was going to ask questions, but Senator Hoffmann quickly demonstrated to me the uselessness of that, so I will just go ahead and vote. Many of the things she said, certainly I feel the same way about. I felt very comfortable joining Senator Pataki last year in voting against this.

I think the problem is, while it certainly is an improvement on the debt situation that we found ourselves in, there's still a lot more we could do, and it seems like so often we grab at something rather than do

nothing. I would rather grab at something correct that does answer all the problems than accept nothing.

We just did that last week with the pension bill, where we accepted a raid. We all knew it wasn't right, but we wanted the pension supplement.

So I'm going to stick with my no vote and I still believe, although debt reform is certainly -- and it is an issue that I've spent a lot of time on. I still think there's something better than this bill that we could go for, so I'm going to say no until I see that.

ACTING PRESIDENT KUHL: Senator Jones will be recorded in the negative.

Senator Montgomery? Being recorded in the negative.

Senator Leichter to explain his vote.

SENATOR LEICHTER: Mr. President, last year, I voted in the negative on this bill, and I was glad that then Senator George Pataki stood with us. However, now having had first

passage, and with the ability to have second passage and bearing in mind that otherwise we go back to the drawing board and we will not have any limitations or restriction on what has been really a chaotic and indisciplined borrowing practice by the State of New York, I think it makes sense to support this resolution.

I believe that even though the Comptroller last year had some questions on it that he is supporting this second passage. It does impose some important restrictions against undisciplined borrowing and, for that reason, I will support it this year. Yes.

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

Senator Dollinger to explain his vote.

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

I also voted with then Senator George Pataki against this bill, and I guess I've come to the conclusion that there are those in this chamber who may say we've gotten a

little bit of discipline in this proposed constitutional amendment, and we probably do have a little bit of discipline.

My fear is even if the voters accept this little bit of discipline, we will all declare a great victory and for 20 years we will put the issue of reforming our debt practices way, way, way back on the back burner, and it will be the year 2020 before we get around to creating real discipline in our debt practices.

So, although this takes a step down the road, I would have preferred a much more giant step to really reform the practices and get the state back on a better borrowing keel.

I will be voting negative, Mr. President.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar 1327 are Senators

Dollinger, Hoffmann, Jones, and Montgomery.

Ayes 56, nays 4.

ACTING PRESIDENT KUHL: The resolution is adopted.

Senator Maziarz.

SENATOR MAZIARZ: Regular order, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will continue to call the controversial calendar, Supplemental Calendar Number 1.

THE SECRETARY: Calendar Number 1324, by Senator Libous, Senate Print 3006-A, an act to amend the Criminal Procedure Law, in relation to the presence of counsel.

SENATOR PATERSON: Explanation.

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

SENATOR LIBOUS: Lay that bill aside.

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

THE SECRETARY: Calendar Number 1333, by Senator Volker, Senate Print 4799, an act to amend the Penal Law, in relation to including certain obscenity crimes in the definition of criminal act under the Organized Crime Control Act.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1334, by Senator Johnson, Senate Print 4815 -

SENATOR JOHNSON: Lay it aside for a few minutes, Mr. President.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1341, by Member of the Assembly Tokasz, Assembly Print 4958, concurrent resolution of the Senate and Assembly proposing amendments to Section 1, 5, 6 and 8 of Article II of the Constitution.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, might we call the roll on reconsideration on Calendar Number 1333 for purposes of having it explained? It just passed.

ACTING PRESIDENT KUHL: The bill is in the house. The Secretary will call the roll on reconsideration on Calendar Number 1333.

THE SECRETARY: Calendar Number 1333, by Senator Volker, Senate Print 4799, an act to amend the Penal Law.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator Paterson.

SENATOR PATERSON: Explanation, please.

SENATOR VOLKER: Mr. President, I

thought my explanation was suff... no, no. What this bill does, it's a bill that's passed this house on several occasions before which would include obscenity in the definition of a criminal act under the Organized Crime Control Act, and it would, in effect, add pornography to the definition of criminal acts that are covered by the Organized Crime Control Act or, I guess it's called RICO.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: The explanation, satisfactory as it may have been, leads me to a question, if Senator Volker would yield.

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

SENATOR VOLKER: Certainly.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator Volker, why did the Organized Crime Task Force in the past eschew the opportunity to include

pornography as one of the definitions?

SENATOR VOLKER: Why? Maybe I didn't understand. In order for it to be included in the purview of the RICO laws or whatever, we have to -- we have to put it in there. When the -- maybe your question is why wasn't it. Maybe I missed that, and I guess the answer was I think it was -- frankly, at the time it was plainly overlooked and, of course, the issue of pornography and obscenity has become a much bigger issue in the last five to eight years, and I guess that's why the thought is that it should also be included and because of the fact that it has become an issue that has become a much bigger racketeering issue and - that some of the organized crime people clearly have gotten involved in.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: I hope the next time the Organized Crime Task Force has a vacancy, that you'll consider me because I overlooked this bill when it went by the first

time. The explanation is satisfactory.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1341, by Member of the Assembly Tokasz, Assembly Print 4958, concurrent resolution of the Senate and Assembly proposing amendments to Section 1, 5, 6 and 8 of Article II of the Constitution.

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

Senator Paterson.

SENATOR PATERSON: Mr. President, may we hold that a moment for Senator Gold who, I believe, had a question on it?

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Mr. President, I was out of the room, I understand we passed 1333 which had some opposition last year, but apparently this year it's been supported by many of the members. Please, I ask unanimous consent to be recorded in the negative.

ACTING PRESIDENT KUHL: Senator Gold, we'll take that up in a minute. I understood that you wanted to ask some questions on Calendar Number 1341; it's a concurrent resolution which is currently before the house.

SENATOR GOLD: Will Senator Maltese yield to a question?

ACTING PRESIDENT KUHL: Senator Maltese, do you yield?

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR GOLD: Senator, was this bill changed from last year?

SENATOR MALTESE: No, Mr.

President. The bill was not changed from last year when there were only two negative votes on the bill.

SENATOR GOLD: I don't remember the negatives. Who were they?

SENATOR MALTESE: The two negative votes were DiCarlo and Maltese, Mr. President.

(Laughter.)

SENATOR GOLD: Well, Senator Maltese, I want the record to indicate that the laughter came from your side, not mine -- not my side.

SENATOR MALTESE: The record should indicate that I joined in the laugh.

SENATOR GOLD: Because, Senator Maltese, I admire somebody who's educable and I now know that 1/36th of your side is educable.

Last section.

ACTING PRESIDENT KUHL: The Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce

the results when tabulated.

THE SECRETARY: Ayes 58, nays 2, Senators DiCarlo and Libous recorded in the negative.

ACTING PRESIDENT KUHL: The resolution is adopted.

The Secretary will continue to call the controversial calendar.

SENATOR MAZIARZ: Mr. President.

ACTING PRESIDENT KUHL: Senator Maziarz.

SENATOR MAZIARZ: Mr. President, would you please lay aside Calendar Number 1334, and there will be an immediate meeting of the Rules Committee and the Senate will stand at ease.

ACTING PRESIDENT KUHL: Senator Maziarz, before we stand at ease, we have some housekeeping. Also, Senator Paterson -- Senator Paterson, Senator Gold, I think, wanted to be recorded in the negative -

SENATOR PATERSON: He certainly did, Mr. President.

ACTING PRESIDENT KUHL: -- on Calendar Number 1333.

Senator Gold -- Senator Gold, may I have your attention? Did you wish to be recorded in the negative on Calendar Number 1333?

SENATOR GOLD: Yes, sir.

ACTING PRESIDENT KUHL: Without objection. Hearing no objection, Senator Gold will be recorded in the negative on Calendar Number 1333.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Senator Leichter feels that Senator Gold shouldn't be alone tonight and so he would like to be recognized.

SENATOR LEICHTER: Yes.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: May I have unanimous consent to be recorded in the negative

on Calendar Number 1333?

ACTING PRESIDENT KUHL: Without objection, Senator Leichter -- and hearing no objection, Senator Leichter will be recorded in the negative on Calendar Number 1333.

Senator Sears, why do you rise?

SENATOR SEARS: Yes, Mr. President. Calendar Number 1238, Senate Print Number 4903-B, would you please remove the star, please.

ACTING PRESIDENT KUHL: At the request of the sponsor, the star will be removed. The number again, Senator Sears, was -

SENATOR SEARS: Calendar 1238.

ACTING PRESIDENT KUHL: 1238.

Thank you.

SENATOR SEARS: Senate Print Number 4903-B.

ACTING PRESIDENT KUHL: The star will be removed.

Senator Waldon, did you wish to be recognized?

SENATOR WALDON: Yes, Mr. President. I respectfully request to be recorded in the negative on 13... what was the next part?

ACTING PRESIDENT KUHL: Without objection. Hearing no objection, Senator Waldon will be recorded in the negative on Calendar Number 1333.

Senator Montgomery.

SENATOR MONTGOMERY: Yes. Mr. President, I would like to also be recorded in the negative on Calendar 1333.

ACTING PRESIDENT KUHL: Without objection. Hearing no objection, Senator Montgomery will be recorded in the negative on Calendar 1333.

Senator Smith.

SENATOR SMITH: I would also request unanimous consent to be recorded in the negative on Calendar Number 1333.

ACTING PRESIDENT KUHL: Without objection. Hearing no objection, Senator Smith will be recorded in the negative on Calendar

Number 1333.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

On behalf of Senator Holland, would you please place a sponsor's star on the following Calendar Numbers: 888, 889, 891, 892.

ACTING PRESIDENT KUHL: At the request of the sponsor, calendar stars will be placed on Calendar Numbers 888, 889, 891 and 892.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

On behalf of Senator Padavan, I wish to call up his bill, Print Number 4185, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read the title.

THE SECRETARY: Calendar Number 746, by Senator Padavan, Senate Print 4185, an act to amend the Real Property Tax Law.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I now move to reconsider the vote by which this bill has passed.

ACTING PRESIDENT KUHL: The motion is to reconsider the vote by which the bill passed.

The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I now offer up the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Santiago, did you wish to

register a vote?

Senator Maziarz.

SENATOR MAZIARZ: Mr. President, is there any further housekeeping matters?

ACTING PRESIDENT KUHL: I'm informed by the Secretary at the desk that the housekeeping has been completed.

SENATOR MAZIARZ: Thank you, Mr. President.

There will be an immediate meeting of the Rules Committee and the Senate will stand at ease.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee in the Majority Conference Room, Room 332. Immediate meeting of the Rules Committee in the Majority Conference Room, Room 332. The Senate will stand at ease awaiting a report of the Rules Committee which will be taken up, I'm informed tomorrow.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Yeah. People have been asking and maybe we can just clarify it. We're at ease for the Rules Committee, but my upstanding is that we're not going to do any more bills tonight, is that correct? So if there are some who really want to get at ease, it's legitimate.

ACTING PRESIDENT KUHL: The Rules report is being prepared for tomorrow's calendar, Senator Gold. We don't anticipate, so I'm told, any additional bills being taken up this evening.

SENATOR GOLD: Yeah. Mr. President, will you yield to one other question?

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: In the field of your expertise, Mr. President, what time does the driving range at Exit 8 close tonight?

ACTING PRESIDENT KUHL: Pardon me, Senator Gold? I didn't hear that.

SENATOR GOLD: That's all right.

Senator Libous answered me.

SENATOR WALDON: Mr. President.

ACTING PRESIDENT KUHL: Senator Waldon.

SENATOR WALDON: Thank you, Mr. President.

May the record reflect that had I been here on June 12th, 1995 when this august body considered Calendar 994, Senate 5019, that I would have voted in the negative.

ACTING PRESIDENT KUHL: The calendar will reflect that had you been here on Monday, June 12th, when Calendar Number 994 was called, that you would have voted in the negative and with that, the Senate stands at ease awaiting the Rules report.

(Whereupon, the Senate stood at ease from 7:35 p.m. until 7:45 p.m.)

ACTING PRESIDENT VOLKER: Senator Spano.

SENATOR SPANO: Please return to reports of standing committees.

ACTING PRESIDENT VOLKER: The

Secretary will read.

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

Senate Print 563, by Senator Cook, an act to amend the Real Property Tax Law, in relation to making certain state lands;

1119, by Senator Spano, an act to amend the Public Health Law, in relation to the extension of professional privileges;

1652, by Senator LaValle, an act to amend the Town Law, in relation to initiation of a criminal history check;

1985, by Senator Hoblock, an act to amend the General Municipal Law, in relation to the definition of a bell jar;

2615, by Senator Leibell, an act in relation to authorizing the reconveyance to the Lakeview Manor Community Association;

2677, by Senator Leibell, an act authorizing the town of Southeast, Putnam County to establish a road or highway;

2682, by Senator Leibell, an act

to amend the Town Law, in relation to the dissolution of the Lakeview Manor Park District;

3002-A, by Senator Johnson, an act to amend the Public Service Law, in relation to eliminating utilities as installers;

3915, by Senator Oppenheimer, an act to amend the Real Property Tax Law, in relation to allowing the town of Rye to levy taxes;

3966, by Senator Johnson, an act in relation to granting Joseph Donnelly certain service credit;

4252, by Senator Nozzolio, an act to amend the Alcoholic Beverage Control Law, in relation to regulating the hours of sale by a winery;

4451-B, by Senator Velella, an act to amend the Retirement and Social Security Law, in relation to making certain technical corrections;

4544-A, by Senator Farley, an act to amend the Civil Practice Law and Rules and the Surrogate's Court Procedure Act, in relation

to authorizing deposits;

4648, by Senator Johnson, an act in relation to authorizing Perry S. Reich to purchase certain retirement service credit;

4919, by Senator Libous, an act to amend the Tax Law, in relation to extending the authorization granted to the county of Tioga;

5079, by Senator Hoblock, an act to amend the lobbying act, in relation to the use of 800 telephone numbers;

5247, by Senator Present, an act to amend the Education Law, in relation to authorizing the establishment of a Community College Region;

5283, by Senator Hoffmann, an act to authorize the city of Oneida, Madison County to sell, transfer and convey the Oneida City Hospital;

5442-A, by Senator Levy, an act to amend the Vehicle and Traffic Law, in relation to establishing an advisory committee;

5328-A, by Senator Nozzolio, an

act to amend the Tax Law, in relation to extending the period for an additional one percent Monroe County sales tax rate;

5351, by Senator Padavan, an act to amend Chapter 420 of the Laws of 1991, amending the Real Property Tax Law;

5361, by Senator Larkin, an act to amend the Real Property Tax Law, in relation to making technical and clarifying amendments thereto;

5365, by Senator Stafford, an act to amend the Public Health Law, in relation to establishing the Ovarian Cancer Information Program;

5370, by Senator Saland, an act to amend the Family Protection and Domestic Violence Intervention Act of 1994;

5392, by the Senate Committee on Rules, an act to amend Chapter 653 of the Laws of 1984, amending the Social Services Law, relating to certain chronic care management demonstration program;

5412, by Senator Sears, an act to

amend the Personal Property Law and the Insurance Law, in relation to making certain technical amendments;

5413, by Senator Sears, an act to amend Chapter 1 of the Laws of 1994, amending the Personal Property Law, General Obligations Law, General Business Law and Vehicle and Traffic Law;

5436, by Senator Farley, an act to amend the Banking Law, in relation to interstate branching;

4181, by Senator Galiber, an act to amend the Education Law, in relation to providing grants to school districts; and

2548, by Senator Abate, an act to amend the Alcoholic Beverage Control Law, in relation to requiring applicants for licenses and renewals to submit certificates of occupancy;

All bills ordered directly for third reading.

ACTING PRESIDENT VOLKER: Senator Spano.

SENATOR SPANO: I move that we accept the report, Mr. President.

ACTING PRESIDENT VOLKER: All in favor of accepting the report signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The report is accepted.

SENATOR SPANO: Mr. President, there being no further business, I make a motion that we adjourn until 10:00 a.m. tomorrow morning.

ACTING PRESIDENT VOLKER: The Senate is adjourned until 10:00 a.m., June 15th, 1995, tomorrow.

(Whereupon, at 7:55 p.m., the Senate adjourned.)