ALBANY, NEW YORK

June 15, 1995

10:00 a.m.

REGULAR SESSION

LIEUTENANT-GOVERNOR BETSY McCAUGHEY, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order. Would everyone please rise and repeat with me the Pledge of Allegiance.

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

The invocation today will be given by Reverend Shirley Daniels from the Evangel Temple of Albany.

Welcome, Reverend Daniels.

REVEREND SHIRLEY DANIELS: Let us pray. Eternal God our Father, You said in everything we should give thanks. We do thank You for this day and we thank You for all these Senators and the staff who have worked untiringly throughout this session. We thank You for the budget that they have passed, and now, eternal God, we ask Your blessings upon these Senators as well as the staff on this last day of session. We pray as they start this meeting that You would give them the wisdom and the knowledge to complete all the necessary transactions and discussions that they need to

wrap up this session.

We pray for their continued health, devotion and dedication as they serve as Senators of this great state. Guide them throughout this day in all the matters. In Your holy name we pray. Amen.

THE PRESIDENT: Thank you.

That was very eloquent.

The reading of the Journal.

THE SECRETARY: In Senate, Wednesday, June 14th. The Senate met pursuant to adjournment, Senator Kuhl in the Chair upon designation of the Temporary President. Prayer by the Rabbi Jeffrey Miller, Congregation Marathon Jewish Center, Douglaston, New York. The Journal of Tuesday, June 13th, was read and approved. On motion, the Senate adjourned.

THE PRESIDENT: Without 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 Marcellino.

SENATOR MARCELLINO: Madam President, on behalf of Senator Libous, may we please place a sponsor's star on Calendar Number 1324.

THE PRESIDENT: Without objection.

SENATOR MARCELLINO: Thank you.

THE PRESIDENT: We have one substitution. The Secretary will read.

THE SECRETARY: On page 36, Senator Padavan moves to discharge from the Committee on Rules, Assembly Bill Number 7667 and substitute it for the identical Calendar Number 1376.

THE PRESIDENT: The substitution is ordered.

Senator Larkin.

SENATOR LARKIN: Madam President,

I would like to remove the sponsor's star from Calendar 215, Senate Print 2090-C.

THE PRESIDENT: The star is removed.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time take up the noncontroversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 110, by Member of the Assembly Weinstein, Assembly Print Number 3222-B, an act to amend the Estates, Powers and Trusts Law, in relation to division of trusts.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 215, by Senator Larkin, Senate Print 2090-C, an act to amend Chapter 545 of the Laws of 1938, relating to a system of coordinates.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

SENATOR BRUNO: Madam President, can I ask the indulgence of the Minority and ask you for unanimous consent to at this time take up Senator Larkin's bill? It's Calendar Number 215.

THE PRESIDENT: Without objection, the Secretary will read.

THE SECRETARY: Calendar Number 215, by Senator Larkin, Senate Print 2090-C, an act to amend Chapter 545 of the Laws of 1938, relating to a system of coordinates.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 222, by Senator Velella, Senate Print 2764-C, an act to amend the Insurance Law, in relation to reciprocal insurers.

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

THE SECRETARY: Section 7. This act shall take effect on the 180th day.

ACTING PRESIDENT KUHL: Call the roll.

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 251, by Senator Hoblock, Senate Print 1635, an act to amend the Social Services Law, in

relation to designation of the Capital District Youth Center.

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 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 387, by Senator Lack, Senate Print 2833-B, an act to amend Chapter 689 of the Laws of 1993, amending the Criminal Procedure Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 414, by Senator Levy, Senate Print 4050-A, an act to amend the Highway Law, in relation to transportation facility emergency work.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 425 -

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 447, by Senator DiCarlo, Senate Print 2419-A, an

act to amend the Executive Law, in relation to creating a long-term care ombudsman.

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

THE SECRETARY: Section 6. 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 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 462, by Senator Levy, Senate Print 4168-A, an act to amend the Highway Law and the Public Authorities Law, in relation to the dedicated highway and bridge trust fund cooperative.

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

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 507, by Senator Lack, Senate Print 3775-A, an act to amend the Family Court Act, in relation to the duty to support recipients.

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 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 543 -

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 554, by Senator Volker, Senate Print 2367-A, an act to amend Chapter 207 of the Laws of 1994, relating to incorporating the Twin District Firemen's Benevolent Association.

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 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 566, by Senator Levy, Senate Print 339-A, an act to amend the Transportation Law, in relation to expanding the definition of "school".

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 38, nays 1, Senator Wright recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 583, by Senator Levy, Senate Print 41...

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 607 -

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 665, by Senator Cook, Senate Print 4384, an act relating to the apportionment of building aid and reorganization incentive building aid.

ACTING PRESIDENT KUHL: There's a

local fiscal impact note at the desk. The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 705, by Senator Solomon, Senate Print 4223-A, an act to amend Chapter 60 of the Laws of 1994, relating to certain provisions.

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 39.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 748, by Senator Gold, Senate Print 193-B, an act to amend the General Business Law, in relation to requiring child safety devices.

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

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

SENATOR BRUNO: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1198, by Senator Velella, Senate Print 3817-B, an act to amend the Insurance Law, in relation to extending the expiration date for Article 54.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1218, by Senator Maltese -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: There is no home rule message at the desk. The bill will be laid aside.

THE SECRETARY: Calendar Number 1221 -

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1233 -

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1238 -

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1239, by Senator Tully, Senate Print 5027-B, an

act to amend Chapter 237 of the Laws of 1993, amending the Environmental Conservation Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1244, by Senator Farley, Senate Print 5331, an act to amend the Banking Law, in relation to the licensing of money transmitters.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38, nays 1, Senator Spano recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1245, by Senator Farley, Senate Print 5332, an act to amend the Banking Law, in relation to banging records.

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

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

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 1267, by Senator Marchi, Senate Print 3873-A, an act to amend the Real Property Law, in relation to establishing a New York State Real Estate Board.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1270, by Senator Velella, Senate Print -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1276, by Senator -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1283 -

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1293, by Senator Lack, Senate Print 1297-A, an act to amend the Surrogate's Court Procedure Act, in relation to the statute of limitations.

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1297, by Senator Padavan, Senate Print 3093, an act to amend the Social Services Law, in relation to -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1314, by Senator Leibell, Senate Print 5286-A, an act to amend the Private Housing Finance Law, in relation to tax exemption.

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 41.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1315, by Senator Seward, Senate Print 5304, an act to amend the Tax Law, in relation to extending the expiration of provisions authorizing the county of Herkimer.

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 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1318, by Senator Sears, Senate Print 5327, an act to amend the Tax Law, in relation to extending the effectiveness of provisions authorizing the county of Oneida.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1319, by Senator Stachowski, Senate Print 5352, an act to authorize the city of Buffalo, Erie County to lease certain parklands.

ACTING PRESIDENT KUHL: There's no home rule message at the desk. Lay the bill aside.

THE SECRETARY: Calendar Number 1322, by Senator Skelos, Senate Print 2458-A, an act to amend the Family Court Act, in relation to orders of protection.

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

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the

bill aside.

THE SECRETARY: Calendar Number 1354, by Senator Maziarz, Senate Print 5321, an act to amend the Criminal Procedure Law, in relation to period of limitation.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1355, by Senator Cook, Senate Print 563, an act to amend the Real Property Tax Law, in relation to making certain state lands in Sullivan County subject to taxation.

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 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1356, by Senator Spano, Senate Print 1119, an act to amend -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1357, by Senator LaValle, Senate Print 1652, an act to amend the Town Law, in relation to initiation of a criminal history check.

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 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1358, by Senator Hoblock, Senate Print 1985 -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1359, by Senator Leibell, Senate Print 2615, an act in relation to authorizing the reconveyance to the Lakeview Manor Community Association of certain lands.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1360, by Senator Leibell, Senate Print 2677, an act authorizing the town of Southeast, Putnam County to establish a road or highway improvement district.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1361, by Senator Leibell, Senate Print 2682, an act to amend the Town Law, in relation to dissolution of the Lakeview Manor Park District.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1362, by Senator Johnson, Senate Print 3002-A -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1363, by Senator Oppenheimer, Senate Print 3915, an act to amend the Real Property Tax Law, in relation to the town of Rye to levy taxes.

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 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1364, by Senator Johnson, Senate Print 3966, an act in relation to granting Joseph Donnelly certain service credit.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1365, by Senator Nozzolio -

SENATOR SMITH: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1367, by Senator Velella, Senate Print 4451-B, an act to amend the Retirement and Social Security Law, in relation to making certain

technical corrections.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1368, by Senator Farley, Senate Print 4544-A, an act to amend the Civil Practice Law and Rules and the Surrogate's Court Procedure Act authorizing deposits into credit unions.

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 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1369, by Senator Johnson, Senate Print 4648, an act in relation to authorizing Perry S. Reich to purchase certain retirement service credit.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR TULLY: Mr. President.

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

SENATOR TULLY: Did we call Calendar 1365?

ACTING PRESIDENT KUHL: We did

and it was laid aside.

SENATOR TULLY: Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will continue to call the non-controversial calendar.

THE SECRETARY: Calendar Number 1370, by Senator Libous, Senate Print 4919, an act to amend the Tax Law, in relation to extending the authorization granted to the county of Tioga.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1371, by Senator Hoblock, Senate Print -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1372, by Senator Present, Senate Print 5247, an act to amend the Education Law, in relation to authorizing the establishment of a community college region.

ACTING PRESIDENT KUHL: The 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 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number -- Calendar Number 1373, by Senator Hoffmann, Senate Print 5283-A, an act to authorize the city of Oneida, Madison County to sell, transfer and convey the Oneida City Hospitals.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1374, by Senator Levy, Senate Print 5342-A, an act to amend the Vehicle and Traffic Law, in relation to establishing an advisory committee.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1375 -

ACTING PRESIDENT KUHL: The bill is high. We'll lay the bill aside.

Senator Bruno, that completes the

reading of the non-controversial calendar.

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

ACTING PRESIDENT KUHL: The Secretary will read the controversial calendar.

THE SECRETARY: On page 12, Calendar Number 583, by Senator Levy, Senate Print 4146-A, an act to amend the Transportation Law, in relation to requiring the Commissioner of Transportation.

SENATOR PATERSON: Explanation.

SENATOR BRUNO: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 748, by Senator Gold, Senate Print 193-B, an act to amend the General Business Law, in relation to requiring child safety devices.

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

THE SECRETARY: Section 2. This act shall take effect 360 days next succeeding

the date.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed. Announce the results when tabulated.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: If I can explain my vote.

I first of all want to point out to the members, this bill which is a Gold-Sears bill is in a "B" print and was negotiated with the parties concerned, and I have in my hand a letter dated June 14th from Michael Rosen which thanks us for amending the bill to address their concerns and appreciates our willingness to work with them.

Having explained my vote, Mr. President, for the time being, I would like to lay the bill aside and take it up later in a

more enlightened, hopefully, atmosphere.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

The Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 1267, by Senator Marchi, Senate Print 3873-A, an act to amend the Real Property Law, in relation to establishing a New York State Real State Board.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Marchi, an explanation of Calendar Number 1267 has been asked for by Senator Paterson.

Senator Marchi, would you wait just a minute so you don't have to yell in a loud way. There's an awful lot of noise, an awful lot of movement in the chamber. The members please take their seats, the staff please take their places. If you have to have a conversation, take it out of the chamber or we'll take you out of the chamber.

Thank you, Senator Marchi, for

the interruption. An explanation has been asked for by the Deputy Minority Leader, Senator Paterson.

SENATOR MARCHI: I would only be too happy to give the explanation, but I have just received some information of another concern that surfaced and I would like to lay this bill aside temporarily.

ACTING PRESIDENT KUHL: Calendar Number 1267 will be laid aside temporarily.

The Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 1270, by Senator Velella, Senate Print 2586, an act to amend Chapter 576 of the Laws of 1975, relating to authorizing the Commissioner of Education.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Velella, an explanation of Calendar Number 1270, Senate Print 2586 has been asked for by the Deputy Minority Leader, Senator Paterson.

SENATOR VELELLA: Mr. President,

can we lay that bill aside for today?

ACTING PRESIDENT KUHL: Lay the bill aside for the day. The Secretary will continue to call the controversial calendar.

The Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time return to reports of standing committees and hear the report from the Judiciary Committee.

ACTING PRESIDENT KUHL: We'll return to reports of standing committees. The Secretary will read the report of the Judiciary Committee.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nomination: Richard Martin Klein of Huntington, New York State Court of Claims.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Lack.

SENATOR LACK: Thank you, Mr. President.

Mr. President, we are and will

complete this morning a series of judicial confirmations and by the end of this morning, we will have over the last couple of weeks confirmed 23 new judges in this state. Nine of those judges are already judges in other positions and are assuming new duties.

It's an extraordinary accom plishment for Governor Pataki. He appointed a Temporary Judicial Screening Committee comprised of former Chief Judge Lawrence Cooke of the state of New York, and as a result, the Governor has sent us, and if I can quote Senator Gold and Senator Dollinger over the last couple of meetings of the Judiciary Committee, an extraordinary list of judicial candidates, all of whom are very well deserving of office.

I want to compliment the Governor on the nominees that he has sent to the floor of the Senate. I want to thank the Governor's staff, Michael Finnegan, his counsel, Michael Ambrecht, deputy counsel to the Governor, James McGuire, deputy counsel to the Governor, Brian Maloney, Mr. Finnegan's staff, as well as the

extraordinary work of my own staff, my counsels Dave Gruenberg and Amy Karp, my committee clerk, Sue Zimmer and, Senator Bruno, you will be particularly happy to know that with your admonition that we must try to save money in the Senate, that Ned Cole who is the chief counsel to the Senate Judiciary Committee and retired a couple months ago at his own time and expense has come back to the Senate as a volunteer to work with us to try to get these judges confirmed and, Ned, regardless of prior titles that you've had, you will now always be known as worthy counsel in this chamber and thank you so very much.

And last but not least, I want to thank the members of the Judiciary Committee who have had to sit through four early morning special meetings to bring to the floor the 23 judges that we have either confirmed or will be in the process of confirming this morning.

As I have said, they have been an extraordinary group. They range from a partner in one of New York City's best known and largest

law firms who we will be confirming in a couple of minutes, to a three-hat judge that we did last week who fascinated the members of the committee on how you can serve as a Surrogate, County Court judge and a Family Court judge all at the same time, sometimes indeed during the very same day; to the first woman judge ever appointed or elected in the history of Oneida County who Senator DeFrancisco quite aptly pointed out was also probably the most qualified person in Oneida County to receive that judgeship; to the United States federal magistrate from Rochester, New York who wanted to come back and serve in the state courts and who's being appointed to the Supreme Court; and last but not least, to our colleague yesterday from Ticonderoga who is so self-effacing that many members of this chamber, while knowing that he had served in the military, did not realize that he was in the Marine Corps, that he was a General and, indeed, was the Judge Advocate General of the United States Marines.

And that, Mr. President, brings

me, if I may, to the nominee we currently have on the floor, my favorite, of course, of the 23 because he is an old and dear friend of mine. Richard Martin Klein I first met when I became an assistant district attorney in Suffolk County in 1972.

I had been doing consumer work here for the state, was counsel to the state Consumer Protection Board and knew virtually little about criminal law and I was very fortunate, that one of the first A.D.A.s I met when I got to Suffolk County from -- both from the standpoint of trying to work in the office and protect the people from Suffolk County was Dick Klein. We became old and very good friends when I came Commissioner of Consumer Affairs in Suffolk County and established a Consumer Crime Task Force under a Law Enforcement Assistance Administration grant; Dick Klein became the attorney in charge and counsel to that.

He subsequently -- he served for a number of years in the municipal court bureaus and other bureaus of the Suffolk County county

attorney's office achieving an admirable record in that office, became the deputy town attorney for the town of Huntington. He was appointed by Suffolk County Executive Bob Gaffney, a former member of the Assembly, to a position in the Suffolk County District Court in 1992, unanimously concerned -- confirmed by all the members of the Suffolk County Legislature, thereafter elected to a full term as a Suffolk County District Court judge and has sat and presided over numerous trials over the last three years that he's been a Suffolk County District Court judge.

It takes a very special person to be able to sit in judgment upon his peers. Dick Klein, quite frankly, is that kind of a special person.

I can remember in law school in studying various comparative law -- laws, that Germany, before World War II, had special education just for judges. Like England which divides barristers and solicitors into two classifications, Germany at the time divided

lawyers and judges and you studied to actually be a judge and that's the only thing that you did. You sat in judgment.

While I'm not advocating that in this country, I can't help but thinking that if, indeed, this was our system, then Dick Klein certainly would have studied to be a judge. He is very good at it. He is very evenhanded at it. He operates an efficient and efficacious - efficaciously run courtroom, and if there's anything that the recent televised trials have certainly known and that is that Perry Mason, indeed, was fiction and the ability to run a courtroom and to run a courtroom fairly and to sit in judgment upon fellow men is, indeed, a highly trained skill, and I'm proud to say that the nominee before this body at this moment, Richard Martin Klein, is just such a person, has aptly and amply proven that over the years and I commend the Governor sincerely for his nomination on the floor this day.

And since he is no longer my constituent but that of Senator Marcellino, Mr.

President, I most respectfully would yield the floor to Senator Marcellino.

ACTING PRESIDENT KUHL: Senator Marcellino on the nomination.

SENATOR MARCELLINO: Yes, Mr. President.

I rise to second the nomination of Richard Martin Klein to the Court of Claims. Mr. Klein, Judge Klein, is well known in the judicial community, if you will, for lack of a better word. He's -- his honesty, his integrity, his intelligence are unquestioned. If you go into the area and you talk to judges in the area, they know Mr. Klein. They know Judge Klein well. He is well spoken of by attorneys on both sides, both prosecutors and the defending attorneys. He treats his people who come before him with respect and dignity and which is all you can ask of a judge and all that should be considered.

With pleasure, I second the nomination.

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 confirmation of Richard Martin Klein of Huntington, New York, 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're very pleased to have Richard Martin Klein with us, his wife Ceceil, daughter Stephanie and son Randy in the chamber to your left.

Congratulations on your appointment. Good luck.

(Applause.)

The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nomination: Thomas J. McNamara of

Ballston Spa, New York State Court of Claims.

ACTING PRESIDENT KUHL: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I rise to move the nomination of Thomas J. McNamara of Ballston Spa to be a judge to the New York State Court of Claims.

Mr. McNamara was examined by the Governor's screening committee, found qualified, has been nominated by the Governor, has been examined by the staff of the Judiciary Committee, was found qualified. The nomination was considered by the committee this morning. Mr. McNamara was unanimously nominated and confirmed by the committee to come to the floor this morning.

Mr. President, I most respectfully would yield the floor to the Majority Leader, Senator Bruno, for purposes of seconding.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Bruno on the nomination.

SENATOR BRUNO: Thank you, Senator Lack, and thank you, Mr. President.

Mr. President, I am honored and privileged to be on my feet in support of Thomas McNamara. He has served with great distinction in his town of Ballston Spa, presently as town attorney, currently a partner in Trieble, McNamara and Rider. Most important, last year, served as Assistant District Attorney, served on many panels with great distinction, dedicating himself to the support of the public.

He's here with his wife Mary Jane, and I want to just welcome him here and indicate how proud I am that such a qualified individual would be here from the 43rd Senatorial District prepared to take on the responsibilities of representing a larger constituency.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Is there any other speaker on the nomination?

Senator Farley on the nomination.

SENATOR FARLEY: I'm pleased to

rise to support the nomination of Tom McNamara, an outstanding citizen of his community and somebody that has really participated and become an outstanding -- who will become an outstanding judge.

Let me just say something about him. He's been president of the board of education for Ballston Spa, a community in Saratoga County. He was treasurer of the bar association, secretary and president of the Saratoga Bar Association. He was president of Ballston Spa Rotary Club, active in his parish and let me just say this, that he is a person that has come from a small community, has served his county and his community well, not only as an assistant district attorney but in private practice. He's -- comes from the finest school in this area, the State University of New York at Albany. I did not have him as a student. Graduate of Albany Law School, but Tom McNamara will be an outstanding judge, and it is with enthusiasm that I support his nomination.

ACTING PRESIDENT KUHL: The

question is on the nomination of Thomas J. McNamara of Ballston Spa 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.

We're happy to have Judge McNamara in the chamber with us. He's to your left, along with his wife Mary Jane, his son Michael and his wife Mary, their friends David Steenberg, Mark Rider and Marrietta Smith and the rest of Ballston Spa in the chamber to the left.

Congratulations, Judge. Good luck.

(Applause.)

The Secretary will read.

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

following nomination: William A. Wetzel of Briarcliff Manor, New York State Court of Claims.

ACTING PRESIDENT KUHL: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I rise once again to move the nomination of Thomas J. McNamara -- Wetzel, sorry -- of Briarcliff Manor to be a judge of the New York State Court of Claims.

Mr. Wetzel also has been examined and found qualified by the screening committee, has been nominated by the Governor, has been examined by the staff of the Senate Judiciary Committee and found qualified in all respects. He appeared earlier this morning before a meeting of the committee, was unanimously moved by the committee to the floor, and I would yield at this time to my colleague to my immediate left, Senator Nicholas Spano.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Spano on the confirmation.

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

As Senator Farley mentioned, Judge McNamara, he is from a small community. Bill Wetzel is from a small community also, a bit south of me in a small community called the county of Westchester, and it's my pleasure to stand and to second Bill Wetzel's nomination today.

When you look at his resume and you look at his background, his years of experience as an attorney, you will find that he is uniquely qualified, a great appointment for the Governor. He continues to serve as an arbitrator, has the experience of serving as a village trustee. He was deputy mayor and a mayor and knows firsthand the problems that we all face and has got the unique sensitivities that he will need to be a fair judge and a hard-working judge.

It's my pleasure, Mr. President, to second the nomination of Bill Wetzel and to urge all the members to enthusiastically support

his appointment.

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 William A. Wetzel of Briar cliff Manor to be 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.

We're happy to have Judge William Wetzel with us, along with his wife Patricia, who are in the gallery above you.

Judge Wetzel, congratulations and good luck.

(Applause.)

The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nomination: Colleen McMahon of Bronxville, New York State Court of Claims.

ACTING PRESIDENT KUHL: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

Very proudly rise to move the nomination of Colleen McMahon as a judge of the New York State Court of Claims.

Not too long ago, every member in this chamber unanimously voted for a bill that I don't think a year ago any of us thought would ever come to the floor of this house, a bill to repeal all jury exemptions in the state of New York.

It's very fitting that today we move the nomination of Colleen McMahon because she is the chair of the Jury Project that was established by the chief judge to examine this and many other questions with respect to jury reform, and I should say at the outset, while

I'm very proud of the achievements of this house in leading the way and passing the enactment to repeal jury exemptions, it's really only the beginning of a whole series of reforms that Ms. McMahon outlined in her capacity as chair of the Jury Project, having virtually worked on it six months full time and in effect, almost taking a leave of absence from Paul, Weiss to do so, and it's apt this morning that we're here to move her nomination, because just yesterday the Assembly, by a vote of 142 to 2, also passed a bill and will now go to the desk, the Governor's desk, and the Governor has indicated that he will sign it, and shortly there will be no jury exemptions in this state and over 1,200,000 people will be added to the jury rolls, ensuring a fair and impartial trial and a trial by a jury of his or her peers.

Colleen McMahon wants to go into public service and to serve full time to become a judge of the New York State Court of Claims. She is superbly qualified for that. I won't go into all her bona fides on her resume because my

colleague, Nick Spano who is next to me, since this is Westchester Day on the floor of the Senate, will certainly be doing that. I can just tell you that I am very grateful that she is choosing to become a judge and become part of our judicial system and she will do a wonderful job on the New York State Court of Claims.

And Colleen, once again, I thank you publicly for showing us the way to begin a long list of what I -- hopefully will be complete jury reform in the state of New York.

So thank you very much and congratulations to you.

Mr. President, I would once again yield to my colleague to my immediate left, Senator Spano.

ACTING PRESIDENT KUHL: Senator Spano on the nomination.

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

As was mentioned by Senator Lack, Colleen McMahon has a long list of credentials that will impress all that I will take a minute

to read them, starting not only from local activities in the village of Bronxville, but have shown that she has distinguished herself in the profession, not only with the work that was done in the Jury Project that Senator Lack had mentioned, but also her involvement with the Committee for Modern Courts, the studies that she has done on youth crime and violence and reform of the juvenile justice system.

She has continued to be an outstanding litigator with Paul, Weiss, the firm Paul, Weiss in the City, and I'm glad that she is before us today.

She's also joined by her son Patrick who got a kick out of getting on TV earlier today and I'm glad just to say to Colleen McMahon that it's my pleasure to welcome you here today and, Patrick, this is a proud day for you to witness this of your mom. You also had your gavel so you have a head start as well and a great future.

Colleen, it's my pleasure to second your nomination to the 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 Colleen McMahon of Bronxville 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.

Judge McMahon is in the chamber, as Senator Spano indicated, with her son Patrick. We welcome you. Good luck. Congratulations.

(Applause.)

The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nomination: Mark Samuel Perla of

Tonawanda, Erie County Court Judge.

ACTING PRESIDENT KUHL: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I rise to move the nomination of Mark Samuel Perla of Tonawanda as an Erie County Court Judge.

Judge Perla has been found well qualified by the screening committee, has been nominated by the Governor. His resume has been reviewed by the staff of the Senate Judiciary Committee. He appeared before the committee this morning and was unanimously moved to the floor for confirmation at this time and I would most respectfully, Mr. President, yield to Senator Volker for purposes of seconding.

ACTING PRESIDENT KUHL: Senator Volker on the nomination.

SENATOR VOLKER: Mr. President, once again, I'd like to also commend the Governor for the various nominations this morning as Senator Lack has said and others.

The quality and competence of the judges that have been submitted to us has been absolutely superb and Mark Perla who is to replace, by the way, the spot that was held by Judge Rose LaMendola who we confirmed here last week and elevated to the Supreme Court is without question. Certainly he is one of the top lawyers in western New York, comes from a long family of attorneys.

He was an assistant attorney to then U.S. Attorney Dennis Vacco in the Western District for many years, in fact, ran the Civil Division for the Attorney General, in fact, has run it until the present, and he also was in the District Attorney's Office in Erie County for some years, one of the top attorneys in western New York and I know he will make an excellent judge.

But let me just say as he said and we said on several occasions and coming myself of a family of attorneys where my father and my grandfather were also attorneys, not only will he make himself and his family very proud

of him as an excellent County Court judge but, of course, he will also make his father very proud of him, which I think is extremely important.

So, Mark, as a constituent of my colleague, Senator Rath, I would wish you the very best of luck, and I know that you'll have a long and valuable tenure as County Court judge.

ACTING PRESIDENT KUHL: Is there any other -- Senator Rath on the nomination.

SENATOR RATH: Yes, Mr. President.

I rise to join my colleague, Senator Volker, in congratulating Mike Perla for the nomination that he has stood for and for the -- moving through the screening committee so expeditiously. With the excellence of your resume and your background, Mark, I don't think there was any question but that you are highly qualified for the job and, as one of my constituents, of course, I am particularly proud to have you ascending to the bench in Erie County as judge -- as Senator Volker alluded to

the fact, the long line of Perla tradition of lawyers, not only did they have a long tradition, but their firm's name being -- was it five Perlas in a row, Perla, Perla, Perla, Perla & Perla was always something of a great deal of interest around Erie County with all the Perla family working together and working well and highly respected in the bench and the bar in Erie County, and as Mark moves to this wonderful position -- he's a young man and I think it's very important to have young people with good experience, because you have many years of service and many years of experience that will not only serve Erie County but all of the state of New York.

Congratulations, Mark.

ACTING PRESIDENT KUHL: Senator Maziarz on the nomination.

SENATOR MAZIARZ: Yes, Mr. President.

I rise to second this nomination of Mark Perla. Although I am not personally acquainted with Mr. Perla, having spoken to

Senator Volker and Senator Rath, I'm very familiar with his long career in law, particularly in the area of prosecution, and just yesterday I happened to run into the new Attorney General, Dennis Vacco, and Mr. Vacco spoke very highly of Mr. Perla's capabilities in the field of law and I think he'll make a fine judge for Erie County Court, and also he's from the town of Tonawanda which Senator Lack continuously mispronounces, and I'm from North Tonawanda which is right next door, and since he is my neighbor, he can't be all that bad a person, and I have talked to a good friend of mine -- excuse me, Mr. President? Did you -

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

SENATOR MAZIARZ: I talked to a good friend of mine, an assistant district attorney in Niagara County, Ron Winter, who told me that Mr. Perla is not only a fine lawyer, but he is also a great Buffalo Bills fan and being a Bills fan, he certainly must be an excellent person and I heartily second his nomination.

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 Mark Samuel Perla of Tonawanda, New York to the position of Erie County Court Judge. 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 happy to have Mark Perla in the chamber, along with his wife Marilyn, who are seated in the gallery to your left.

Judge, congratulations and good luck.

(Applause.)

The Secretary will read.

THE SECRETARY: Senator Lack,

from the Committee on Judiciary, reports the following nomination: James C. Tormey III of Syracuse, Justice of the Supreme Court for the Fifth Judicial District.

ACTING PRESIDENT KUHL: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I rise to move the nomination of James C. Tormey III for Justice of the Supreme Court for the Fifth Judicial District. He has been examined by the Governor's screening committee, nominated by the Governor, examined by the staff of the Judiciary Committee, unanimously moved from -- as a result of the committee meeting this morning to the floor of the Senate today, and I would proudly yield to Senator DeFrancisco for purposes of a second.

ACTING PRESIDENT KUHL: Senator DeFrancisco on the nomination.

SENATOR DeFRANCISCO: I'm very proud to be here today to second the nomination of Judge Jim Tormey to be elevated to the

Supreme Court of the state of New York.

I've known Jim and his wife Sue for about 20 years. He served about ten of those years with the county legislature and served with distinction in that capacity. Thereafter, he was elected to the City Court bench, one of the most active benches in the state and handled many, many criminal cases, and I can personally attest to the fact that he handled those cases both fairly and justly for all parties involved, whether it be the defendant, the victim, and treated lawyers the way they should be treated with respect but firmly when the need arose.

The family's commitment to community service, I could go on forever, but both of them -- both Sue and Jim are constantly involved in youth activities and they have two beautiful, young children and they share their time with many other children to provide that start that everyone needs to have.

You know, it's -- the thing that I think is most important is that oftentimes we

honor people and they get ascended to the bench who are from large law firms with much more substantial clients. Jim has gone through the private practice with a small firm and he understands what it is to practice as a small practitioner. The cases may not be of the same dollar value as some of the large firms, but they're just as important for those people who appear before a court, and it's his sense of fairness and his treatment of the little guy that I think is going to be extremely important to our community.

So I'm very proud for all of those reasons to be here to second the nomination of Supreme Court Judge James Tormey III.

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

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I'll be very brief. I seconded in the Judiciary Committee Senator DeFrancisco's

comments about the importance of a small firm practice and the perspective that that gives a future jurist.

I'd also comment just to add one other comment, Mr. President, as I said in the Judiciary Committee; I can't remember when I voted for so many Republican conservatives in the last two weeks, more so than I think in my entire life, but I extend my public commendation to Governor Pataki who is continuing the list of quality candidates for the judiciary and that - their one consistent theme, their one consistent attribute has been quality. This is a candidate who continues that list of quality candidates for the bench.

I commend Judge Tormey. I wish him the best as I do all the other candidates that have been confirmed, and I'd just add a commendation to the chair of the Judiciary Committee who's done a great job putting these nominees through.

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 James C. Tormey III of Syracuse, New York, to the position of Justice of the Supreme Court for the Fifth Judicial District. 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 have Judge Tormey in the chamber with us, along with his wife Susan, his son Andrew and daughter Colleen.

Judge, congratulations and good luck.

(Applause.)

The Chair recognizes Senator Velella.

SENATOR VELELLA: Mr. President,

can we go to the controversial calendar regular order now?

ACTING PRESIDENT KUHL: The Secretary will read the controversial calendar.

THE SECRETARY: On page 30, Calendar Number 1276, by Senator Larkin, Senate Print 3869-B, an act to amend the Agriculture and Markets Law, in relation to penalties for mistreated animals.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Larkin, an explanation of the bill has been asked for by the Deputy Minority Leader, Senator Paterson.

SENATOR LARKIN: Yes, Mr. President.

Senator Paterson, this bill allows for the removal of mistreated animals from the custody of their abuser and provides for the adoption or sale of the animals after they have been rehabilitated.

The bill further provides that the animals shall be forfeited only following a

hearing. Key point here is that this bill does not permit the sale of dogs or cats by the Humane Society to institutions for testing and lab work.

Senator Paterson, one other thing. I would like to take -- he's not in the chamber, I don't know where he's hiding, but I wanted to thank personally Senator Onorato who did a lot of work with us with the SPCA in New York City because when we were down on some of the points, George was very kind enough to bring in some of the players that he thought were essential and this bill has been worked out with them. This meets all of their requirements. It also answers a question that was used as a basis for the veto of Governor -- former Governor Cuomo.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you very much, Senator Larkin.

You know, Senator Onorato is very shy and he wouldn't want to be here and have his

-- be flattered to this extent. He wouldn't want you all to take pictures of him, so he stepped outside the chamber for a moment when he knew that you would mention him. I just have one question. Under this bill -

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

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Would it - would there be a risk by the adoption of this bill of diseased dogs and cats being used for scientific research?

ACTING PRESIDENT KUHL: We couldn't do it under this -- provisions of this bill.

SENATOR PATERSON: Thank you, Senator.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR LACK: Mr. President.

ACTING PRESIDENT KUHL: Senator Lack.

SENATOR LACK: (Inaudible.)

ACTING PRESIDENT KUHL: Without objection, Senator Lack will be recorded in the negative on Calendar Number 1276.

Senator Marchi will be also recorded in the negative on Calendar Number 1276.

Senator Tully will be recorded in the negative on Calendar Number 1276. Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar 1276 are Senators Lack,

Marchi and Tully. Ayes -- also, Senator DiCarlo. Also, Senator Padavan. Ayes 45, nays 5.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 1293, by Senator Lack, Senate Print 1297-A, an act to amend the Surrogate's Court Procedure Act, in relation to the statute of limitations.

SENATOR VELELLA: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1297, by Senator Padavan, Senate Print 3093, an act to amend the Social Services Law, in relation to the exclusion of illegal aliens.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Padavan, an explanation of Calendar Number 1297 has been asked for by Senator Paterson.

SENATOR PADAVAN: Thank you, Mr. President.

Yesterday, we had considerable discussion relevant to illegal aliens taking advantage of various social programs. Specifically, we talked yesterday about health care, non-emergency health care.

This bill deals with public assistance, welfare, in particular, which are not mandated by federal law. It permits - requires that Social Service agencies in this state determine whether or not an applicant complies with the requirements -- statutory requirements for public assistance such as, of course, being a citizen, lawfully admitted alien either on a permanent resident basis or temporary basis or any other person who is permitted to be in this country by federal law of which there are a number of categories.

We are reflecting specifically the recommendations of the U.S. Commission on Immigration Reform which I read to you yesterday where they say specifically that illegal aliens

should not be eligible for any -- and I'm quoting this -- "for any publicly-funded services or assistance except those made available on an emergency basis."

I also shared with the members a portion of the speech given by the President on May 6th of this year in which he specifically indicates denying illegal aliens benefits for public services or welfare. That, again, is a direct quote.

So our initiative here is consistent with inputs and studies and recommendations that come from myriad sources.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: If Senator Padavan would yield.

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, I

don't think that we need to go through the whole conversation yesterday. I think that the issue was generally well discussed between yourself and Senator Espada and Senator Mendez and Senator Marchi, so we don't need to duplicate that discussion; wouldn't you agree?

SENATOR PADAVAN: I would agree with you fully, and unless there's some specific questions that I can answer, I would be happy to proceed on that basis.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Just that it seems to me that we're duplicating Section 131 of the Social -- Section 131 (k), rather, of the Social Services Law where what you're trying to accomplish in this legislation actually already exists.

As a matter of fact, the individual has to show this identification before they could receive the public service and, in addition, we now have finger-imaging, which we're incorporating into this system, so I

really don't know why we need to go much further than that which already exists.

I do understand that when an issue is important and an individual feels that in spite of the fact that laws are on the books that we're -- the conduct is not following the law and this wouldn't be the first time we have, in a sense, restated the law to send a message about the importance of the issue, but other than that, it seems to me that the law is well spoken on this subject.

SENATOR PADAVAN: Let me respond briefly, very briefly.

First, this bill has certain provisions in it that are not in Section 131 (k), specifically the reporting provisions, but beyond that, let me share with you specific input from the welfare inspector general of the state of New York and the New York City Department of Social Services.

At one of a number of public hearings we had in the city of New York, Mr. Toro, whom I think you know, Elmer Toro,

appeared before our committee and spent a considerable amount of time sharing with us in detail the fact of widespread fraud in our welfare system in which he outlined chapter and verse -- and his statements are in the reports that we prepared last year and this year. He outlined in chapter and verse the methodology and the ways that people were getting into our social services system in a fraudulent fashion.

He was followed on that day by several representatives of the New York City Department of Social Services, and I asked them directly and again, this is a -- we have a transcript of that dialogue for your perusal, if you wish. I asked them directly what the procedures were relevant to fraudulent applications on the part of illegal immigrants in our welfare system, and they said, "Well, we comply with the law, 131 (k) and we do this and we do that." My next question is "How many persons" -- you have heard Mr. Toro say widespread welfare fraud, thousands of people getting in the system, costing us millions of

dollars, "How many people last year did you identify in this category?" The answer was none, because in the city of New York we have something known as Executive Order 124 which literally precludes the intake person from even making an inquiry, nevertheless without seeking the support of some higher up supervisor -- I'll wait until you confer with your staff and finish my answer.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PADAVAN: So what I'm telling you, Senator, is that while 131 (k) is on the books in the city of New York, in particular, it's virtually, if not specifically, entirely ignored, and as far as the number of persons who are coming into that system -- and we have specific data, estimates provided to us by the state division of social services as to the magnitude of that problem. We're not talking about small sums, we're talking about millions and millions of dollars which I might add again, to repeat what I said yesterday,

hurts most of all those individuals legitimate ly -- both immigrants and citizens, legitimately entitled to social services.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Senator, if you would continue to yield.

SENATOR PADAVAN: Yes.

SENATOR PATERSON: At the point that individuals are suffering and are now in great need and we are compelled to treat them even if they are illegal aliens, does not this legislation put some people in the position of not even reaching out to an agency only to find later on that they become bad debt and charity cases or so severely impaired by illness that we are, in a sense, forced to treat them?

SENATOR PADAVAN: I don't -- when you said "treat them", you're talking about health care?

SENATOR PATERSON: Health care situations, yes.

SENATOR PADAVAN: Again, we

discussed that at great length yesterday. Emergency medical health care is required by federal law to be provided by the state, parenthetically, may I say, at our total expense. We had no compensation from the federal government for it, but nevertheless, it is mandated. So someone who is in need of health care in the manner you just described would be entitled to it and would receive it.

SENATOR PATERSON: And my question, Senator, is are we, in effect, by creating a situation where our social service agencies -- in other words, the way we have a law now, the individual can actually withdraw their application once it becomes clear that they're being referred to INS or they're being referred to the consulate if they're a visitor or they're being referred to some other agency, what I'm saying, if we put them in the position where we're turning the workers into INS agents, do you think there would be a significant number of individuals who would eschew the opportunity to seek this type of assistance only to find out

later that they become those medical cases that we are actually talking about?

SENATOR PADAVAN: Senator, your question is, forgive me for saying this, somewhat ambiguous. These are people in this country in violation of federal law. They are law breakers.

SENATOR PATERSON: No, I understand that, Senator.

SENATOR PATERSON: To quote the President, "While we are a nation of immigrants, we are also a nation of laws", and if someone violates the law coming into this country in a myriad of ways, they are doing so. Read yesterday's New York Times that Senator Marchi provided for us in terms of highlighting how they're coming in from all over the world, coming in by plane, by boat, across the border from Canada, across the St. Lawrence in boats, being put on buses, sent down to New York City, being provided for a few hundred dollars a complete set of fraudulent documents and getting in our social service system. That is a fact.

There is nothing that I'm saying to you that is not verifiable in a variety of ways, but in the city of New York, we turn a blind eye to that illegality, and these individuals are getting into our system, and again I quote the welfare inspector general and the state Department of Social Services who tell us chapter and verse the estimates of costs associated with that illegality.

So, Senator, I don't know what you're asking me, unless you're saying that even though that person is here illegally, violating our laws, federal and state laws, we should provide social services. If you're saying that, then we really don't have a basis for dialogue.

SENATOR PATERSON: Senator, I'm actually saying the same thing you're saying.

I agree with you and I understand what you're saying about individuals who are here illegally, who are, in a sense, trying to manipulate and take advantage of the system and you were -- it was a good point that you made that it probably, in many respects, hurts others

who legitimately are citizens who need social services, but what I'm saying to you -- and let me try to be clear since we're quoting great Democrats today; you quoted the President's speech on May 6, I want to quote Senator Pedro Espada, his comments on June 14th right here in the chamber yesterday, when he said that often the children of illegal aliens who are citizens of this country won't get to the medical services they need because the parents are afraid to go near the social services for fear that they'll be caught.

So, in other words, what I'm saying to you, Senator Padavan, is I'm not trying to stand here and make a case for people who are acting illegally. What I'm trying to do is to -- to amplify the need beyond that need where an individual is in a serious medical condition and even you said that we have to treat those cases. Cases where it's a life threatening illness, we treat them, in a sense as bad debt and charity cases in our hospitals.

What I'm saying to you is there

is kind of an ancillary application to something that we both agree on -- agree upon and that is those individuals who, but for the fact that they might seek this other assistance, may wind up in that same situation.

Now, it is probably something that you would regard as a stretch, but I'm saying that what Senator Espada did yesterday was he documented cases where it actually happens. And so what I'm saying to you is are we going to be that strict? Are we going to set a standard that is that stern that we are going to possibly lose those individuals who are in need of health care; and before you answer, let me just assure you that under the law, you are absolutely right, but what I'm talking to you about is not necessarily the application of the law, but the reality of its ramifications.

SENATOR PADAVAN: Let me -- let me answer the question in this fashion. First, I think this country has demonstrated compassion, perhaps more than some would like but, nevertheless, there. When we must conform

the federal mandates that say if an individual shows up at a hospital, both public and private, is in need of emergency health care which is broadly defined, including a serious disease, such as TB or anything else, that person will receive that health care without question, the full cost to the state, the locality involved. That is compassion.

Federal law says that if a child shows up at a public school irrespective of how that child is in this country, there shall be not even a question asked relevant to their legal status. That is compassion, and all the way down the list of every service that we have to provide, federal mandates require that we demonstrate, as you, I think, are saying, indirectly or directly, compassion, but there is a limit.

Now, let me repeat what -- or give you a more specific fact. Inspector General Toro informed our committee, quote, "According to statistical data recently received from the New York State Department of Social

Services, a staggering $68,832,000 was expended for emergency medical services for undocumented aliens, illegal aliens ineligible for public assistance for three years. The costs covered the period from August '92 through July '93. Approximately 63 million of the total figure was expended in New York City."

Now, Senator, there's compassion for you. That's a lot of money, and we're spending it. A lot of it is being spent consistent with federal law, a lot of it is not, because those individuals who have gotten into the system in a fraudulent way should not be the beneficiaries of that type of compassion.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: I want to thank Senator Padavan, Mr. President, for his answers.

Mr. President, on the bill. Senator Padavan is right, this is a country of compassion. This is a country that has demonstrated compassion and yet, Mr. President,

it's exactly my fear that we are beginning to lose that element that sets us apart from other countries in the world that caused me to ask the questions in the first place, if we're going to start promulgating laws that are going to turn our teachers, our social service providers and our medical health care professionals into immigration and naturalization agents, and so I think in this particular circumstance, that Senator Padavan is right if he says that the current law, Section 131 (k) of the Social Services Law is not actually working to the - to a point where we're actually catching illegal aliens, but I think that we are a system and we also have laws. That may relate to how our system operates, and I think that relates to where we may need to make changes in our -- our immigration detection and that kind of thing.

What I think we're doing is we're taking this situation into a lot of different areas where it really doesn't belong, in a sense, turning all issues and all procedures into some kind of a reflection on individual's

immigration status which, I think, is going to unfairly stigmatize a lot of Americans, and that's what Senator Padavan was saying, if illegal aliens come in and they take advantage of our social services, that they are going to, in a sense, impede the progress of citizens of this country.

What I'm saying is that some of these laws are also going to impede the progress of Americans who happen to be either foreign born or demonstrate some characteristic that makes it clear that at some point they were from a foreign land, and I don't want those individuals to be walking around, literally in a sense being checked at every point even when they need help as if we were living in 1960s Johannesburg. And so that's really my objection to the legislation.

I think the point of it is well made and I think that Senator Padavan raises an important issue when he says that the federal government has caused the state to have to pick up a lot of these costs. I'm just saying that

right now I think that we are taking this legitimate problem that we have into a lot of areas of government where it really doesn't need to be focused.

Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Marchi.

SENATOR MARCHI: Mr. President, to reiterate some of the considerations I advanced yesterday. Hard facts, difficult and mistaken execution of the laws that we do have sometimes invoke a terrible prejudice on the very people that we all sympathize with, the person who is exposed to major difficulties, and I certainly respect the sentiments that Senator Paterson gave testimony to in his remarks, but it simply fails to deal with the -- with the circumstances of evasion and what it does even to those who are allegedly victimized by the policy that I co-sponsor with Senator Padavan.

I recall my experience in the hospital, the -- oh, if I can remember it right now, the name of it -- in Tel Aviv where people

come across -- at that time there was a state of tension between Jordan and Israel, but they came across the Allenby Bridge or through the various points of access on a Wednesday afternoon and could go and get treatment, hospital operations, and then when the person was able to walk again and navigate, then they were escorted out of the country again.

This was an enlightened policy that they followed and it did not victimize people, and you have the problem of the -- of the person who comes in under the circumstances that Senator Padavan is addressing with really no solution at all.

This bill requires a 180-day wait before the effective date kicks in. Hopefully, they may get some feeling, some reaction to this in places where immigration policy is formulated, but as I stated yesterday and I want to circulate -- one of the Senators asked me for the copy of the Times article where people really bleed themselves to death practically to get passage, elicit passage and then they lose

all that money, because in some cases they are caught and those who have exploited them keep the money.

Then those that get here, I have a feeling that there's a built-in interest by people who support this system because it enables them to use slave labor. The threat and the powerless circumstances, the tragic circumstances of the person who comes here un... illegally and then is working in a factory being paid substandard wages, living on the edge of the razor simply because any -- any -- anything they might do might invite the whistle blower. It's a form of human slavery, and unless we jettison poor public policy and proceed on a constructive basis as some countries have done, I feel that really there are no alternatives to -- to what is being proposed here.

It does address the question of dire need or persons who are in urgent need of medical treatment and it does say we will extend that assistance, but it's a terrible weapon and there are people who are in slavery in this

country, in 1995 who are literally slaves as a result of this policy, because they're not in a position to even lift their arms to fend off the blows. It's bad public policy and we ought to put an end to it.

ACTING PRESIDENT KUHL: Senator Mendez.

SENATOR MENDEZ: Mr. President, I -- even though I think -- I'm totally convinced that Senator Padavan is correct in his bill in wanting to deny all sorts of services to illegal aliens, I think that the way that he is going about it is in the wrong way.

The question of the -- the compassion that our nation has had through the years for the needy, it's not a question here. The question here, Mr. President, will be whether or not in this bill we would be resolving the issue of illegal aliens, that they should not be here and we all know it. Illegal aliens shouldn't be here.

Now, I feel, Mr. President, that New York State is a part of a federal

government, and immigration is a function of the federal government, and the question that I want to ask Senator Padavan, if he will yield -- Mr. President, will Senator Padavan yield for a question?

Mr. President -- Mr. President.

ACTING PRESIDENT KUHL: Senator Mendez.

SENATOR MENDEZ: Will Senator Padavan yield for a question?

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

SENATOR MENDEZ: Mr. -- Senator Padavan, you mentioned $68 million as a figure that you were given for the total cost of these services to the illegal aliens. That's the figure that you cited. I know I was given the figure of 300,000 illegal aliens in the entire country. In fact, yesterday Senator Marchi mentioned -

SENATOR PADAVAN: Excuse me, Senator. Would you repeat that because I didn't

hear you.

SENATOR MENDEZ: I will. Senator Marchi mentioned yesterday that in the state of New York there are 75,000 illegal immigrants.

SENATOR PADAVAN: Coming in every year.

SENATOR MENDEZ: Every year. Let's talk on a yearly basis.

SENATOR PADAVAN: We have over a half a million.

SENATOR MENDEZ: Yes, but you mentioned the $68 million that you mentioned that are used, they are yearly expenditures as well, so let's take it one year at a time.

SENATOR PADAVAN: Sure.

SENATOR MENDEZ: Say in any one given year, there are 75,000 illegal aliens in New York State. The figure that was given to you of $68 million for services, that boils down -- in health services, for example, that boils down to close to $1 million per illegal alien. There is something wrong in that figure and I will tell you why. That is not -

SENATOR PADAVAN: Mr. President, will the Senator yield for just a minute?

SENATOR MENDEZ: Let me finish.

ACTING PRESIDENT KUHL: In a moment.

SENATOR MENDEZ: Yes, I will, in a second.

ACTING PRESIDENT KUHL: She will yield in a moment.

SENATOR MENDEZ: So that 68- - so that figure probably includes -- the figure given to you by Health and Hospitals Corporation probably includes all those charges in Medicaid that are made by hospitals in the city of New York for people who do not have any health insurance.

Now, that bulk of people include the working poor American citizens and -- and those who are on public assistance, American citizens, which is, in fact, an inflated figure of medical costs that does not necessarily include all -- only those illegal aliens.

Senator Padavan.

ACTING PRESIDENT KUHL: Senator Padavan, Senator Mendez will now yield.

SENATOR PADAVAN: Senator, I love you dearly, but your arithmetic, you got to go back to school.

SENATOR MENDEZ: I won't comment on that. After we get out of the chamber, then I will comment on that privately to you.

SENATOR PADAVAN: All right, all right, all right. Senator, according to INS, conservatively -

SENATOR MENDEZ: I'm sorry?

SENATOR PADAVAN: According to the Immigration and Naturalization Service, conservatively, there are 510,000 illegal aliens in New York State, roughly 80 percent of them in New York City. Now, that is a fact. Senator Marchi -

SENATOR MENDEZ: Senator -

SENATOR PADAVAN: Sh-h-h. Bear with me for a moment. Senator Marchi was talking about the number coming in every year, but they don't just come in and leave. That

figure of over a half a million is a cumulative figure as of, I think, 1993 when they provided us that information.

Okay. Now, if you use -

SENATOR MENDEZ: Mr. President, but the $68 million figure, is that a yearly - yearly expenditure?

SENATOR PADAVAN: Yes.

SENATOR MENDEZ: On 500- -- on 40 percent of 500,000 illegal aliens?

SENATOR PADAVAN: Listen to me. The $68 million as reported to us by state division of social services is a figure expended in a particular year. I think I quoted before the specific year they were talking about. Even if you took that figure and divided it by the 500,000, you would be talking like $100 a person. I don't know where you got a million from, but not all of the half a million illegal aliens are on social services. A percentage of them are, and the Department of Social Services has provided us with specific information as to what percentage and what the dollars are

relevant to that population. That is where they came up with the 68 million, specifically 63 million in the city of New York where the bulk of it is. I hope you got your arithmetic straight.

SENATOR MENDEZ: $63 million on a yearly basis on 40 percent of whatever illegal aliens are in the city of New York.

SENATOR PADAVAN: 80 percent are in the city of New York.

SENATOR MENDEZ: 80 percent. So how much is that?

SENATOR PADAVAN: It's over 400,000.

SENATOR MENDEZ: Yes. Okay. Okay. In health care alone?

SENATOR PADAVAN: No, in social services. Health care -- I will give you health care. I'll repeat from yesterday. Health care portion, they estimate around 30 million.

SENATOR MENDEZ: Senator Padavan, the reality is that figures that have been published in terms of the taxes paid by

immigrants, legal immigrants and illegal aliens as well, the taxes that these individuals pay every year is $72 billion, and in terms of services that they use, they're only using 43 -- around $43 billion a year, so we still have 43- to 72 million. Please, you're the good one in arithmetic. We still have an excess of billions of dollars on a yearly basis that we're paying taxes for.

SENATOR PADAVAN: Senator, if - Mr. President, if you're telling me that illegal aliens are providing the state of New York two billion, I think you said annually -- did you say two billion?

SENATOR MENDEZ: I said, Senator Padavan, that on a yearly basis the documented as well as undocumented in the -- in the United States pay 72, I believe, billion dollars in taxes and I am also saying that nationally they use only 43 something or other billion dollars, so there is a -- a difference of over $20 billion that the nation is receiving because they are paying taxes, but -- but, Senator

Padavan, way and above that, what I really - and I know that you're right in one sense. Nobody has the right to be in our country illegally. I completely am in agreement with you on that.

I differ from you in terms of the solution that you want to impose in New York State in your urgent desire, correctly so, of doing something about this problem.

I differ with you on that because the people that are responsible for the function, for controlling our borders are our government, our federal government, and then all of us, we don't believe in mandates. Why should we at the local level impose hospitals, impose on Social Services agencies, impose upon them the verification of the status of people who go for services? I think that is making little immigration offices everywhere throughout the state a burden on the existing employees, and we are allowing the federal government to get away legally with economic murder.

Don't you think that there will

be -- Senator Padavan, don't you think that is reasonable to believe that all these places, the hospital, offices of economics, social services departments throughout the entire state, they will be becoming not only the city halls, but little federal immigration offices and we'll be burdening them with that.

SENATOR PADAVAN: No. The answer to your question in regard to their becoming what you just described, I don't share at all.

I would like to ask you, Senator, when you get a chance, if you would look at Appendix 1 of our most recent report which confirms many of the things you just said. Immigrants in this state and in this nation provide a considerable amount of revenue, and I have outlined it right down the line -- as a matter of fact, in 1992, immigrants paid income taxes of $1.7 billion in New York State. We have it by income range, tax revenue, percent foreign-born.

We, in this report, took almost six months in collecting data on the contribu

tions that immigrants have made in terms of income taxes and other forms of revenues that flow into our coffers, so I have no problem at all in accepting that.

As a matter of fact, we spent, as I said, an awful lot of effort of putting it in here so people could read it, but let us not confuse that with the illegal immigrants that are addressed by this bill. They're not paying income taxes. The only tax they're probably paying is a sales tax because you can't avoid that.

Those who are getting into our social service system with fraudulent documents -- and I'm sure you won't disagree with me, because every day it seems we pick up the newspaper and we hear about people arrested for selling those documents and they're buying them for one reason, to get into the system. Those people are not paying taxes. Those are the ones that Mr. Toro and the state Department of Social Services provided us with the data as to what they are costing the state for which we are not

getting any compensation neither from the individual nor from the federal government.

Now, your question was are our intake offices, whether it be Social Services or wherever, being required to do some checking? Yes, they are, but they're being required to do the checking for everybody. Welfare fraud is a major issue in this state.

Now, with regard to immigrants, however, there's a little thing known as Executive Order 124 in the city of New York, and it says you won't ask them about immigration. You can ask them about anything you want that relates to their application, but you won't ask them about immigration. We cannot tolerate that, and that's what this bill is all about.

SENATOR MENDEZ: Senator Padavan -- Mr. President, as I said before -

ACTING PRESIDENT KUHL: Senator Mendez.

SENATOR MENDEZ: -- I do know that the intentions of Senator Padavan with this bill are good intentions. On the other hand, we

also know that the way to hell is full of good intentions, and by that I mean an effort to resolve this issue that is really bothering every single person in New York State and nationally, he's proposing a solution that will not resolve the problem and could bring a lot of discrimination on other people that are legitimately American citizens either by birth or by -- or because they have become some - that afterwards.

So it is not the way. Why should we except, as I said before, the federal government from discharging their function of dealing with the -- with who should be in the country and for how long, and I think that will be imposing extra work to the -- the offices throughout the state, and that is not -- that shouldn't be their function.

So, really, it's a misguided solution to an existing problem, and I hope that my colleagues do not support this bill.

Senator Padavan has done a lot of work on that. He must go back to the drawing

board and really try to find out more creative ways of finding a solution to this problem. The whole basis in which this is -- this is done are premises that are wrong, wrong because they are based just on gender stereotypes as to who the immigrant is.

While I think that this bill has had plenty of discussion yesterday and today, I don't believe that we should beat a dead horse anymore. I just want to ask my colleagues to consider very seriously voting against this measure.

ACTING PRESIDENT KUHL: The 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.)

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Announce the results when tabulated.

The Chair recognizes Senator

Leichter to explain his vote.

SENATOR LEICHTER: To explain my vote. I think I have made very clear my concerns about some of the legislation that Senator Padavan has advanced. I don't see the problem as he does. I'm a bit concerned about the motivation, but I must say I see no problem and nothing wrong in requiring verification by somebody who applies for public assistance that that person is really entitled to it, and if, among other matters that have to be verified as citizenship or the right to be in the country, I don't find that offensive.

We ask a person to identify where they live. We certainly ask them to identify that they are -- that they qualify financially for the public assistance. I have supported finger-imaging. I don't find anything offensive in that. I mean, I think if somebody applies for assistance from government, then government has a right and, in fact, an obligation to establish in a credible, reasonable manner that the person is entitled.

So I'm going to support the bill, but I just want to state again as I did in connection with the other bills, my concerns about the -- or the insinuation that really so many of our problems are being caused by illegal immigrants or legal immigrants who come here and are burdening the social service system.

I'm also somewhat concerned about language in this bill in Section 2 where it requires entities to provide all sorts of information without really being clear that - what is being referred to, but I think a good faith effort -- and I take this to be a good faith effort -- that people have to establish that they are entitled to public assistance, I have no problem with that.

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

Senator Gold to explain his vote.

SENATOR GOLD: Yes. I would like the words of Senator Leichter attributed to me.

I vote yes.

ACTING PRESIDENT KUHL: Senator

Gold will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar 1297 are Senators Abate, Connor, Markowitz, Mendez, Paterson and Smith. Also, Senator Montgomery. Ayes 45, nays 7.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to call the controversial calendar.

Senator Maltese, why do you rise?

SENATOR MALTESE: Mr. President, I ask unanimous consent to be recorded in the negative on Calendar Number 176.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Maltese will be recorded in the negative on Calendar Number 1276.

THE SECRETARY: Calendar Number 1322, by Senator Skelos, Senate Print 2458A, an act to amend the Family Court Act, in relation

to orders of protection.

ACTING PRESIDENT KUHL: Senator Skelos, an explanation has been asked for on Calendar Number 1322.

SENATOR SKELOS: Mr. President, under the bill, the court may, as a condition of relief in an order of protection, prohibit the respondent from transferring, encumbering or otherwise disposing of property otherwise mutually owned or leased.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, I think this bill is of very good intent and it's fine really, but do you think that by passing this legislation that we may actually inhibit courts, because since the courts have the power to effect this right now, whatever would be deemed left out of this legislation would be construed to be as intent on the part of the Legislature and now the courts might actually be barred from taking action that it otherwise could take right now?

SENATOR SKELOS: I don't believe that. Really what we're trying to do is avoid the control that a person who perpetrates domestic violence against a spouse -- they do it many times to control the person by perhaps saying, "You can't use the car. I'm going to transfer these assets, I'm going to take the keys," and really what we're looking to do is give the court at a critical point when they're going for an order of protection, a little bit more that they can do to protect the spouse that is being abused.

SENATOR PATERSON: Now, Senator, if you would continue to yield.

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

SENATOR PATERSON: There is concurrent jurisdiction here that the criminal court has, but I notice you haven't amended the Criminal Procedure Law so that the criminal court can, in a sense supervene the Family Court. Is there a reason that you did not amend the Criminal Procedure Law to coincide with what

you're trying to accomplish?

SENATOR SKELOS: There's no reason for it. It's a suggestion that we'll look at.

SENATOR PATERSON: Oh. All right. Thank you very much, Senator.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1354, by Senator Maziarz, Senate Print 5321, an act to amend the Criminal Procedure Law, in relation to period of limitation.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Maziarz, an explanation of Calendar Number 1354

has been requested by the Deputy Minority Leader, Senator Paterson.

SENATOR MAZIARZ: Thank you, Mr. President.

Mr. President, this legislation eliminates the statute of limitations for prosecution of Class B violent felonies. Currently only a Class A felony has no statute of limitations. Under present law, there is a five-year limitation within which charges must be filed against a person accused of a Class B felony. These crimes are violent and horrible and should be prosecuted even if it takes six, seven years to solve the crime.

By way of further explanation, Mr. President, I want to say that there's a particular instance which was brought to my attention in the -- in the western New York area by an article that was written in the local Buffalo News about a serial rapist who has - who the local police feel has been attacking women since 1986.

I'll just read a little bit from

this article, Mr. President, if I may. "The serial rapist who attacked eight local women since 1986 has eluded not only an exhaustive dragnet by Buffalo and Amherst detectives but also prosecution for the first five rapes. Why? A statute of limitations, an age old pillar of the criminal justice system.

"In the state of New York a statute of limitations means charges must be filed within five years of any felony crime except murder which has no restrictions, so even if the man is caught he will not face charges on five attacks between June of 1986 and August of 1989, three in Buffalo and one each in Hamburg and Amherst. 'We have but five calendar years from the date of the offense to file charges,' explained Frank J. Clark III, Erie County's First Deputy District Attorney. 'If it extends beyond that it's dead.'"

I would just add, Mr. President, that the Niagara County Legislature has unanimously gone on record and sent me a resolution requesting this Legislature to adopt

this bill.

Senator?

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Maziarz will yield.

ACTING PRESIDENT KUHL: Senator Maziarz, do you yield?

SENATOR MAZIARZ: Yes, I will.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator Maziarz, some of the classifications are certainly open to reinterpretation. I appreciate that you're trying to do that in this legislation, but usually the delineation between the Class A and Class B felonies was the fact that we had no statute of limitations for Class A felonies. So, in other words, if you're actually saying that a certain type of crime is so serious that we would want to continue to have the opportunity to prosecute an individual later down the road, wouldn't it also be

possible to upgrade the classifications for that particular crime such as the case that you just described, where I guess five of the eight rapes cannot be prosecuted because they were committed between 1986 and 1989 and the statute has run on those particular cases?

SENATOR MAZIARZ: Yes, Senator. I think that that would also be another avenue, an additional avenue, to do it other than this piece of legislation, yes; and, by the way, the number has increased since -- since this article was written. I believe it's up to seven now.

SENATOR PATERSON: Well, I guess you're right, because now anything that occurred before, I guess, June 1990, is barred by the statute.

SENATOR MAZIARZ: Yes.

SENATOR PATERSON: You're absolutely right.

SENATOR MAZIARZ: Yes.

SENATOR PATERSON: But -

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

SENATOR MAZIARZ: Yes, I do.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: If we could define the statute of limitations and why we have statutes. First of all, we don't want witnesses to become stale. Secondly, there is an issue of making law enforcement react quickly to particular cases such that there is no deliberateness to try to make sure that the cases are disposed of as quickly as possible. We do have the problem in any prosecution of any type of crime that, if the perpetrator, the suspect is a fugitive from the law, it's -- this is a special kind of a situation because we're not even in the position to prosecute, but although there are a number of Class B felonies that carry with it some pretty serious ramifications to the victim, are you really prepared right now to, in a sense, toll the statute for all of the Class B definitions?

SENATOR MAZIARZ: Yes, I am, Senator. That's the intent of this

legislation. If I could just respond to what you said that, you know, it was meant to put some cap on it, cap on prosecution, due to evidence becoming stale, and so forth. I think that, you know, since these statutes were - were initiated and passed into law, you know, crime detection has -- has come a long way. Particularly today we see with DNA evidence, computerization of crime records, and so forth, so I think that, you know, the crime detection has also evolved in time, and I think that the laws have not. They've remained stagnant.

SENATOR PATERSON: Mr. President, I thank Senator Maziarz, and on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: This is a - this is a digital question, it really is, and yet it's a valid concern that Senator Maziarz raises. I know that I discussed some time ago with Senator Volker the idea of tolling the statute of limitations in child sexual abuse cases, because in those situations often the

perpetrator is a -- a custodial agent or some personnel from the school or the school bus company or something like that, or unfortunately even the parent and in those cases, out of fear or intimidation, the young person really can't bring or can't come forward, and so we would like to put them in the position of at least maturity before we start running the statute of limitations and although, I think Senator Volker and I agree that that probably is a good idea in those particular cases, the statute of limita tions is something that is really -- something that has been well founded in our law for a long period of time.

When an instance such as the one that Senator Maziarz raises occurs, I guess we really do have to think about it because it would be unseemly to actually find whoever this serial rapist is in western New York and then down the -- down the line be unable to prosecute them because of a bar to the statute, and so I'm really open on -- on this particular issue, Mr. President.

I would like you to recognize Senator Abate who would like to ask some questions on this. But it is something that I think has good points on both sides of it.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Abate.

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

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR ABATE: Yes, Senator. I'm sympathetic to this issue. In fact, my name is on the bill extending the statute of limitations for child victims, victims of sexual assault and sexual abuse, and I supported that because there is a rationale.

My concern around this statute is so broad and it eliminates the statute of limitations for all "B" felony or violent felon cases.

Did you reach out to the district

attorneys of the state? What is the position of the Law Enforcement Council or the District Attorneys Association vis-a-vis this bill?

SENATOR MAZIARZ: I didn't -- I did not reach out to the District Attorneys Association. I did reach out to the three district attorneys in western New York and, in Niagara, Orleans and Erie County.

SENATOR ABATE: And they support this bill?

SENATOR MAZIARZ: Yes, they do.

SENATOR ABATE: I'm somewhat surprised. I understand the situation in terms of rape and DNA, but in terms of the burglary and criminal possession of weapons and all the -- and the robberies, it would seem to me that district attorneys would have a problem with this because they need evidence brought to them. They need witnesses to come forward as soon as possible. They need to do a prompt investigation and, if there's no closure on the tens of thousands of cases in New York State because there's no statute of limitation, I

think it could create an enormous burden on district attorneys and obviously to defendants who are going to have great difficulty defending these cases.

Don't you see the issue that we should be more selective like there was in sex offenses? There's a rationale, particularly with children because they don't remember the trauma that's caused to children because of sexual assault that maybe -- not maybe, years they need to go into therapy. They then realize maybe ten years later that they've been assaulted, but this is not the case across the board with your bill.

SENATOR MAZIARZ: I certainly - are you finished? I'm sorry.

SENATOR ABATE: Sure.

SENATOR MAZIARZ: I certainly do understand your rationale, and I would support that bill, Senator, but I think that just to say to bring closure to a case by letting the statute run and say, Well, it's beyond the statute of limitations, we can't prosecute; the

case is closed, I think that it's a wrong direction to go in, to bring closure just by having the statute run, say now we can go on to something else, and I don't think that that necessarily helps the victim of that crime, certainly not in the instance that I pointed out, and I'm sure you would agree with that, and I realize that this may be an extra burden on the district attorney, but I think the district attorneys are more interested in closure through prosecution. I would hope that they would be anyway, in closure through prosecution as opposed to closure through letting the statute run.

SENATOR ABATE: Wouldn't a better approach be because it's -- maybe you can come up with one case throughout the state or five cases to extend the statute of limitations maybe beyond five years and have some discussion around that for some sexual assault cases and other kinds of cases because of new technology like DNA? Maybe there should be a discussion that the five years should become seven years or

the five years should become ten years.

To me, that is a more responsible approach, particularly for the defendant as well as the prosecution, and this seems to go beyond a rational resolution of the problem. Have you looked at, Senator, the consideration of extending the five years to another time period?

SENATOR MAZIARZ: I was wondering where the question was, Senator, but -

SENATOR ABATE: Yes.

SENATOR MAZIARZ: Have I looked into it?

SENATOR ABATE: Yes.

SENATOR MAZIARZ: Yes, I have looked into it, to be more specific, but I felt that this bill would be the right way to go.

SENATOR ABATE: Senator, the example that you related to, which was multiple rape cases, if the statute was extended to seven or ten years, those crimes would be prosecut able, is that correct?

SENATOR MAZIARZ: Yes, they would be.

SENATOR ABATE: Do you know of any case, if the statute was ten years that - in your jurisdiction, that could not be prosecuted?

SENATOR MAZIARZ: That could not be?

SENATOR ABATE: Yes.

SENATOR MAZIARZ: No, I'm not aware of any.

SENATOR ABATE: Because what I'm suggesting is we look at cases beyond the ten years. Will the witnesses be available? Will the evidence be reliable? It will be very, very difficult in any event for a prosecution to occur, and I would hope that if this does not pass this year, that you would consider limiting this bill to certain types of crimes and also not eliminating the statute of limitations but maybe extending it beyond the five years.

SENATOR MAZIARZ: Well, we'll see how this bill does in the other house of this Legislature and, if it doesn't, maybe we could get together.

SENATOR ABATE: So we could have future discussions.

SENATOR MAZIARZ: Yes.

SENATOR ABATE: O.K. Thank you.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52, nays one, Senator Abate recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1356, by Senator Spano, Senate Print 1119, an act to amend the Public Health Law, in relation to the extension of professional privileges.

SENATOR PADAVAN: Will you lay that aside temporarily, please.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1358, by Senator Hoblock, Senate Print 1985, an act to amend the General Municipal Law, in relation to the definition of a bell jar.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Hoblock, an explanation of Calendar Number 1358 has been asked for.

SENATOR HOBLOCK: Yes, Mr. President.

Mr. President, this amends a provision of the General Municipal Law that would allow the sale of what has been referred to as "bell jar" tickets through a vending machine.

Right now, bell jar tickets are available in certain places and establishments, obviously if they conform with the law and obtain the license from the local municipality, and these are sold by hand and there appears to be some problems in some jurisdictions where the record keeping may not be as best as it should be because it is being handled by hand.

What this does is allow those bell jar tickets to be sold from a vending machine as opposed to one handing them out, and there would be better accountability, better record keeping, more money for the municipality, for the state and for the charity involved.

ACTING PRESIDENT KUHL: Senator Paterson.

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

SENATOR HOBLOCK: Sure.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, if we allow this type of sale to occur through the process of vending as in a vending machine, then how do we restrict access to minors?

SENATOR HOBLOCK: Well, I think the same way it is now. I think obviously somebody is going to have to monitor this as they do now. I mean I don't think there's any -- any way that, or maybe to say that there's no difference between a vending machine or a

person there handing them out. You're still going to have to abide by the law -- comply with the law.

ACTING PRESIDENT KUHL: Senator Paterson.

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

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

SENATOR HOBLOCK: Sure.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: Senator, if a person is handing them out -- and we've had that problem with alcohol, and we've had that problem with videos and that kind of thing -- at least there's someone you can hold to a higher duty. In fact, we're holding the distributors of alcohol to a higher standard than we used to because of the fact that they have allowed younger people to participate.

In the present case, the ones that you're describing, we really don't have any

recourse. We can't -- there isn't even the slightest, you know when an individual is -- is handing things out, at least there's the perception of -- within the buyer that they've got to at least make the person think that there are certain names, but to just push a couple of buttons, I see a wide difference in that.

Who is making these vending machines by the way?

SENATOR HOBLOCK: I'm sorry. Who's making them?

SENATOR PATERSON: The manufacturer.

SENATOR HOBLOCK: Well, I suppose they would buy them from any manufacturer, distributor, that deals in this type of product. I'm not sure who that would be by name.

SENATOR PATERSON: Mr. President, to the sponsor, cigarettes, for instance, are distributed through vending machines and we have that same problem. That's what I'm really trying to impress upon you is the fact that just

to remove even the -- even the symbol of society's contempt for younger people who would get involved either in the consumption of alcohol, the purchase of cigarettes or the involvement in this -- with these bell jars, is something that we have a -- a strong concern about.

If the sponsor would yield?

ACTING PRESIDENT KUHL: Senator Hoblock, do you yield?

SENATOR HOBLOCK: I will.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: I'm thinking about some of the things that we're contemplating right now, Keno and video lottery, and that kind of thing. Just the value of it, even if there is a -- even if there is a profit, do you think that that is real that this is really a good public policy, a good message to be sending in spite of whatever revenues might be raised, the fact that we are exposing it to younger people, and the fact that we are as a

matter of course in such a state that we have to resort to this kind of thing, do you think as a Legislature, this is a positive direction for us to be moving?

SENATOR HOBLOCK: Well, I -- I'm not sure that this bill addresses the whole policy of -- of this type of game or addresses this whole arena of bell jars or any form of wagering. I mean this -- this law obviously has been on the books for quite a while. This Legislature had approved it subject to local municipal licensure and approval, and it's been ongoing now. This is the type of operation as conducted in our veterans' posts, our Elks Lodges, Moose, and like benevolent fraternal organizations for them to -- to raise the necessary funds for their charity work, and all this does is what we're trying to do is correct what we felt was a problem in the accountability and record keeping in the way these bell jar tickets are being handled now.

Now, in terms of the minors, Senator Paterson, you know, I -- while you were

talking, I kept -- happened to think, you know, we have this vending betting at our racetracks now, and I -- I assume that at these particular places, that is our racetracks, they are doing the same coverage and enforcement that will or would apply here.

SENATOR PATERSON: Thank you, Senator.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: On the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: It may be - it may be that -- (microphone inoperative) I think it should actually make it more difficult.

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT KUHL: Senator Padavan.

SENATOR PADAVAN: Would like to call the roll.

ACTING PRESIDENT KUHL: I think Senator Solomon wishes to speak on the bill,

please.

Senator Solomon.

SENATOR SOLOMON: Yes, will Senator Hoblock yield, please?

ACTING PRESIDENT KUHL: Senator Hoblock, do you yield?

SENATOR HOBLOCK: Sure.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR SOLOMON: Senator, this doesn't deal with the bill itself, but allows that organizations, participating organizations that are allowed to sell this. What organizations are allowed to sell these bell jar raffles or whatever they are?

SENATOR HOBLOCK: Well, it's my understanding that the local municipality has to have a public referendum on the licensure of anyone doing this type of operation, and these organizations that apply for this license within the local municipality are usually your benevo lent, fraternal and charitable organizations. They're not commercial establishments in the

sense that we know commercial establishments. They may be, as I say, the Elks Lodges, the Moose, the veterans' posts, they're primarily the organizations that utilize this.

SENATOR SOLOMON: Thank you.

Mr. President, will Senator Hoblock yield for one more question?

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR SOLOMON: Senator, to the best -- do you have any knowledge as to whether or not organizations in New York City are licensed to use this or any New York City organizations are allowed to sell these bell jar tickets?

SENATOR HOBLOCK: I'm not. I'm not.

SENATOR SOLOMON: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT KUHL: Senator

Padavan, to explain his vote.

SENATOR PADAVAN: No, I'd like to ask Senator Hoblock a question.

Senator, I heard you say that a local referendum is required?

SENATOR HOBLOCK: I don't believe so.

SENATOR SOLOMON: Can't hear.

ACTING PRESIDENT KUHL: Senator Padavan, excuse me just a minute. Senator Solomon is having a difficult time hearing your conversation. Could we quiet it down in the chamber, please, take the conversations outside?

Thank you, Senator Padavan.

SENATOR PADAVAN: Senator Hoblock, last year you were not here, so you're not obviously privy to a considerable debate we had on a bill that expanded both the size of the wager and all of the opportunities relevant to bell jars, which made it far more potentially harmful in terms of how much people could lose, and so on.

In the course of that debate, we

were led to believe, based on representations, that all one had to do was apply to the state wagering board to have a bell jar. There was no requirement -- if you have some reference that refutes that, I'd be happy to hear it. There is no requirement for any local referendum and all like charitable organization of the kinds you've identified, would have to do is fill out a form, file it with the state wagering board and get a license to have a bell jar. There's no local referendum, so I'm only standing up here to correct you on that point.

I have many problems with the entire concept. We seem to be making excuses for -- we say we have vending machines in one category, so why not have it in another. We say we have a state lottery, why not have a Quick Draw lottery? We have a Quick Draw lottery and Indians, why not have casinos? We seem to be sliding down that slippery slope on an accelerated basis, and this is just one more direction.

But I do have to correct you,

Senator, and I hesitate to do so. There is no referendum required.

SENATOR HOBLOCK: I could be -- I could be wrong, Senator Padavan. It is my understanding that that was the case, but I know my own municipality went through it, and I don't have the law in front of me, so you could -- you could very well be right, but I know that there is some type of game or operation -- maybe it's just the Las Vegas nights, I'm not really sure -- in which the local municipality has to have on its books approval by the public in the form of a referendum.

Now, whether that covers bell jar activity, I don't know for sure standing here.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Stachowski.

SENATOR STACHOWSKI: On the bill, I rise to support this bill. It's -- my district has a lot of volunteer companies and veterans' posts that already have bell jars. We're not putting something in that's not there already, but this -- this particular way of

selling them in a machine has been requested for them and discussed among volunteer fire companies for quite a few years, and I'm glad that Senator Hoblock is sponsoring this bill and I hope it will pass and pass the other house and get signed by the Governor because it will be a great help to all these organizations, and I think that it's something that will prove necessary not only in keeping records but in the actual selling of them in their clubhouse and so that somebody doesn't constantly sit there and be doing it.

So I think it's a good bill. The volunteer fire companies have been working for this, and I urge my colleagues to vote yes on this.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar 1358 are Senators Babbush, Cook, DiCarlo, Gold, Hannon, Holland, Kruger, Maltese, Marcellino, Maziarz, Padavan, Paterson, Saland, Skelos, Smith, Solomon and Tully. Ayes 37, nays 17.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR GOLD: Mr. President.

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

SENATOR GOLD: Yeah, Mr. President. I was out of the room when we handled Calendar 1354, Senator Maziarz' bill, which would eliminate all statutes of limitations for "B" felonies which would include attempted crimes and while I would support increasing a statute of limitations if that was necessary, the concept of prosecuting someone in 20, 25 years after they allegedly attempted an arson, is ludicrous.

I vote -- I ask for permission to be recorded in the negative.

SENATOR MENDEZ: What's the number?

SENATOR GOLD: 1354.

ACTING PRESIDENT KUHL: Without objection -- without objection, Senator Gold will be recorded in the negative on Calendar Number 1354.

Senator Mendez, why do you rise?

SENATOR MENDEZ: Yes, I'm also requesting to be reported in the negative on Calendar 1354.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Mendez will be recorded in the negative on Calendar Number 1354.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I likewise would like to be recorded in the negative on 1354, and would request unanimous consent.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator

DeFrancisco will be recorded in the negative on 1354.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, I also rise to seek unanimous consent to be recorded in the negative on 1354.

ACTING PRESIDENT KUHL: Without objection, Senator Stachowski will be recorded in the negative on Calendar 1354.

Senator Holland.

SENATOR HOLLAND: Same for me on 1354.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Holland will be recorded in the negative on Calendar 1354.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Ditto. I request unanimous consent.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Oppenheimer will be recorded in the negative on Calendar Number 1354.

Senator Babbush.

SENATOR BABBUSH: 1354, negative.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Babbush will be recorded in the negative so Calendar Number 1354.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time, if we could take up Senator Spano's bill, Calendar Number 1356.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 1356.

THE SECRETARY: Calendar Number 1356, by Senator Spano, Senate Print 1119, an act to amend the Public Health Law, in relation to the extension of professional privileges.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Spano, an explanation of Calendar Number 1356 has been asked for by Senator Paterson.

SENATOR SPANO: Mr. President, this -- this bill would provide podiatrists with the opportunity to be considered for hospital

privileges rather based on their individual competence and professional qualification.

The bill has got a no-cost implication. The hospitals have declared that certain types of practice are inconsistent with their mission and with that type of a declaration, they would exclude entire classes of licensed professionals who have access to hospital privileges.

Now, this would, in my opinion, violate the spirit and the intent of why -- of Section 2801 (b) of the Public Health Law, and should be curtailed.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, would Senator Spano, who is my friend and lives in Westchester, be willing to yield for a question?

ACTING PRESIDENT KUHL: Senator Spano, do you yield?

SENATOR SPANO: Yes.

ACTING PRESIDENT KUHL: Senator

yields.

SENATOR PATERSON: Senator, do - is it necessary for us legislatively to mandate that this happen; in other words, in a sense to micromanage the hospitals? Is there a way that the hospitals can arrive at this same conclusion without our intervention?

SENATOR SPANO: The -- this - Senator Paterson, this does not mandate that hospitals have to allow podiatrists to get privileges. What it does say that we can't discriminate against the license, that if podiatrists are good enough to be licensed by New York State, that they have should not be discriminated against by hospitals who don't want to use -- who don't want to extend this corporate practice to podiatrists.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: If the Senator will continue to yield?

SENATOR SPANO: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: It's my belief that the hospitals now, in a great many respects, do discriminate certainly against minority doctors, primary health care providers in minority communities, who can't seem to get associated with the hospital. The hospitals are supposed to have a community service plan and they usually don't have a real documented plan. They just take some document and mail it to the Health Department. That kind of remindes me of community reinvestment.

For years after the passage of legislation in 1977, all the banks did was just take a form and send it to the Securities and Exchange Commission. They didn't do any community reinvestment, and here the hospitals are basically getting away with it, so you may have cured the problem as it might exist for podiatrists, but to me, what probably is needed is a whole plan with -- where in the sense

following through on what we already have codified with the hospitals work on this plan because there are a lot of people, a lot of doctors, a lot of physicians who are being denied access as a result of the policies made by hospitals.

So I just want to know what this singular sort of reconciliation with what should accomplish the denial of discrimination to podiatrists does to the whole scheme of problems with hospital administration that do exist in this area?

SENATOR SPANO: The Section 2801 (b) of the Public Health Law was established specifically to prohibit hospitals from engaging in improper practices and in certain staff appointments, hospital staff appointments.

The -- what this amendment would do would just be to make sure that -- we are going to make sure that certain types of practice in this regard, podiatrists would not be excluded on the -- on the basis of their title, for hospital privileges. If there are

other -- other issues of improper practices, Senator, it's frankly not something that's been brought to my attention, we can handle that in another statute. But this is one where we have podiatrists who are licensed, who are licensed to perform surgical services in the state of New York, that they should not be disqualified as a class of individuals for hospital privileges.

SENATOR PATERSON: All right. Thank you, Senator. On the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: If Senator Spano is correct, I might be objecting to the approach in which we seem to be taking these issues one at a time. We might have to involve ourselves in some of the midwifery cases. Nurses and midwives are having trouble getting admitted into hospitals as well. They feel they suffer the same discrimination but for the purpose that the bill tries to accomplish, it certainly is -- it certainly is valid, and I would urge support for the bill.

I'm just saying that the whole gamut of hospital administration procedures that often inure to the detriment of health care personnel who could be of great assistance to patients, is something that we probably need to go into further.

This particular instance of it certainly will give podiatrists a more equitable opportunity than what they're receiving now.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 53, nays 2, Senators Kuhl and Oppenheimer recorded in the negative.

ACTING PRESIDENT KUHL: Senator Jones.

THE SECRETARY: Also Senator Jones.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Mr. President, I just wanted to be recorded in the negative on Calendar 1354.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Montgomery will be recorded in the negative on Calendar Number 1354.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 1365, by Senator Nozzolio.

ACTING PRESIDENT KUHL: Secretary will read the title to Calendar Number 1365.

THE SECRETARY: Calendar Number 1365, by Senator Nozzolio, Senate Print 4252, an act to amend the Alcoholic Beverage Control Law, in relation to regulating the hours of sale by a

winery.

ACTING PRESIDENT KUHL: Secretary will -

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Nozzolio, an explanation of Calendar Number 1365 has been asked for by Senator Paterson.

SENATOR NOZZOLIO: Thank you, Mr. President. I'll be glad to try to explain the measure to Senator Paterson and my colleagues.

The measure before us -

ACTING PRESIDENT KUHL: Pardon an interruption here. It's pretty noisy. Could we quiet it down in the chamber, please, ask the members to take their seats, staff to take their places.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, my colleagues, this Legislature, the Assembly in the past, has enacted law that allows licensed wineries to remain open for the purpose of selling their products on Sundays between the hours of ten

o'clock in the morning and midnight.

When a winery is licensed to operate and engage in activity off premises, a gray area exists in the law and by "off premises", this is a winery selling their product at a wine festival or a farmers' market. The question is whether or not a winery which is allowed to open on Sunday can sell its products off premises and a wine festival or farmers' market on Sunday.

What we're trying to do is rectify the ambiguity in the statute with this law by defining the right for wineries who are already licensed to sell their product on their premises during those hours on Sunday, to be able to sell their product off premises at designated festivals and recognized county fairs between the hours of ten o'clock and midnight on Sunday.

SENATOR SOLOMON: Mr. President.

ACTING PRESIDENT KUHL: Senator Solomon.

SENATOR SOLOMON: Senator

Nozzolio yield, please?

ACTING PRESIDENT KUHL: Senator Nozzolio, do you yield to a question from Senator Solomon?

SENATOR NOZZOLIO: Certainly.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR SOLOMON: Senator, correct me if I'm wrong, but wasn't the original intent to allow wineries to sell on Sundays on premises as a tourism attempt because there are winery tours and people go through the winery, wasn't that the original intent of that bill?

SENATOR NOZZOLIO: Yes.

SENATOR SOLOMON: I see.

SENATOR NOZZOLIO: Yes, Mr. President. In response to Senator Solomon's question, I believe that was the intent.

SENATOR SOLOMON: I see. So Senator Nozzolio continue to yield again?

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR SOLOMON: So the intent

would be as if Senator Solomon or Senator Smith or Senator Jones would go to the winery, take a tour, they sample the product, they say, "Gee, I'd like to purchase this product," and they can purchase that winery's product and only that winery's product at that site as a tourism enhancement.

Doesn't this bill seem to get away from the tourism aspect of it, in fact allowing any winery that has tourists to sell at any farmers' market on a Sunday?

SENATOR NOZZOLIO: Well, Senator Solomon, it's a question I'm so glad you raised.

The answer is this exactly gets to the tourism potential, really the sole reason why I decided to put this bill in, in the first place.

Now, the wineries -- let me explain. We have a group of small farm wineries, who myself, Senator Kuhl, Senator Present, others represent in the wine country upstate, and we look at the small farm winery as

the beneficiary of this.

A festival took place this last year during which collectively the small farm wineries in New York State got together and engaged in a huge tourism promotion. There were a number of people involved in that promotion that brought tens of thousands of people to the Finger Lakes area, and we wanted to make sure that the -- the gray area that they have existed, but when the permit was granted, the farm wineries engaged in their festival, and it was a very successful one, it brought a lot of new tourists into the area, introduced them to New York wines. What we're trying to do is ensure that the ambiguity is minimized in law so that those who must enforce the state liquor law would have a clear direction from the Legislature that we were, in effect, allowing anyone who has their -- that permit to sell on premise would be allowed that same ability for, and the bill does list the State Fair, recognized county fairs and at farmers' markets operated on a not-for-profit basis in accordance

with the provisions of the liquor law already, the -- yes, the Alcoholic Beverage Control Law already.

So, Senator, thank you for indulging me a longer answer to your question than I'm sure you want to have, but I appreciate the opportunity to further explain that this is done in an effort to enhance tourism in our region.

SENATOR SOLOMON: Mr. President.

ACTING PRESIDENT KUHL: Senator Solomon.

SENATOR SOLOMON: Will Senator Nozzolio yield? I care to indulge you for a couple of more. I guess it's a good opportunity to indulge you this time, a couple more questions.

ACTING PRESIDENT KUHL: Senator, you continue to yield?

SENATOR NOZZOLIO: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR SOLOMON: Senator, I'm

trying to figure this out. I'm a little kid from Brooklyn and I haven't been able to figure out this state. 150 years ago -- why are wineries -- why can't we sell liquor on Sundays? What's the prohibition and, you know, the Jewish holiday, Passover, they have questions, questions, and one of the questions, why is this day different from any other day? And why is Sunday different from any other day? Can you tell me the reason?

SENATOR NOZZOLIO: Mr. President, Senator has succeeded in stumping me. That is a question that is far beyond my knowledge or expertise.

SENATOR SOLOMON: O.K.

ACTING PRESIDENT KUHL: Senator Solomon.

SENATOR SOLOMON: Will Senator Nozzolio yield, please?

ACTING PRESIDENT KUHL: Senator Nozzolio, do you yield?

SENATOR NOZZOLIO: Certainly.

ACTING PRESIDENT KUHL: Senator

yields.

SENATOR SOLOMON: Senator, well, if there seems to be no reason on why we should prohibit sales of wine on Sundays, why don't we just take this bill and allow any New York State winery, because I really, I do prefer New York State wines, to be sold, allow any store to sell New York State wines only on Sundays?

SENATOR NOZZOLIO: Mr. President, Senator Solomon has an idea that certainly could be discussed. I'd recommend him putting in a bill if he believes strongly in his idea.

SENATOR SOLOMON: Senator, I have a bill in committee that allows you to sell alcoholic beverages on Sundays. In fact, it even says that, if you're closed on Saturdays, then you can sell on Sundays because we really don't want these sole proprietors to work seven days a week. I don't think that would be fair.

SENATOR NOZZOLIO: Senator Solomon, if you have any wineries in Brooklyn -

SENATOR SOLOMON: We do have wineries.

SENATOR NOZZOLIO: -- that you would like to participate in the wine festivals in upstate, I'm sure that they would be welcome. I would encourage you to talk to your constituents to allow them to come up, to ask them to come up to the Finger Lakes region. I'm sure that it certainly would be a unique opportunity for upstaters and downstaters, vintners, to get together. I see no problem with that whatsoever.

SENATOR SOLOMON: Mr. President, will Senator Nozzolio yield for a question on the bill?

ACTING PRESIDENT KUHL: Senator, will you continue to yield? Senator continues to yield.

SENATOR SOLOMON: The specific language in the bill doesn't talk about a wine festival upstate. It talks about county fairs and farmers' markets operated on a farmers' - operated on a not-for-profit basis. Can you tell me if -- there are numerous farmers' markets held at Grand Army Plaza in Brooklyn,

14th Street in Manhattan, I know there are numerous farmers' markets in the downstate that would qualify under this?

SENATOR NOZZOLIO: Certainly, Senator, I think you would have to answer that question. The language of the bill discusses farmers' markets operated on a -- farmers' markets operated on a not-for-profit basis in accordance with Section 176 of this statute.

If that farmers' market you refer to complies with that statute, then I guess it would qualify.

ACTING PRESIDENT KUHL: Senator Solomon.

SENATOR SOLOMON: Thank you, Mr. President.

I didn't even ask Senator - Senator, another question. What is a recognized county fair? I -- seriously.

SENATOR NOZZOLIO: The purpose for including county fairs is because we look at county fairs in upstate as ways to showcase goods that are produced in counties by the

agricultural community. That's the purpose, that these certainly qualify as products that the agriculture community produces and that when there is a county fair that has a way of showcasing this area, that that's the reason.

SENATOR SOLOMON: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Solomon.

SENATOR SOLOMON: If Senator Nozzolio would yield for another question, please, and then I'll speak on the bill.

ACTING PRESIDENT KUHL: Senator Solomon, on the bill.

SENATOR SOLOMON: No, if Senator Nozzolio will yield for one last question.

ACTING PRESIDENT KUHL: Will Senator Nozzolio yield for one last question?

SENATOR NOZZOLIO: One last question, yes; I'll yield.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR SOLOMON: One last

question. Senator, why are we going to limit it to these locations only for Sunday sales?

SENATOR NOZZOLIO: Mr. President, it wasn't our intention to broad-base Sunday sales. We only wanted to clear up an ambiguity in the law that farmers' markets, county fairs, festivals that are occurring on Sunday that wineries, small farm wineries, already have the opportunity to sell on Sundays, this is just an extension of something that they're already allowed to do in places that would showcase their product.

SENATOR SOLOMON: Thank you.

Mr. President, on the bill.

I believe that we can probably enhance many of our wineries in New York State and, in fact, there are a number of wineries in New York City, Senator Nozzolio, that we can point out. In fact, there are wineries in lower Manhattan. I think Shapiro's is still located in lower Manhattan, if somebody represents that area, maybe Senator Connor could correct me. In fact, I think Shapiro's is in Speaker Silver's

district, and I'm sure Shapiro's would like to sell its wine at the local farmers' market on 14th Street, and now they can on Sunday. In fact, maybe we're going to have to establish a farmers' market in certain parts of my district on a not-for-profit basis.

But what I'm concerned about, this is the second bill to come to the -- to come to the floor of this house in the last three days that allows alcoholic beverages to be sold on Sundays. The first bill took two days which, as far as many of the constituents in my district are concerned, are two normal days on the calendar, December 25th and January 1st, actually December 24th and December 31st, and is going to allow liquor sales for this coming year.

Why? Because those holidays have some religious significance to some people in this state. And why are liquor stores closed on Sundays? I attempted to find that out legislatively and the records just did not go back 150 years or so in this state. I think

there was a fire at the state education building about 80 years ago, took care of everything like that; but a large number of people in this state, as it has become more diverse over the last 30 years or 40 years, do not observe Sunday as their sabbath. Muslims observe Friday as their day of rest. The Jewish religion, the Orthodox Jewish religion, Jewish religion observes Saturday, and the people that own liquor stores in the Orthodox Jewish community -- and there are only about four that I can think of offhand in my district, three or four -- are closed on Saturdays. It's their day of rest. Yet they're prohibited from sale -- sales on Sundays, and indeed they sell a number of New York State wines which are kosher, substantial numbers, because the Jewish community uses a substantial amount of wine, and what I'm looking at here is another attempt to expand sales.

They said to achieve these sales, I believe we're going to see wine sales by the way in Brooklyn, in New York City because we have very active farmers' markets by these

wineries. Let's get down to it. Let's save - I put a bill in and Senator Goodman sent a note to the Rules Committee saying that, if you're closed another day of the week, for proprietary stores so we're not going to have large chain stores closing one store here and opening another in another part of the city of New York so they have something open every day, that you can sell alcoholic beverages on that Sunday and we're slowly reaching this. It's almost what we were doing in the other bill with the bell jars and gambling. We're taking baby, baby, baby steps.

I dare say if session wasn't going to end today, we were going to go for another two weeks, we might see another two bills or three bills or four bills or five bills on Sundays and make other exceptions, and what we have to recognize in this Legislature is the original basis for liquor stores to be closed on Sundays or wine sales to be prohibited, and times have changed, and groups of people have changed, and this is just allowing wineries

which, in fact, were originally allowed to sell their products on Sundays because we promoted tours, whether it be up in the Finger Lakes region, or I think there's Windsor winery further down on the Thruway, to sell in-house as people came through those wineries on tours.

Now we're saying, well, we're going to carve a little section out a little bigger. That winery can go and sell at a county fair, State Fair, and/or farmers' markets and we're not exactly sure what farmers' markets are at this point in time.

So now we're going to see wineries, I suspect, opening or having booths for sale at the farmers' markets in New York City. I believe there are farmers' markets in Nassau also, in Westchester, throughout the state, because I know the state Department of Agriculture publishes a long list of farmers' markets, and I'm saying, why can't the legitimate liquor store owners who are closed at least one day a week now open and sell on Sundays?

This is not fair to a lot of people in this state. Yes, a minority, but the minorities have rights, because that's the basis of this country is to protect the minorities' rights, and I think this is a bill, in fact, that's even going to go further in terms of eroding that right, allowing a large or not so large wineries to sell their products off premises on Sundays, around the year because there's farmers' markets operated every week.

Yet we're telling the legitimate liquor store licensees that they're not going to be able to sell their products on Sundays and those that are closed on Saturdays are now closed on Saturdays and Sundays also. It's inherently unfair, and as we do more and more of these bills I question whether or not we can actually commence a legal action about that issue and win in our courts; but it's something we shouldn't have to take to court. It's something the members of this Legislature should recognize as being unfair to a number of my constituents.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT HOLLAND: Senator Gold.

SENATOR GOLD: Mr. President, I congratulate Senator Solomon for his persistence in this, and I really have a plea to Senator Nozzolio who, it has been pointed out to me, has the distinction of not one, but two Cornell degrees.

Senator, there's an opportunity to hold the bill, amend it very quickly and pass it this year, but pass it in a way that it takes care of our total problem. I -- I don't know your district, Senator, as intimately as you, obviously, and I don't mean to be presumptuous or pretentious, but I can not believe that it would cause you a political problem in your district if we brought in the fairness that Senator Solomon has discussed.

You indicated that you put in the bill to clear up an ambiguity, and I suggest to you there's no ambiguity, the law is very clear, it doesn't allow certain things and you,

Senator, have decided to allow some other things which I don't have a problem with, but you know, you put people in a very strange situation. When you have a rule, and we say we just don't do something, people can all look at each other and say, "We don't do it," but when you start the crack in the door and say, Well, we can't do it, but we're going to let them do it and maybe those guys over there and maybe these people here, that is what really starts to cause the problems.

There is no one in the state - Senator, did you want to say something? Senator, I'll yield to Senator Nozzolio.

ACTING PRESIDENT HOLLAND: Senator Nozzolio asking Senator Gold -

SENATOR NOZZOLIO: Well, I was asking Senator Gold to yield.

SENATOR GOLD: I'll be glad to.

SENATOR NOZZOLIO: Senator, I've taken consideration of your comments and trying to weigh this in my mind. Are you not aware that the wineries already have the authority as

granted by this Legislature to sell on Sunday their product within the framework of their winery? Are you not aware of that, Senator?

SENATOR GOLD: Yes, yes.

SENATOR NOZZOLIO: And I guess I rise because of your comment that suggests we're trying to change the law to grant an authority. Well, I concede we are changing the law, trying to clarify the law. But I would -- the Sunday sale is allowed already, and that, I think, is something that needs to be stated again.

In response to your comments, Senator Gold, which I respect, that we're not trying to give the wineries another grant of selling on Sunday that they didn't already have. I think that's the reason why this change becomes more incremental than is suggested by Senator Solomon. The authority is there already for them to sell.

Now, the wine -- the wine festival -- thank you for indulging me in this long statement because it's -- it is more than just a question, Senator, but it does get to

your point, and I wish you would continue and respond to this statement, that what we're trying to do is take those wineries who can sell at their winery within two or three miles of this festival, to be able to sell at the festival at the same time that they would otherwise be allowed to sell at the winery. That's really what we're trying to clear up here, and that that -

SENATOR GOLD: Will the Senator yield?

SENATOR NOZZOLIO: -- may seem like a greater change, but, Senator, I think in that context, let me state that as a question. In that context, do you see that as less of a change than you originally thought?

SENATOR GOLD: Will the Senator yield for a question?

ACTING PRESIDENT HOLLAND: Senator Nozzolio, will you yield for a question?

SENATOR NOZZOLIO: Sure.

ACTING PRESIDENT HOLLAND: Senator yields.

SENATOR GOLD: Senator Nozzolio, very specifically, if you're telling me that the law now allows them to sell here and your amendment is going to allow them to sell here and there, that unquestionably is an expansion of their right to sell; is that not right?

SENATOR NOZZOLIO: Yes.

SENATOR GOLD: All right.

SENATOR NOZZOLIO: But Senator, in further response to your question, those wineries up and down the Wine Trail, which is a trail of about 35 miles long, those wineries would be selling that day at that time under current law. We're saying you could do it at your winery. We're saying together you can collectively market, and Senator Solomon's question was initially that the threshold was based on tourism, the answer yes, my motive, it was precisely to allow those wineries to come together to enhance collectively what they might not be able to do individually in promoting a New York product, to pay New York taxes, to help our economy through tourism, and enhancing the

notice of a New York State product.

That's the reason here, Senator. It's not to bring in other wineries from out of state; it's not to bring in other types of -- of entities. That would not lead directly to an economic benefit to New York taxpayers.

SENATOR GOLD: Will the Senator yield?

ACTING PRESIDENT HOLLAND: Senator Nozzolio, will you continue to yield?

SENATOR NOZZOLIO: Yes.

ACTING PRESIDENT HOLLAND: Senator continues to yield.

SENATOR GOLD: Senator, you're saying in some way there's an economic benefit if, instead of buying at the New York State winery, you could go a mile away and buy from three or four New York wineries that would be in place at a fair or market, is that correct?

SENATOR NOZZOLIO: Well, Senator, this happens not every Sunday, it happens once a year.

SENATOR GOLD: But I'm just

asking you, is that basically what you're saying?

SENATOR NOZZOLIO: Yes, that's what I'm saying.

SENATOR GOLD: Then would you yield to another question?

ACTING PRESIDENT HOLLAND: Senator yields.

SENATOR GOLD: Would it not enhance New York State wineries if they go to one place, whether it's a state fair or if they go to this one store where it has wines from New York State wineries and people who are from Brooklyn or Queens who are not up at your state fair could buy these New York State wines in the one place whether it's in Brooklyn or Queens? Wouldn't that help?

SENATOR NOZZOLIO: Senator, it may help, but what they're trying to do is collectively do what they can't do individually and that's promote a product grown in New York, produced in New York, and something that can try to enhance and promote the entire economy.

We're not talking about a -- a regular 12-month-a-year type operation. We're talking about a festival.

SENATOR GOLD: On the bill, Mr. President.

ACTING PRESIDENT HOLLAND: Senator Gold, on the bill.

SENATOR GOLD: As I was saying, Senator Nozzolio says that his bill is clearing up an ambiguity. It is not. It is granting authority to sell in a new way, and no matter however you phrase that, that is exactly what is happening, and all that Senator Solomon is trying to say is, having opened this door, let's understand what we're talking about.

We understand that in America, in the broadest sense of America, that there are public holidays which have a religious derivation. If you ask a particular religion to set up other holidays, they might not pick Christmas and -- they might pick something else.

Well, we have in America our

public holidays, but as you travel around America, you find more and more that some of the religious dogma that has come into public law is being recognized as religious dogma. It is being respected as such, but the public law opens up to other people.

Now, why is Senator Solomon so agitated the last few days? Because it seems that, with the end of this session, if this bill passes and yesterday's bill passes, that in this session, this Legislature has decided to open the doors in a specific area to certain specific groups and thereby, by the negative side, exclude certain groups and that's got to be offensive to Senator Solomon if his bill is sitting in a committee and the committee did nothing; and so we are not dealing with the issue of Sunday sales. That's one thing, but if you're dealing with the issue and you will not deal with it, as it applies to a very significant part of the population in this state, that is offensive.

Now, Senator Nozzolio, I never

asked anybody to do anything that he or she would personally find offensive or that he or she would personally find politically difficult or embarrassing, but I don't believe, and I say I don't know your district, but I can not believe that, if we opened the door and took care of Senator Solomon's concern, that we are causing you political difficulty.

The only thing that would happen is that a Republican in this house would break precedent and maybe listen to something that was said by somebody else. I -- I do find it help ful that Senator Goodman says he wrote a letter to the Rules Committee to consider the bill.

On the other hand, if it is not offensive to anyone, I would like to deal in the real world. What's the Rules Committee? I mean it's Senator Bruno and it's some counsels, and we can write letters. What does a letter do? I'm a lawyer. I had a client call me today with a problem, and he wanted to know what to do. "Shall I call the other side?" and I said, "Baloney! Write a letter."

So I'm glad Senator Goodman wrote a letter. He said he tried to be helpful, even wrote a letter to the Rules Committee, but I'd like to deal in the real world. I'd like to get Senator Solomon's bill out or I'd like to see Senator Nozzolio amend his bill and take care of the problem.

In taking care of the problem, we will also do some good for the people of New York State because, first have all, you won't have policemen having to wonder whether or not it will be an embarrassment for them to arrest an Orthodox Jew on a Sunday and then have everybody in the community hate the cop. You won't have to contact the Liquor Authority on complaints they won't want to get because they hope these summonses are never issued and you will allow a segment of society that is generally every day law-abiding, to be law-abiding and yet take care of their needs.

The fact that it's not done is offensive, and I look around and I take a look at the Republican faces in this chamber and you

don't want to be offensive particularly -- yours is always offensive -- but Senator Libous is in a class by himself.

SENATOR LIBOUS: Yeah.

SENATOR GOLD: I wouldn't want to be in that class, but -- but you don't want to be offensive. I understand that, I understand that, but the act of ignoring a significant part of the population is itself offensive, and I would urge Senator Nozzolio that you have an opportunity to do something about it and, if it's not done today or within the next hour, it should be done by way of Senator Solomon's bill, something should be done.

It will certainly be an issue, I can tell you, in some of the Jewish newspapers in the city of New York. These people have been very, very good to our Governor, I'm told, and been pretty good to some of you, and they are not going to appreciate the press release that comes out of this session which says it was - there was time to take care of everybody else's problem in this area except theirs.

It's the wrong thing to do. They don't deserve this treatment.

ACTING PRESIDENT HOLLAND: Senator Paterson.

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

ACTING PRESIDENT HOLLAND: Senator Nozzolio, do you yield?

SENATOR NOZZOLIO: Certainly.

ACTING PRESIDENT HOLLAND: Senator yields.

SENATOR PATERSON: Senator Nozzolio, the -- you do recognize that there was a time when there couldn't be any sale of alcohol on a Sunday in New York; is that not correct?

SENATOR NOZZOLIO: Yes, it is correct, Senator, and I also recognize how there was a time that there was no such thing as a small farm winery.

SENATOR PATERSON: Senator, when that came into effect and we recognized the issue of tourism and the fact that it is the

week end and people are not working at that particular time, we tried to make an adjustment to the wineries as long as the sale was made actually at the winery. What we're doing through this legislation is expanding it and what we're now doing is, in my opinion -- or let me ask you what your opinion is. Aren't we creating an unfair advantage for wineries who are located in New York State that they can have their product sold on Sundays and what we're doing to prevent the wineries from out of state from competing would be actually to ban them because they can't actually appear at the state fairs, and so, in a sense, by the time Monday comes around and they get to compete in the open market, we have actually used what was a religious notion to actually ban interstate sale? Haven't we done that, Senator?

SENATOR NOZZOLIO: Oh, Mr. President, in response to the acting Minority Leader's question, I would have to say I didn't hear the last end, so I can't really answer it, but before I answer it, I wish to lay this bill

aside temporarily.

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

Secretary will read.

Senator Waldon.

SENATOR WALDON: Thank you, Mr. President.

I was out of the chamber on other business when the Senate considered 1354 and 1297. I respectfully request unanimous consent to be recorded in the negative on those two.

ACTING PRESIDENT HOLLAND: Without objection, Senator Waldon will be recorded in the negative on 1354 and 1297, is that correct?

SENATOR DOLLINGER: Mr. President, if I can -

ACTING PRESIDENT HOLLAND: Senator Dollinger.

SENATOR DOLLINGER: Could I be recorded in the negative on Calendar Number 1356.

ACTING PRESIDENT HOLLAND:

Without objection, Senator Dollinger will be recorded in the negative on 1356.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT HOLLAND: Senator Hannon.

SENATOR HANNON: Mr. President, I was out of the chamber when the roll call was taken on Calendar Number 1299. I'd like unanimous consent to be recorded in the affirmative on that. That's Senate 3520.

ACTING PRESIDENT HOLLAND: Senator, that was a slow roll call yesterday. The record will reflect, if you had been in the chamber, you would have voted in the affirmative.

Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. Since we're doing these unanimous consent requests, I have two. May I be recorded in the negative on Calendars 1358 and 1354, please.

ACTING PRESIDENT HOLLAND: Without

objection, Senator Leichter will be recorded in the negative on 1358 and 1354.

Senator Maltese.

SENATOR MALTESE: Mr. President, would you call up Calendar Number 748, the Senate Bill 19 -- 193B, by Senator Gold, which was previously laid aside temporarily.

ACTING PRESIDENT HOLLAND: Secretary will read.

THE SECRETARY: Calendar Number 748, by Senator Gold, Senate Print 193B, an act to amend the General Business Law, in relation to requiring child safety devices.

ACTING PRESIDENT HOLLAND: Read the last section.

SENATOR HANNON: Explanation.

ACTING PRESIDENT HOLLAND: Explanation has been asked for, Senator Gold.

SENATOR GOLD: Yeah, thank you, Senator Hannon.

Senator, this is a bill which we put in, I think, a couple years ago and we're now to a "B" print, which we've negotiated with

the people concerned, and the food merchants, and it basically would require that 25 percent of the carts that are provided by supermarkets would have some kind of aid for children. It can be nothing more than a strap.

The food merchants were concerned about the original number. We've worked with them. I have a letter from Michael Rosen thanking us for the cooperation, indicating that the "B" print addresses their concerns and indicating that they are not opposed to the proposal.

I'm told that now the food merchants, together with the manufacturers of these belts, together with the Attorney General have worked this out, and I think that the food merchants at this point may even look at it as a positive from their own advertising.

There's nothing that requires anybody who goes shopping to use them, but the bottom line is that, if someone is shopping with children, it should be available. I am informed that the cost factors are totally minimal, that

the law can be complied with for a dollar or two or three.

If there's a problem with a violation, they are given time to correct the violation, and the bill will not take effect for 360 days.

ACTING PRESIDENT HOLLAND: Read the last section.

THE SECRETARY: Section 2. This act shall take effect one hundred -

ACTING PRESIDENT HOLLAND: I'm sorry, one second.

Senator Hannon.

SENATOR HANNON: I may just make some comments. I don't want to make a big thing of this. I realize that Senator Gold has this bill here and he believes it's going to be of some use, but having gone through six years of shopping with kids, I want to tell you, these straps that they now have in the carts that he seeks to promote are totally useless, probably unsafe, and it's hard to figure out what value they are.

Now, we're all familiar with the utility of car seats and use of seat belts and the very great safety that they afford when you're driving a car. One would then think there's an analogy to these shopping carts, and I would totally disagree since they're nowhere near designed for anything, and they're more for the convenience of pushing the kid around, but if you put a seat belt on her, it makes it more difficult to use the seat, and it probably makes the kid squirm more, so this is -- this comes - my primary comment comes from having tried to use them and find them useless.

But Senator Gold's comments cause me to really read these things again and, you know, it makes it all the more quizzical why one would support a bill like this. Reasonable engineering standards are called for. This, of course, presumes that there are unreasonable engineering standards in other sections of law that we're now going to wipe out. I would presume anything is a reasonable engineering standard, because no place else in the bill do I

find any reference to anybody who's going to set those engineering standards.

But then what is even more quizzical is what's the 25 percent of, because we're now going to require every grocery store or whatever type of other retail operation that is using shopping carts to keep an inventory of the total number of shopping carts that would be up to date so you could tell what the 25 percent is.

Seems a little ridiculous, but then when I went to see whether there was a reasonable fine or penalty, I realized that lo and behold, that this great crying need for safety in the supermarket aisles will require the intervention of the Attorney General if there's a violation. So I'm not even sure that you have a useful enforcement here.

So I commend Senator Gold for his concern, but I'm wondering if this is, you know, the right way to do it, the proper way to do it, and whether we really need to have this type of legislation. So I mean we haven't gone through

the -

SENATOR GOLD: Mr. President.

SENATOR HANNON: We haven't gone through -- I don't have all of the oratorical skills and -- and the way to think out all of the possible implications in a piece of legis lation that the proponent to this bill would, but I do think this measure is not without its defects.

SENATOR GOLD: Thank you. Mr. President.

ACTING PRESIDENT HOLLAND: Senator Gold.

SENATOR GOLD: I appreciate Senator Hannon's feelings and his sincerity and obviously, Senator Hannon, if this is the law just as today the markets have these available, you certainly don't have to use one of those. You can use one of the other carts and anyone who has -- who finds them difficult can do that.

I would point out that the Attorney General's office and the food merchants

and the manufacturers have all been involved and are very happy with what the language says and, as a matter of fact, I understand that they are already almost in compliance because they feel now that we've discussed this issue out that they have more to gain than to lose in the way of good public relations.

So, if you realize that 75 percent of these carts are not mandated to have anything, there are a sufficient number of carts, Senator, for those people who may, as you, feel that there is something wrong. Meanwhile, I don't want to draw this as the most significant bill of the session, but I think it will save some kids from getting hurt, and it will make it available to those parents who find putting a strap around their child not to be too complicated.

ACTING PRESIDENT HOLLAND: Read the last section.

THE SECRETARY: Section 2. This act shall take effect 360 days next succeeding the date.

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT HOLLAND: Senator Oppenheimer, you want to explain your vote?

Senator Oppenheimer.

SENATOR OPPENHEIMER: I'm fortunate that, in my area, most of our supermarkets did have these restraints for children, and I must say I have used them for many years, and I find them a very valuable addition to those carts.

SENATOR JONES: If you use them.

SENATOR OPPENHEIMER: The children are always trying to creep out. I think it's a wonderful bill. I vote yes.

ACTING PRESIDENT HOLLAND: Announce the vote.

THE SECRETARY: Those recorded in the negative on Calendar Number 748 are Senators DeFrancisco, DiCarlo, Hannon, Holland, Johnson, Kuhl, Larkin, Maziarz, Wright and Nozzolio.

Ayes 45, nays 10.

ACTING PRESIDENT HOLLAND: The bill is passed.

Senator Maltese.

SENATOR MALTESE: Mr. President, there will be an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT HOLLAND: There will be an immediate meeting of the Rules Committee in Room 332.

Secretary will read. Senator Maltese.

SENATOR MALTESE: Mr. President, will you call up Calendar 1371, Senate Number 5079, by Senator Hoblock.

ACTING PRESIDENT HOLLAND: Secretary will read.

THE SECRETARY: Calendar Number 1371, by Senator Hoblock, Senate Print Number 5079, an act to amend the Lobbying Act, in relation to the use of '800' telephone numbers.

SENATOR MENDEZ: Explanation.

ACTING PRESIDENT HOLLAND:

Senator Mendez. Explanation is asked for.

SENATOR HOBLOCK: Yes, Mr. President.

This is an amendment to the Lobbying Act that, if a lobbyist is required to register pursuant to this act and employs or contracts the use of an '800' telephone number for certain information in connection with that contract agreement then the background of the use of that '800' number including a script must be on file.

ACTING PRESIDENT HOLLAND: Senator Mendez.

SENATOR MENDEZ: Senator Hoblock, we were wondering why can't we also have the '800' numbers filed with us for political committees?

SENATOR HOBLOCK: My understanding, as far as political committees are concerned, there is a byline at the end of the commercial who pays for it, and what we've found, and the reason for this legislation is, Senator Mendez, what's happened is a number of

these groups have got together, formed these coalitions, and we don't know who they are, where in a political advertisement, you do know.

SENATOR MENDEZ: Explanation is satisfactory.

ACTING PRESIDENT HOLLAND: Read the last section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT HOLLAND: The bill is passed.

SENATOR COOK: Mr. President.

ACTING PRESIDENT HOLLAND: Senator Cook.

SENATOR COOK: Mr. President, could I be recorded in the negative on Calendar Number 748, please.

ACTING PRESIDENT HOLLAND: With

unanimous consent, Senator Cook will be recorded in the negative on Calendar Number 748.

Senator Oppenheimer.

SENATOR OPPENHEIMER: I'd like unanimous consent to be in the negative on Calendar Number 1276.

ACTING PRESIDENT HOLLAND: Senator Oppenheimer in the negative on Calendar Number 1276, with unanimous consent.

Senator Mendez.

Senator Maltese.

SENATOR MALTESE: Mr. President, would you call up Calendar Number 1374, Senate Bill Number 5432A, by Senator Levy.

ACTING PRESIDENT HOLLAND: Secretary will read.

THE SECRETARY: Calendar Number 1374, by Senator Levy, Senate Print Number 5342A, an act to amend the Vehicle and Traffic Law, in relation to establishing an advisory committee.

ACTING PRESIDENT HOLLAND: Explanation.

SENATOR MENDEZ: Mr. President.

ACTING PRESIDENT HOLLAND: Senator Mendez.

SENATOR MENDEZ: Senator Gold has great interest in this bill. He is in the Committee on Rules meeting right now. We'll be sending for him. Do you want to wait it out just temporary for a few minutes?

SENATOR LEVY: Yes.

SENATOR MENDEZ: Thank you.

ACTING PRESIDENT HOLLAND: Bill will be temporarily -

SENATOR MENDEZ: Excuse me.

ACTING PRESIDENT HOLLAND: I guess Senator Gold is here.

SENATOR MENDEZ: Thank you.

SENATOR GOLD: Senator Levy, will you yield to a question?

ACTING PRESIDENT HOLLAND: Senator, will you yield? Senator yields.

SENATOR LEVY: Yes.

SENATOR GOLD: Senator Levy, yes. The question is just a simple one. This

basically sets up an advisory committee, is that correct?

SENATOR LEVY: It re-establishes it. It lapsed and it really did terrific work in trying to deal with the on -- the ongoing problems that relate to the weight of vehicles involved in heavy construction.

SENATOR GOLD: Well, Senator, if you'll yield to one more question.

SENATOR LEVY: Yes.

SENATOR GOLD: Is there a cost factor connected with this?

SENATOR LEVY: There -- in the past there really hasn't been. It operated under the aegis of DOT personnel who were the staff people that were involved in doing the work on behalf of the committee.

SENATOR GOLD: Well, Senator Levy -- Mr. President, on the bill.

I'd like to thank you, Senator Levy. You say that there's no cost associated with this, Senator, and I will tell you in public right to your face, I find you credible

on that issue. And why do I want you to be credible on that issue? Because I, and I think some others have been told that some suggestions we have for some advisory committees such as the one I've put in for SIDS babies who die of Sudden Infant Death Syndrome are being held up by your counsels because they say, with the budget problems, that these advisory councils can be a budgetary problem.

I don't think they are, Senator. I think that some of the advisory councils such as the one you're suggesting today, Senator Levy, are very, very good and they can operate with almost no budgetary consequences, and I would ask your counsels to listen to you, because your answer is the correct one, and I'd like to see some action on some of those that I have suggested and other people have suggested without being told that we are infringing on the Governor's budget.

Thank you.

ACTING PRESIDENT HOLLAND: Read the last section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT HOLLAND: The bill is passed.

Senator Maltese.

SENATOR MALTESE: Mr. President, would you call up Calendar 583, Senate 4146A, by Senator Levy.

ACTING PRESIDENT HOLLAND: The Secretary will read.

THE SECRETARY: Calendar Number 583, by Senator Levy, Senate Print 4146A, an act to amend the Transportation Law, in relation to requiring the Commissioner of Transportation to take an annual inventory.

SENATOR MENDEZ: Last section.

ACTING PRESIDENT HOLLAND: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT HOLLAND: The bill is passed.

Senator Maltese.

SENATOR MALTESE: Mr. President, would you call up Calendar 1233, Senate Bill 3856A, by Senator Libous.

ACTING PRESIDENT HOLLAND: The Secretary will read.

THE SECRETARY: Calendar Number 1233, by Senator Libous, Senate Print 3856A, an act to amend the Mental Hygiene Law, in relation to receivership of residential facilities.

SENATOR MALTESE: Mr. President, is there a message?

ACTING PRESIDENT HOLLAND: Yes, there is a message at the desk.

SENATOR MALTESE: Move to accept the message.

ACTING PRESIDENT HOLLAND: Motion to accept the message. All in favor say aye.

(Response of "Aye.")

All opposed say no.

(There was no response.)

The message is accepted.

Read the last section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT HOLLAND: The bill is passed.

SENATOR MALTESE: Mr. President, would you call up 1283, Senate Print 4864A, by Senator Cook.

ACTING PRESIDENT HOLLAND: Secretary will read.

THE SECRETARY: Calendar Number 1283, by Senator Cook, Senate Print 4864A, an act to amend the Public Officers Law, in

relation to the defense and indemnification of members.

SENATOR VELELLA: Senator, is there a message at the desk?

ACTING PRESIDENT HOLLAND: There is a message.

SENATOR VELELLA: Move we accept the message.

ACTING PRESIDENT HOLLAND: The motion to accept the message, all in favor say aye.

(Response of "Aye.")

Opposed say nay.

(There was no response.)

The message is accepted.

Last section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT HOLLAND: The

bill is passed.

SENATOR VELELLA: Mr. President, can we go to Calendar Number 1293, please.

ACTING PRESIDENT HOLLAND: Secretary will read.

THE SECRETARY: Calendar Number 1293, by Senator Lack, Senate Print Number 1297A, an act to amend the Surrogate's Court Procedure Act, in relation to the statute of limitations.

ACTING PRESIDENT HOLLAND: Read the last section.

THE SECRETARY: Section 2. This act shall take effect 60 days after the date on which it shall have become law.

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT HOLLAND: The bill is passed.

Senator Velella.

SENATOR VELELLA: Can we go to

Calendar 1362, now, please.

ACTING PRESIDENT HOLLAND: Secretary will read.

THE SECRETARY: Calendar Number 1362, by Senator Johnson, Senate Print 3002A, an act to amend the Public Service Law, in relation to eliminating utilities as installers.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT HOLLAND: Explanation has been requested. Senator Johnson.

SENATOR JOHNSON: Mr. President, presently under the Home Insulation and Energy Conservation Act, utilities are required to maintain a -- a list of qualified and partici pating suppliers and contractors. What this says is, instead of saying "shall" maintain the list, it says they "may" maintain the list, but it says if they do, it must be in a non-discriminatory manner.

This bill is introduced primarily because some contractors who are qualified have been excluded from the program by utilities,

particularly local on Long Island. We like the program to be open -

ACTING PRESIDENT HOLLAND: Senator Johnson, can we have that door closed in back of you.

SENATOR JOHNSON: I'll get it closed.

ACTING PRESIDENT HOLLAND: Thank you, Senator.

SENATOR JOHNSON: So this opens up the ability through these contracts under the Home Insulation and Energy Conservation Act to all qualified contractors.

Any question?

ACTING PRESIDENT HOLLAND: Senator Smith.

SENATOR SMITH: Thank you. Will the sponsor yield to a few questions?

SENATOR JOHNSON: Yes.

SENATOR SMITH: Thank you. Would this bill, in essence, increase the cost to certain users in the five boroughs who may be in the Brooklyn Union Gas or Con Edison area?

SENATOR JOHNSON: Users? You mean like persons who use the gas service or electric service?

SENATOR SMITH: There's special -- if I'm not mistaken, there are certain contractors for the use of Brooklyn Union Gas and with Con Edison for these services and those that are currently using the services would receive an increase because of this particular bill.

SENATOR JOHNSON: Well, this really doesn't refer to continuing service from the utility. This pertains to essentially retrofitting their home to be energy-efficient.

SENATOR SMITH: Yes, but not to cut you off, but they have service contracts with Brooklyn Union Gas Company.

SENATOR JOHNSON: But Senator, this does not apply to contracts. This applies to like if your house is being retrofitted for the winter, you could have a new furnace, you could have new insulation, you could have new storm windows, they have a list of contractors

now and no other contractor can participate in that program. It's not a continuing service contract type of arrangement.

SENATOR SMITH: I beg to differ with you. There is a service contract with the company.

SENATOR JOHNSON: Senator, I think you're discussing another bill. This bill does not pertain to any service contractual type arrangement. Any -- all this says, all this says, Senator, is that they shall open up the list. It says "and may with the permission of the commission, maintain the list" to more contractors, but whoever the contractor is, whatever the arrangement is will not be changed, it will just be more contractors that are able to participate in the program.

SENATOR SMITH: I'm going to sit down and defer to my colleague.

ACTING PRESIDENT HOLLAND: Senator Paterson is next, Senator DiCarlo.

SENATOR PATERSON: Senator Johnson, you've amended the bill and so what I

want to ask you is now that you have changed it and said that they may involve other contractors in the process, isn't it continuing the protection that we're trying to set up for consumers in the first place because the contractors that were made available by utility companies, which would have protected the consumers in the first place from, you know, just looking up the individual or the contractor in the Yellow Pages and just finding someone who may not have really complied with a lot of the regulations in which they could conduct some of the energy cost savings that -- measures that they can -

SENATOR JOHNSON: Your question is, will the people not have the protection of having their -- the contractor screened by that utility, is that your question?

SENATOR PATERSON: Yes, exactly, Senator.

SENATOR JOHNSON: Well, it doesn't say everyone who wants to get on the list has to be on it. It says that the utility

with the permission of the commission, may prepare and maintain a list of qualified and existing suppliers in a non-discriminatory manner; in other words, that these people are not good actors, if they don't do good work, they don't finish the job, if there are problems with their work, they don't have to be put on the list. They'd have to meet the same standard.

Every contractor who is licensed and doesn't have a bad record or is licensed by the Consumer Protection Board, if he's qualified to do the work, he should be able to do the work and he shouldn't be excluded because the utility has certain pet people they like to deal with and they don't want to deal with anyone else.

SENATOR PATERSON: And that's precisely why I would imagine that you drafted the legislation because there was a contractor or there had been contractors who were licensed who had not been in any kind of trouble who had not been brought before any consumer protection boards, but they were not on the list, is that

correct?

SENATOR JOHNSON: That's correct, yes.

SENATOR PATERSON: The only reservation, I guess, that the Energy Council had was that, by expanding the list you might bring in individuals that were not necessarily qualified, but it seems that your amendment has addressed it. How does the Energy Council feel now?

SENATOR JOHNSON: Well, they commented on the original bill and they didn't comment on the amended bill, and I don't think we have any negative memo on the amended bill. I may be wrong, but I don't have it in my possession, so I think there -

SENATOR PATERSON: I assume, Senator, that since the -- the quotient of their criticism is really addressed by your amendment, that we could at least assume that -- that the bill as it stands now would be fine.

SENATOR JOHNSON: Thank you, Senator.

ACTING PRESIDENT HOLLAND:

Senator DiCarlo.

SENATOR DiCARLO: Would the Senator yield?

ACTING PRESIDENT HOLLAND:

Senator, do you yield?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT HOLLAND:

Senator yields.

SENATOR DiCARLO: I think Senator Smith and I, when this bill first came out, we had been notified by Brooklyn Union about a piece of legislation that would have turned around many of the service contracts for our constituents in Brooklyn. I think that's a different piece of legislation that Senator Smith may be thinking about. Is that true, do you know?

SENATOR JOHNSON: That's correct. This is only insulation on energy saving things. Doesn't deal with maintenance, doesn't deal with -- the bill which you talk about is not being advanced at this time.

SENATOR DiCARLO: Thank you.

ACTING PRESIDENT HOLLAND: Read the last section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, is there any housekeeping at the desk?

ACTING PRESIDENT HOLLAND: Yes, we have some substitutions. We can do the substitutions if you please.

SENATOR MARCELLINO: Can we do those, please?

ACTING PRESIDENT HOLLAND: Secretary will read.

THE SECRETARY: On page 13,

Senator DeFrancisco moves to discharge from the Committee on Rules Assembly Bill Number 7435, and substitute it for the identical Calendar Number 633.

On page 19, Senator Goodman moves to discharge from the Committee on Rules Assembly Bill Number 6138 and substitute it for the identical Calendar Number 799.

On page 36, Senator Saland moves to discharge from the Committee on Rules Assembly Bill Number 8095 and substitute it for the identical Calendar Number 1379.

ACTING PRESIDENT HOLLAND: Substitutions ordered.

Housekeeping, Senator DiCarlo?

SENATOR DiCARLO: Yes, Mr. President. On behalf of Senator Maltese, please place a sponsor's star on Calendar Number 1343.

ACTING PRESIDENT HOLLAND: Sponsor's star will be placed on 1343 for Senator Maltese.

Any other housekeeping?

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we return to motions of standing committees -- reports of standing committees. Is there a report from the Rules Committee.

ACTING PRESIDENT HOLLAND: Secretary will read.

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

Senate Print 31A, by Senator Hannon, in relation to the sales tax imposed on club dues;

203, by Senator Holland, an act to amend the Judiciary Law, in relation to increasing the allocation of funds;

467, by Senator Holland, an act to amend the Social Services Law, in relation to including portable X-ray services;

735, by Senator Jones, an act to authorize the Commissioner of the Department of Transportation to abandon certain canal lands;

1350A, by Senator Oppenheimer, an act to amend the Vehicle and Traffic Law, in

relation to leaving the scene of an accident without reporting;

1578A, by Senator Larkin, an act to amend the Real Property Tax Law, in relation to subjecting certain state lands;

2304A, by Senator DeFrancisco, an act to amend the Canal Law, in relation to making conforming amendments;

2555A, by Senator Larkin, an act to amend the Town Law and the County Law, in relation to the establishment and extension of fire districts;

2643A, by Senator Goodman, an act to amend the Transportation Law, in relation to establishing dispute settlement programs;

3184A, by Senator Wright, an act to amend the Real Property Tax Law, in relation to subjecting lands within the Tug Hill region to taxation;

3205, by Senator Spano, an act to amend the Retirement and Social Security Law, in relation to uniformed court officers;

3382A, by Senator Skelos, an act

to amend the General Business Law, in relation to the qualifications for a private investigator's license;

3560, by Senator Johnson, an act to amend the General Obligations Law, in relation to liability of landowners receiving certain consideration;

3686A, by Senator Larkin, an act to amend the Real Property Law and the Real Property Tax Law, in relation to the assessment of property of homeowners;

3736, by Senator LaValle, an act to amend the General Municipal Law, in relation to creating the town of Southampton Community Development Agency;

4049, by Senator DiCarlo, an act to amend the General Municipal Law, in relation to paid leave for disaster service volunteers;

4158, by Senator Leibell, an act to amend the General Municipal Law, in relation to urban development action;

4225B, by Senator DeFrancisco, an act to amend the County Law, the General

Municipal Law and the Education Law, in relation to the appointment as private college campus security officers;

4398, by Senator Spano, an act to amend the Local Finance Law, in relation to bonds and notes of the city of Yonkers;

4884A, by Senator Seward, an act to amend the State Administrative Procedure Act, in relation to provision of non-basic telecommunications services;

5222, by Senator Goodman, an act to amend the Tax Law, in relation to an amendment of a lease by a cooperative housing corporation;

5380, by Senator LaValle, an act in relation to creating a tax stabilization reserve fund; and

5395A, by Senator Velella, an act to amend the Public Health Law, in relation to the testing of pregnant women for the human immunodeficiency virus.

All bills ordered directly for third reading.

SENATOR MARCELLINO: Mr. President, I move we accept the report of the Rules Committee.

ACTING PRESIDENT HOLLAND: All in favor of accepting the Rules Committee report say aye.

(Response of "Aye.")

Opposed say nay.

(Response of "Nay.")

The rules report is accepted.

SENATOR MARCELLINO: Recognize Senator Levy.

ACTING PRESIDENT HOLLAND: Senator Levy.

SENATOR LEVY: I'd like to request unanimous consent to be recorded in the negative on 1276.

ACTING PRESIDENT HOLLAND: Without objection, Senator Levy is recorded in the negative on Calendar 1276.

SENATOR MARCELLINO: Can we recognize Senator Santiago, please.

SENATOR SANTIAGO: I'd like to

request unanimous consent to be recorded in the negative on Calendars 1297, 1354 and 1358.

ACTING PRESIDENT HOLLAND: Without objection, the Senator will be recorded in the negative on those three calendar items.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, could we take up Senate Supplemental Calendar Number 1, non-controversial, please.

ACTING PRESIDENT HOLLAND: The Secretary will read.

THE SECRETARY: Calendar Number 1366, by Senator Hannon, Senate Print 31A, an act to amend the Tax Law, in relation to the sales tax imposed on club dues.

SENATOR PATERSON: Lay aside, please.

ACTING PRESIDENT HOLLAND: Laid aside.

THE SECRETARY: Calendar Number 1386, by Senator Holland.

SENATOR MARCELLINO: Mr.

President.

ACTING PRESIDENT HOLLAND: Senator Marcellino.

SENATOR MARCELLINO: Can we have a brief pause for -- at the request of our Deputy Minority Leader to catch his breath.

ACTING PRESIDENT HOLLAND: The Senate will stand at ease temporarily, just a brief pause, not at ease, just a brief pause.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT HOLLAND: Senator Marcellino.

SENATOR MARCELLINO: May we now call up Calendar Number 1218. I believe there's a home rule message at the desk.

ACTING PRESIDENT HOLLAND: There is a home rule message at the desk. The Secretary will read it.

THE SECRETARY: On page 28, Calendar Number 1218, by Senator Maltese, Senate Print 3718A, an act to amend the Administrative Code of the city of New York, in relation to the

title and compensation of certain police sergeants.

ACTING PRESIDENT HOLLAND: Read the last section.

THE SECRETARY: There is a home rule message. We mentioned that.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT HOLLAND: Senator Marcellino.

SENATOR MARCELLINO: May we return to the non-controversial calendar, Supplemental Number 1.

ACTING PRESIDENT HOLLAND:

Secretary will read.

THE SECRETARY: Calendar Number 1366, by Senator Hannon, Senate Print 31A, an act to amend the Tax Law, in relation to the sales tax imposed on club dues.

SENATOR PATERSON: Lay aside, please.

ACTING PRESIDENT HOLLAND: Laid aside.

THE SECRETARY: Calendar Number 1386, by Senator Holland, Senate Print 203, an act to amend the Judiciary Law, in relation to increasing the allocation of funds.

ACTING PRESIDENT HOLLAND: Read the last section.

Senator Gold.

SENATOR GOLD: One second, please.

ACTING PRESIDENT HOLLAND: One second.

SENATOR MARCELLINO: Lay it aside.

ACTING PRESIDENT HOLLAND: Lay

the bill aside.

THE SECRETARY: Calendar Number 1387, by Senator Holland, Senate Print Number 467 -

SENATOR GOLD: Mr. President.

ACTING PRESIDENT HOLLAND: Senator Gold.

SENATOR GOLD: Yeah. I don't have any objection to -- to your bill, 18... 1386. I'd like to explain my vote, but if you'd like to call it up, I don't have any objection.

ACTING PRESIDENT HOLLAND: Can we return to 1386, please.

THE SECRETARY: Calendar Number 1386, by Senator Holland, Senate Print 203, an act to amend the Judiciary Law.

ACTING PRESIDENT HOLLAND: Senator Gold to explain his vote. Read the last section.

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

ACTING PRESIDENT HOLLAND: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT HOLLAND:

Senator Gold to explain his vote.

SENATOR GOLD: Mr. President, there was a day, I guess maybe a year or two ago when I sat at a committee meeting and your first bill came up, and I was disgusted and shocked at the problem and very proud of you for at least trying to deal with it but, as I looked into the problem, I found that while we are increasing the amount of money that goes to the client protection fund, I am unconvinced that the $40 additional amount of money makes the fund solvent, and the way I understand the fund has been operated is that they only take so many claims to process because they've only got a certain amount of money, rather than processing all of the claims and getting the money.

Now, when we originally, thanks to former Senator "Cadillac" Smith, put in this fee for lawyers, the argument behind it was that we would create a fund and take care of clients

who were injured. Then we got to the point where we started limiting the amount of money that went to the client fund and putting the other money elsewhere.

While I will support this bill because the hundred dollars is better than 60, Senator Holland, I don't think we've gone far enough. As much money as is taken from these fees as is necessary to pay injured clients ought to be available and the money should not be diverted. So, Senator Holland, you have my congratulations for dealing at least in some way with the problem, but it is in no way curing this problem, and there are people who have been injured by -- by lawyers who have defrauded their own clients, who are not being paid and that's our fault because we have diverted some of that money.

I vote in the affirmative.

ACTING PRESIDENT HOLLAND: Announce the results.

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The

bill is passed.

Secretary will read.

THE SECRETARY: Calendar Number 387, by Senator Holland, Senate Print 467.

SENATOR PATERSON: Lay aside, please.

ACTING PRESIDENT HOLLAND: Lay aside, please.

SENATOR STACHOWSKI: Mr. President.

ACTING PRESIDENT HOLLAND: Senator.

SENATOR STACHOWSKI: May I have unanimous consent to be recorded in the negative on Calendar Number 1270?

ACTING PRESIDENT HOLLAND: You were recorded in the negative on 1270.

Secretary will read.

THE SECRETARY: Calendar Number 1388, by Senator Jones, Senate Print Number 735, an act to authorize the Commissioner of the Department of Transportation.

ACTING PRESIDENT HOLLAND: Last

section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The bill is passed.

THE SECRETARY: Calendar Number 1390, by Senator Oppenheimer, Senate Print Number 1350A, an act to amend the Vehicle and Traffic Law, in relation to leaving the scene of an accident without reporting.

ACTING PRESIDENT HOLLAND: Read the last section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The bill is passed.

THE SECRETARY: Calendar Number 1391, by Senator Larkin, Senate Print 1578A, an act to amend the Real Property Tax Law, in relation to subjecting certain state lands.

ACTING PRESIDENT HOLLAND: Call the roll -- read the last section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The bill is passed.

THE SECRETARY: Calendar Number 1392, by Senator DeFrancisco, Senate Print 2304A, an act to amend the Canal Law, in relation to making conforming amendments.

ACTING PRESIDENT HOLLAND: Read the last section.

THE SECRETARY: Section 38. This

act shall take effect immediately.

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The bill is passed.

THE SECRETARY: Calendar Number 1393, by Senator Larkin, Senate Print 2555A, an act to amend the Town Law and County Law, in relation to establishment and extension of fire districts.

ACTING PRESIDENT HOLLAND: Read the last section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The bill is passed.

THE SECRETARY: Calendar Number

1394, by Senator Goodman, Senate Print 2643A, an act to amend the Transportation Law, in relation to establishing dispute settlement programs.

ACTING PRESIDENT HOLLAND: Read the last section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The bill is passed.

THE SECRETARY: Calendar Number 1359, by Senator Wright, Senate Print 3184A, an act to amend the Real Property Tax Law, in relation to subjecting lands within the Tug Hill region to taxation.

ACTING PRESIDENT HOLLAND: Read the last section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The bill is passed.

THE SECRETARY: Calendar Number 1396, by Senator Spano, Senate Print Number 3205, an act to amend the Retirement and Social Security Law, in relation to uniform court officers.

ACTING PRESIDENT HOLLAND: Read the last section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The bill is passed.

THE SECRETARY: Calendar... Senator Skelos moves to discharge from the

Committee on Rules Assembly Bill Number 6108A, and substitute it for the identical Calendar Number 1397.

ACTING PRESIDENT HOLLAND: Substitution ordered.

THE SECRETARY: Calendar Number 1397, by member of the Assembly Weisenberg, Assembly Print 6108A, an act to amend the General Business Law, in relation to qualifications for a private investigator's license.

ACTING PRESIDENT HOLLAND: Read the last section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The bill is passed. Senator Leichter.

SENATOR LEICHTER: Negative.

ACTING PRESIDENT HOLLAND:

Announce the results.

THE SECRETARY: Ayes 55, nays one, Senator Leichter recorded in the negative.

ACTING PRESIDENT HOLLAND: The bill is passed.

THE SECRETARY: 1398, by Senator Johnson, Senate Print 3560.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT HOLLAND: Lay the bill aside.

THE SECRETARY: Calendar Number 1399.

ACTING PRESIDENT HOLLAND: The bill is high. Laid aside, please.

THE SECRETARY: Calendar Number 1400, by Senator LaValle, Senate Print 3736, an act to amend the General Municipal Law, in relation to creating the town of Southampton Community Development Agency.

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

THE SECRETARY: Section -

ACTING PRESIDENT HOLLAND: Read

the last section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The bill is passed.

THE SECRETARY: Calendar Number 1402, by Senator DiCarlo, Senate Print 4049, an act to amend the General Municipal Law, in relation to paid leave for disaster service volunteers.

ACTING PRESIDENT HOLLAND: There's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The bill is passed.

THE SECRETARY: Calendar Number 1403, by Senator Leibell, Senate Print 4158, an act to amend the General Municipal Law, in relation to urban development action area projects.

ACTING PRESIDENT HOLLAND: Read the last section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The bill is passed.

THE SECRETARY: Calendar Number 1404, by Senator DeFrancisco, Senate Print 4225B, an act to amend the County Law, the General Municipal Law and the Education Law, in relation -

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT HOLLAND: Lay the bill aside.

THE SECRETARY: Calendar Number 1405, by Senator Spano, Senate Bill Number 4398, Local Finance Law, in relation to bonds and notes of the city of Yonkers.

ACTING PRESIDENT HOLLAND: There is no home rule message at the desk. Please lay the bill aside.

THE SECRETARY: Calendar Number 1406, by Senator Seward, Senate Print 4884A, State Administrative Procedure Act, in relation to provision of non-basic telecommunications services.

ACTING PRESIDENT HOLLAND: Read the last section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The

bill is passed.

THE SECRETARY: Calendar Number 1407, by Senator Goodman, Senate Print 5222, an act to amend the Tax Law, in relation to an amendment of a lease by a cooperative housing corporation.

ACTING PRESIDENT HOLLAND: Read the last section.

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

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The bill is passed.

THE SECRETARY: Calendar Number 1408, by Senator LaValle, Senate Print 5380, an act in relation to creating a tax stabilization reserve fund.

ACTING PRESIDENT HOLLAND: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT HOLLAND: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOLLAND: The bill is passed.

THE SECRETARY: Calendar Number 1409, by Senator Velella.

ACTING PRESIDENT HOLLAND: The bill is high. Lay it aside, please.

SENATOR LEICHTER: Mr. President.

SENATOR ONORATO: Mr. President.

ACTING PRESIDENT HOLLAND: Senator Leichter.

SENATOR LEICHTER: Yes. May I have unanimous consent to be recorded in the negative on Calendar Number 1406.

ACTING PRESIDENT HOLLAND: Without objection, Senator Leichter will be recorded in the negative on Calendar 1406.

SENATOR ONORATO: Mr. President,

may I have unanimous consent to be recorded in the negative on Calendar Number 1207?

ACTING PRESIDENT HOLLAND: Without objection -

SENATOR MENDEZ: Mr. President. Mr. President.

ACTING PRESIDENT HOLLAND: Sorry, Senator Onorato. 1207 has not passed, Calendar 1207 has not passed.

SENATOR ONORATO: Oh.

ACTING PRESIDENT HOLLAND: Senator Mendez.

SENATOR MENDEZ: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 1406?

ACTING PRESIDENT HOLLAND: Senator Mendez will be in the negative on 1406 without objection.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we go to the controversial calendar.

ACTING PRESIDENT HOLLAND: The

Secretary will read.

THE SECRETARY: Calendar Number 1366, by Senator Hannon, Senate Print 31A, an act to amend the Tax Law, in relation to the sales tax imposed on club dues.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT HOBLOCK: Explanation, Senator Hannon.

SENATOR HANNON: This legislation would clarify that the fees collected by home owners associations are exempt from sales and use taxes. This is not something that's enforced now on a consistent widespread basis. The Tax Department had issued an opinion saying that a portion of homeowners association dues allocated to the maintenance of recreation facilities are taxable as membership so that this is designed to correct that opinion and to overturn that opinion.

ACTING PRESIDENT HOBLOCK: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Hannon would yield.

ACTING PRESIDENT HOBLOCK: Senator Hannon, do you yield?

SENATOR HANNON: Yes.

SENATOR PATERSON: Senator, aren't you, by enacting this law, going against the spirit of the law that already exists? In other words, what you're trying to accomplish is exactly what the law wants you not to accomplish because over and beyond a certain amount such as $10, we have determined as lawmakers before that this is a taxable sum of money.

Now, where you have fraternal organizations or home management organizations that -- for perhaps rental of areas and they're dues paying and that kind of thing. These are, you know, I don't know whether or not they should be taxable but, if I was going to address this problem, what I would suggest is that maybe you raise the amount of money by which dues can be collected before they're taxable rather than picking a few areas that are suitable not to be taxable and having some that are because that really smacks of a certain preferential

treatment for certain and the denial of the same service for others.

SENATOR HANNON: I -- Senator, with all due respect, I'd have to -- I don't know exactly what your question would be, sir. I'd like -- let me give you the rationale and give you the -

SENATOR PATERSON: Let me give you the question in one statement. Don't you think you're going against the spirit of the law as it exists right now?

SENATOR HANNON: Not only would I say absolutely not. I would say the spirit of this, this is -- the bill, the new part of this bill deals with the homeowners associations and these are -- would include a cooperative assoc iation. Apartment could open and the idea of the real estate development that has taken place has been to offer these clubs as part and parcel of either the co-op or the condo or the home owners association, and the idea was it was an incident of ownership of the unit and, therefore, had nothing to do with the retail

sales in any which way and, therefore, when the advisory opinion of the Tax Department came along, they looked at it and said, Wait a minute, this is over-reaching, maybe it's embraced in the law, but it certainly is not the spirit, and it's not the intention and, therefore, we would correct it.

SENATOR PATERSON: Senator, maybe you're misunderstanding me. I don't think that that is such a bad thing, what you're trying to do. Actually, I think it's a good thing. What I'm asking you is, what about other social organizations and groups that are benefiting from dues practices in the same way that the ones you've addressed in this legislation is?

It's -- I don't have a problem with you putting them in, I just have a problem with you leaving the others out.

SENATOR HANNON: To the extent that I know about any -- very frankly, I don't know of any others that were included. I don't know that we've treated anybody unequally because I don't know that there's anybody out

there. I'm certainly willing to entertain it if you point us in that direction. What we have tried to do is have an equal treatment and have a logical treatment.

SENATOR PATERSON: Senator, let me give you an example. What about say, for instance, a neighborhood pool, everybody pays to be a part of the organization that runs the pool, everybody gets to use the pool. Would that be tax-exempt?

SENATOR HANNON: To my knowledge, neighborhood pools would not -- if they were doing it for profit, should be taxed. If they're an -- if they're an exercise organization, a Jack LaLanne, they ought to be taxed, but this is not where it's being run on a for-profit basis.

SENATOR PATERSON: Well, we would say -

SENATOR HANNON: Notice - notice, and what we're doing here is, one of the criteria for the exclusion is operating social or athletic facilities located in such area for

use by such owners or residents. In other words, what you have to do is really be a part and parcel of the organization and in our discussion with the Tax Department, we said if you would open it up and, therefore, be akin to a Jack LaLanne, well, then you ought to get taxed. That would be in the nature of a retail or commercial operation. We're not excluding it. What we're trying to do is exclude just for the use of the owners or their guests.

SENATOR PATERSON: Then I thank you for the explanation, Senator, because, just so -

SENATOR HANNON: Just one other thing. We say for such use whether or not exclusive. Now, the point is there would have to be at some point, you know, you could invite your grandchildren over, your cousin or something like that. That was the thought of allowing incidental use, but it would be far too difficult to detail all of that in statute, so when there is some type of de minimus extraneous use by those people who are not owners or

residents, that would be allowable. However, to the extent it would go beyond being de minimus, then it would be taxable.

SENATOR PATERSON: Senator, there's no cap to how high the fees might be charged, is there?

SENATOR HANNON: No.

SENATOR PATERSON: O.K. Well, Mr. President, the Senator has addressed the issues that were of concern to us, and it's good to have on record that the Senator has expressed that these were all of the sort of private organizations that he could think of, but if this issue were to come up because after his explanation I can't think of any more, so I would say that Senator Hannon is correct, if there were some that I'm not thinking of that arise in the future, hopefully this discussion will shed light on the fact that they will be included as well.

SENATOR HANNON: I just say I think your points are well taken, Senator, and glad you asked those questions.

ACTING PRESIDENT HOBLOCK: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of the quarterly sales tax period.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 1387, by Senator Holland, Senate Print Number 467, an act to amend the Social Services Law, in relation to including portable X-ray services.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT HOBLOCK: Senator Holland, an explanation has been asked for.

SENATOR HOLLAND: Yes, Mr. President, this bill allows for portable X-ray services to be directly reimbursed by Medicaid. It will improve care for those who are least

able to be transported to an X-ray facility and decrease costs associated with transportation.

SENATOR PATERSON: Senator Holland, the City, the mayor is objecting to this because he feels it will increase the City's costs. I don't know whether it does or it doesn't. I'm asking you if you know.

SENATOR HOLLAND: I wouldn't think so, Senator. It will make it much easier on the clients. It will reduce the cost of transportation. It will save Medicaid money on the cost of transportation and should lower the rates available for portable X-rays, and they can go to one facility and X-ray a number of people at that facility at the same time.

Did he tell you why he was -- he thought it would increase costs?

SENATOR PATERSON: Who, the mayor?

SENATOR HOLLAND: Yes.

SENATOR PATERSON: He just thought patients, but I think you've addressed the issue, Senator, and actually, last year the

Governor vetoed it for some reason because he thought it would lead to more fraud, but I don't see how that could be the case, do you?

SENATOR HOLLAND: Well, sir, in fact, Medicaid requires an attending physician to specify the area of the need for the patient, the area exposed and the number of radiographs to be obtained. I don't believe so, sir.

Certainly, we'll watch that for fraud and abuse.

SENATOR PATERSON: Well, in that case, sir, I think we can pass this bill immediately. I don't think we need to read the last section. Just pass the bill.

SENATOR HOLLAND: Thank you very much.

ACTING PRESIDENT HOBLOCK: Secretary will read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 1398, by Senator Johnson, Senate Print 3560, an act to amend the General Obligations Law, in relation to liability of landowners.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT HOBLOCK: An explanation has been asked for.

Senator Johnson. Senator Skelos?

SENATOR SKELOS: While we're waiting for Senator Johnson to come back in the chambers, all right, could you call up Senator DeFrancisco's bill, Calendar Number 1404, please.

ACTING PRESIDENT HOBLOCK: Secretary will read 1404.

THE SECRETARY: Calendar Number 1404, by Senator DeFrancisco, Senate Print Number 4225B, an act to amend the County Law, the General Municipal Law and the Education Law,

in relation to the appointment as private college security officers.

SENATOR ONORATO: Explanation.

ACTING PRESIDENT HOBLOCK: Explanation is asked for. Senator DeFrancisco.

SENATOR DeFRANCISCO: This bill was prepared at the request of Syracuse University. Substantial concern, as with other universities, where the security officers that are on the campuses have no authority other than simply the authority to make a citizen's arrest.

Several weeks ago, we passed a bill which basically stated that we wanted universities to report crime statistics and, quite frankly, we can report all we want if those security officers that are on the campuses don't have some authority to arrest other than a citizen's arrest, merely reporting them isn't going to do any good.

What this bill would do is that it would -- it would allow for either a - the sheriff or the chief of police in the

jurisdiction where the university is, to appoint officers that would be security officers at the university, but be paid by the university and the university -- the officers would, instead of just having citizen's arrest authority, they would have arrest to -- the power to arrest based upon probable cause.

Lastly, this could not take place unless the jurisdiction itself is -- would pass legislation that would allow this to happen, so the locality would have to make that determination whether to put this into effect. It gives them the authority.

SENATOR PATERSON: Well, Senator, you've put in some good measures to protect the locality. Senator Mendez likes your bill as she passes by, but I have a couple of questions if you wouldn't mind yielding.

SENATOR DeFRANCISCO: Sure.

ACTING PRESIDENT HOBLOCK: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes, I do.

SENATOR PATERSON: Senator, when

we start with security guards with batons and allowing them to carry made, mace may inevitably be a nominal issue because we may just wind up passing legislation to allow citizens to carry mace but, when we do allow that where we stand right now, without any training, without any real understanding of what law enforcement capability is and duty and responsibility, do you think that we are in a sense giving these private security guards any power that may be corruptible in the sense that it may lead to the uses of excessive force in situations for which there is no merit?

SENATOR DeFRANCISCO: Senator, first of all, we were very careful not to include the carrying of weapons as part of this bill, and merely a baton and mace. It seems that if we're going to give these officers, security officers, the authority to arrest and in some cases it's a violent type crime -- as we know, there are rapes on college campuses and barring assaults on college campuses, it would be, I think, unfair to not equip them with

something to defend themselves and allow them to arrest on probable cause, so I think a balance has been struck to, I think, alleviate most of the concerns that you might have because they would not be allowed to carry a weapon other than a baton and mace and if there was abuse on behalf of an officer, whether it be liability like in any other case of excessive force being used.

SENATOR PATERSON: Senator, I am concerned that we are not privatizing our police in some respects, and even the police are con cerned about citizens who get hired privately doing this kind of work getting carried away, so to speak, particularly in the cases of college security, often many of them are younger people who are working in those capacities as well.

I notice that the Sheriffs Association was opposed to your "A" print of this particular legislation even though I will concede that you did not allow them to carry weapons, and that you're trying to strike a balance. Now, you have a "B" print of the

bill. That's the one that's before us as we speak.

How has the Sheriffs Association responded to that bill?

SENATOR DeFRANCISCO: They haven't, but I would assume that the statewide Sheriffs Association would be opposed. I think it's clearly an issue of the fact that there will be a private university hiring their own security guards rather than someone who might be a member of their association.

I did, however, take great pains to work with our local department, the Onondaga County Sheriffs Department and their association has con... has agreed with this bill and has not filed any objection to it, and I think the reaction of the statewide Sheriffs Association is a logical one from their perspective, but the fact of the matter is, with municipalities with financial problems, towns, villages, cities and counties, are unable to hire enough police to - to deal with college campuses, and that's why college campuses have hired security guards and

we're just trying to give them some ability to stop a crime in progress or arrest somebody on probable cause and a minimal amount of equipment to protect themselves.

SENATOR PATERSON: And the budget.

Mr. President, rarely does the sponsor of legislation admit that by conjecture he or she would assume that an organization is opposed, so I really want to commend Senator DeFrancisco. I think he's very honest on that particular point.

I would want to make you aware though, Senator, I'm not a member of the Sheriffs Association. I feel I have a substantive reason for wanting to criticize this piece of legislation, and I think that many of their members probably feel the same way. I think of it might be a little more than just the fact that they aren't actually getting the jobs.

I understand the -- the situation that you're trying to address, and the often

increased violence on our campuses today. What I'm just saying is that to arm this personnel in a way that I think could actually cause more violence or excessive violence is something that has to be scrutinized as strictly as possible, and if the individuals who are taking these jobs are not often pre-screened in situations that become volatile, they can get as carried away as some of the individuals who are in the situation. They don't have the same training that our police and other law enforcement personnel have, and I think that those situations just as much as the private security guards sometimes don't act when they should out of anxiety created by these situations, sometimes they over-react.

All of this is attributed not to a defect in their character, but really what is really a lesser amount of training and full understanding of the actual situation.

And so, on the bill, Mr. President, I would -- wouldn't be able to vote for this bill because I just think that it is,

as the statewide Sheriffs Association says, in many respects, privatizing a law enforcement capacity that should generally be administered through the public.

ACTING PRESIDENT HOBLOCK: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Mr. President. We have done a considerable amount of work, oh, about two or three years ago, concerning security on college campuses, and I think this bill is worthy of support.

I would commend to you a bill I have which says that the SUNY peace officers ought to have some very specific training in sexual abuse cases, and we have a bill in that recommends 12 hours of training in this, because this is, perhaps, the most common -- it is the most common violent crime on college campuses, and there should be further training.

I think it's warranted because of the nature of sex offenses and the way one has to respond -- you know, the degree of sensitivity and appropriateness to the victim

and, because of the unusual nature of that crime, we feel there should be additional training. I think now, in the training for security guards, I think it's three hours. We believe it should be brought up to 12 in light of the peculiar nature of this offense, in that, it is such a common -- unfortunately, such a common crime on campuses.

So I commend that to you, but I support your bill.

ACTING PRESIDENT HOBLOCK: Senator DeFrancisco.

SENATOR DeFRANCISCO: Two points. As I mentioned before, there is a provision in the bill that would require the university to indemnify the sheriff's department or the city police in case of any time that they might be involved in a suit because of excessive force or improper activities.

And, directly to Senator Paterson's point, there is a section in the bill which I neglected to mention that requires that the individuals who are these security guards be

registered pursuant to the Security Guard Act, which is part of the General Business Law, and complete a training program with special emphasis on the proper use of a baton and noxious materials approved by the Municipal Police Training Council or similar agency.

There's also provision for character and background checks which are in the best interest, obviously, of the universities since they, most likely, would not want to be sued for having an incompetent individual in these positions.

ACTING PRESIDENT HOBLOCK: Secretary will read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar 1404 are Senators Connor, Paterson and Wright. Ayes 54, nays 3.

ACTING PRESIDENT HOBLOCK: The

bill is passed.

SENATOR HOFFMANN: Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Hoffmann.

SENATOR HOFFMANN: I would request unanimous consent to be recorded in the negative on Calendar 748, passed earlier today.

ACTING PRESIDENT HOBLOCK: Unless there's objection, Senator Hoffmann will be recorded in the negative on Calendar 1748 - 748, I'm sorry.

Senator Skelos.

SENATOR SKELOS: I believe there has been a home rule message received on Calendar Number 1405, by Senator Spano. Would you call the bill at this time.

ACTING PRESIDENT HOBLOCK: Secretary will read.

THE SECRETARY: Calendar Number 1405, by Senator Spano, Senate Print 4398, an act to amend the Local Finance Law, in relation to bonds and notes of the city of Yonkers.

ACTING PRESIDENT HOBLOCK: There

is a home rule message at the desk.

Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT HOBLOCK: The bill is passed.

Senator Skelos.

SENATOR SKELOS: May we stand at ease for one moment.

(There was a pause in the proceedings.)

SENATOR SKELOS: Shortly, there will be a supplemental live calendar coming out to the original calendar, the yellow calendar that's on our desk, so if they want to see what's coming up, they should come in the chambers as soon as possible.

At this time, we will take up Calendar 1398, by Senator Johnson.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT HOBLOCK: The Secretary will read Calendar 1398.

THE SECRETARY: Calendar Number 1398, by Senator Johnson, Senate Print 3560, an act to amend the General Obligations Law, in relation to liability of landowners.

SENATOR JOHNSON: Mr. President, this bill amends Paragraph (b), Subdivision 2, Section 9.103 of the General Obligations Law, by adding consideration for hunting and fishing at an amount less than the property taxes paid on the property.

Mr. President, what this bill is intended to do is open up more lands for hunting and fishing. In 1980, we had 58,000 people take the hunting safety course. In 1994, the number was only 28,000. There are fewer licenses being sold, and the revenues which support wildlife restoration and other things, these monies come from hunting and fishing licenses.

One of the main problems in diminishing hunting and fishing in New York

State is the lack of access. What we're trying to do with this bill is to say to a person, you can have general protection against lawsuits the same as enjoyed for people now using your property for skiing, horseback riding, or whatever, if you lease this land out or let people come in by the day for a fee for hunting or fishing. As long as you do not earn any more money than the amount of taxes on your property, you can still have the protection afforded by Section 9.103.

ACTING PRESIDENT HOBLOCK: Senator Paterson.

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

If Senator Johnson will be gracious enough to yield for a couple of questions.

ACTING PRESIDENT HOBLOCK: Senator Johnson, do you yield?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT HOBLOCK: Senator yields.

SENATOR PATERSON: Thank you, Senator. These situations come up, I assume, on a case-by-case basis. In other words, there could be a number of individuals who are coming onto someone's property to hunt and fish, and as long as all of them individually are paying less than the owner pays in property taxes, they can use the property; is that not correct?

SENATOR JOHNSON: Well, the way I understand the bill, you can not take in any more than your taxes. For example, if your taxes were $1,000 a year, you couldn't take in more than $1,000 in any calendar year for letting persons use this or for leasing the property.

SENATOR PATERSON: So it's the total collective -

SENATOR JOHNSON: Revenue.

SENATOR PATERSON: -- amount?

SENATOR JOHNSON: That's correct, Senator.

SENATOR PATERSON: Senator, that still would allow -- in other words, would you

explain to me, if you would yield for a question, what the amount is; in other words, what the relationship is between the amount of money that's collected and the property tax itself? In other words, if you want to allow people to hunt and fish on a person's land and you want the person to be tax exempt, why did the amount of money that they paid to the owner make a particular difference?

SENATOR JOHNSON: Senator, you said something about tax exempt? This has nothing to do with any tax exemptions. What this is to do, Senator, many people own land now -

SENATOR PATERSON: I'm sorry, Senator. I may have said tax exempt. I just meant exempted from liability. I'm sorry.

SENATOR JOHNSON: Oh, okay. Many persons, downstate, Jersey, other states, own land in upstate New York, good hunting land. They don't usually let people on that land. They post those lands. Many of them don't even use the land which is posted, but it's not

accessible for the general public to go hunting; and a lot of the wildlife programs, conservation programs, are supported by revenues from hunting and fishing license fees.

What this is intended to do is encourage a person who owns land upstate, by providing a small financial incentive, no profit, he is not going into business really, just letting him recoup up to the amount of his taxes so he makes his land available to hunters and fishermen.

SENATOR PATERSON: Senator, my fear is that we are creating a situation where we are disaffecting duty. What we are really doing is abrogating responsibility to the user where the owner may not really even reside on the premises. It might be some land that they just own, and they just might collect a little money to let people go to hunt and fish on the actual land, but there is no upkeep. There may be hazards on the land. There may be dangerous situations that an individual might meet up with by coming on the land and by, in a sense,

shielding them from liability, if some accident would occur, what is the -- and I guess you know the question I'm going to ask you -- what is going to be the circumstance that will be faced by the victim of some sort of accident?

SENATOR JOHNSON: Senator, I used the example of a downstate person owning property, but, of course, a lot of these properties are owned by upstate people who reside on these properties, so they will not always be unsupervised. They may be in many cases.

But we're only amending Section 2(b), but we do not limit the liability which would otherwise exist for willful or malicious failure to guard or warn against a dangerous condition, structure, use or activity, et cetera, or acts by a person whose permission was granted to other persons, et cetera, et cetera. They still would have the normal duty to warn of dangers, and so forth, which might exist.

So I think we're really limiting in a very strict way what takes place here and,

of course, the landowner will have the present liability which he retains in every other respect.

SENATOR PATERSON: Thank you very much, Senator.

Mr. President, on the bill.

ACTING PRESIDENT HOBLOCK: Senator Paterson, on the bill.

SENATOR PATERSON: Originally, there was some confusion in the bill as to whether or not there was an amount of money that might exceed the money paid in property taxes. Senator Johnson certainly cleared that up by letting it be known that it could not exceed the amount of money, even if it was from a number of donors, that the landowner pays in taxes.

What still concerns us is the issue of individuals being possibly harmed on property that doesn't have any upkeep because there is no real pressure on the landlord. Senator Johnson's response is that really it only relates to certain parts of the actual procedure and that, actually, there still are

protections for an individual who is injured on someone else's property.

We just feel that that's an area of law that really should not be touched.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55, nays 2. Senators Connor and Paterson recorded in the negative.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Wright, we have some housekeeping matters, if you would like to take care of those now.

SENATOR WRIGHT: If you would, Mr. President. Please proceed with the housekeeping and recognize Senator Libous.

ACTING PRESIDENT MAZIARZ:

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. On behalf of Senator Goodman, on page 5, I offer the following amendments to Calendar Number 163, Senate Print Number 1746, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MAZIARZ: Amendments received and adopted.

There is a substitution at the desk, Senator Wright.

SENATOR WRIGHT: Please make the substitution.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: Senator Holland moves to discharge from the Committee on Rules Assembly Bill Number 8042 and substitute it for the identical Calendar Number 1352.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

Senator Wright.

(Whereupon, there was a pause in

the proceedings.)

SENATOR WRIGHT: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Wright.

SENATOR WRIGHT: While we appreciate the efficiency being demonstrated by the presiding officer, we are extending a brief courtesy to the Minority Leader, who is reviewing the supplemental calendar, supplemental active list of Thursday, June 15. We encourage the other members to also review that active list, and we will soon be taking that up and proceeding, and we appreciate the indulgence of the chair.

Thank you, Mr. President.

(There was a pause in the proceedings.)

ACTING PRESIDENT MAZIARZ: Senator Wright.

SENATOR WRIGHT: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Wright.

SENATOR WRIGHT: Would you

recognize Senator Solomon for the purpose of voting.

ACTING PRESIDENT MAZIARZ: Senator Solomon.

SENATOR SOLOMON: Thank you, Mr. President. I would like unanimous consent to be recorded in the negative on Calendar 1398.

ACTING PRESIDENT MAZIARZ: Without objection, so ordered.

SENATOR SOLOMON: Thank you, Mr. President.

SENATOR MAZIARZ: Senator Wright.

SENATOR WRIGHT: Mr. President, if we could return to the original active list and call up Calendar Number 1238.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: Calendar Number 1238, by Senator Sears, Senate Print 4903B, an act to amend the General Business Law, in relation to itinerant vendors.

SENATOR WRIGHT: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MAZIARZ: Yes, there is, Senator Wright.

SENATOR WRIGHT: I move we accept the message.

ACTING PRESIDENT MAZIARZ: All those in favor.

(Response of "Aye.")

Opposed.

(Response of "Nay.")

The message is accepted.

Senator Paterson.

SENATOR PATERSON: Mr. President. I don't need an explanation on this bill. Senator Sears provided one on Monday, and I asked him a couple of questions about the bill not really -- serving unequally to all of the vendors, and that correction has been made, and the bill is quite fine, and we'd like to thank Senator Sears for listening and for responding, and the bill, we feel, is improved and should serve everyone equally.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Wright.

SENATOR WRIGHT: If you will give us a minute, Mr. President, we're waiting for a sponsor to return to the floor.

ACTING PRESIDENT MAZIARZ: Surely, Senator.

SENATOR WRIGHT: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Wright.

SENATOR WRIGHT: If we could again return to the initial active list, and I request that you call up Calendar 1221.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: Calendar Number

1221, by Senator Goodman, Senate Print 4688C, an act to amend the Vehicle and Traffic Law, in relation to unlicensed and fraudulent operators.

SENATOR WRIGHT: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MAZIARZ: There is a message at the desk.

SENATOR WRIGHT: I move we accept the message.

ACTING PRESIDENT MAZIARZ: All those in favor of accepting the message.

(Response of "Aye.")

Opposed.

(There was no response.)

The message is accepted.

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MAZIARZ: The

bill is passed.

Senator Wright.

SENATOR WRIGHT: Mr. President, we will now move to the supplemental active list. We will begin the noncontroversial calendar, please.

ACTING PRESIDENT MAZIARZ: Secretary will read, please.

THE SECRETARY: On page 15, Calendar Number 720, by Senator Holland, Senate Print 206, an act to amend the Public Health Law, in relation to notification to local social services departments.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 732, by Senator DiCarlo, Senate Print 3362, an act to amend the Vehicle and Traffic Law and the Criminal Procedure Law, in relation to driving while under the influence of alcohol or drugs.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 27. This act shall take effect on the first day of November.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 737, by Senator Stachowski, Senate Print 1671A, an act to amend the General Municipal Law, in relation to authorizing the establishment of a Bureau of Administrative Adjudication.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 746, by Senator Padavan, Senate Print 4185A, an act to amend the Real property Tax Law, in relation to tax exemption.

ACTING PRESIDENT MAZIARZ: Senator Wright.

SENATOR WRIGHT: Mr. President, is there a message at the desk?

ACTING PRESIDENT MAZIARZ: Yes, there is a message from the Governor.

SENATOR WRIGHT: Move we accept the message of necessity.

ACTING PRESIDENT MAZIARZ: All those in favor of accepting the message of necessity.

(Response of "Aye.")

Opposed.

(There was no response.)

The message is accepted.

Read the last section.

THE SECRETARY: Section 26. This act shall take effect July 1.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: The bill is passed. Oh, I'm sorry.

Senator Kuhl.

(There was no response.)

THE SECRETARY: Ayes 57, nays 1.

ACTING PRESIDENT MAZIARZ: Results.

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 751, by Senator Skelos, Senate Print 1243B, an act to amend the General Business Law and the

Education Law, in relation to the registration of hearing aid dispensers.

Senator Wright.

SENATOR WRIGHT: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MAZIARZ: Yes, there is.

SENATOR WRIGHT: I move we accept the message.

ACTING PRESIDENT MAZIARZ: All those in favor of accepting the message, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect January 1.

SENATOR ABATE: Explanation.

ACTING PRESIDENT MAZIARZ: Lay the bill aside.

THE SECRETARY: Calendar Number

752, by Senator Sears, Senate Print 1536A, an act to amend the General Business Law, in relation to materialmen.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 771, by Senator Lack, Senate Print 4427A, an act to amend the Judiciary Law and the Uniform City Court Act, in relation to City Court judges.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 7. This act shall take effect April 1.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 852, by Senator Padavan, Senate Print 2238A, an act to amend the Vehicle and Traffic Law, in relation to driver education.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

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

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58, nays 1. Senator Kuhl recorded in the negative, also Senator Larkin.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 859, by Senator Goodman, Senate Print 3498A, an act to amend the Transportation Law, in relation to estimates of transportation charges.

ACTING PRESIDENT MAZIARZ: Senator Wright.

SENATOR WRIGHT: Mr. President, if you would proceed with 859, and then please recognize me.

ACTING PRESIDENT MAZIARZ: Proceed. Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes -

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Wright.

SENATOR WRIGHT: Mr. President, could we return to 751 on the Calendar.

ACTING PRESIDENT MAZIARZ: Could you just hold on for one second, Senator Wright?

Thank you.

Results.

THE SECRETARY: Ayes 58, nays 1. Senator Kuhl recorded in the negative.

ACTING PRESIDENT MAZIARZ: Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: The

bill is passed.

Senator Wright.

SENATOR WRIGHT: Are you ready?

(Laughter.)

ACTING PRESIDENT MAZIARZ: Did you get Senator Larkin's negative vote? I would never hear the end of it. Thank you.

SENATOR WRIGHT: Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Wright.

SENATOR WRIGHT: Can we return to Calendar Number 751.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: Calendar Number 751, by Senator Skelos, Senate Print 1243B, an act to amend the General Business Law and the Education Law, in relation to the registration of hearing aid dispensers.

ACTING PRESIDENT MAZIARZ: I just want to point out that the message was previously accepted on this bill.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect January 1.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58, nays 1, Senator Maziarz recorded in the negative.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Wright.

SENATOR WRIGHT: If you will continue with the reading of the noncontroversial calendar on the supplemental active list.

THE SECRETARY: Calendar Number 861, by Senator Spano, Senate Print 3975D, an act to amend the Public Authorities Law, in relation to the cost of station operation.

ACTING PRESIDENT MAZIARZ: Senator Wright.

SENATOR WRIGHT: Is there a message of necessity at the desk?

ACTING PRESIDENT MAZIARZ: Yes, there is.

SENATOR WRIGHT: I would move we accept the message.

ACTING PRESIDENT MAZIARZ: All those in favor of accepting the message of necessity.

(Response of "Aye.")

Opposed.

(There was no response.)

The message is accepted.

Secretary will read.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MAZIARZ: Lay it aside.

THE SECRETARY: Calendar Number 876, by Senator Levy, Senate Print 4986C, an act to amend the Public Authorities Law, in relation to the cost of station operation.

ACTING PRESIDENT MAZIARZ: Senator Wright.

SENATOR WRIGHT: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MAZIARZ: Yes, there is a message of necessity.

SENATOR WRIGHT: I would move we accept the message.

ACTING PRESIDENT MAZIARZ: All those in favor of accepting the message of necessity.

(Response of "Aye.")

Opposed.

(There was no response.)

The message is accepted.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 885, by Senator Goodman, Senate Print 3455A, an

act to amend the Tax Law, in relation to extending Section 1142-A of such law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 919, by Senator Stafford, Senate Print 2396A, an act to amend the Tax Law, the Vehicle and Traffic Law, and the State Finance Law, in relation to the creation of the United States Olympic Committee.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 925.

ACTING PRESIDENT MAZIARZ: The bill is high. Lay it aside.

THE SECRETARY: Calendar Number 957.

ACTING PRESIDENT MAZIARZ: The bill is high. Lay it aside.

THE SECRETARY: Calendar Number 959.

ACTING PRESIDENT MAZIARZ: The bill is high. Lay it aside.

THE SECRETARY: Calendar Number 993, by Senator Leibell, Senate Print 5009.

ACTING PRESIDENT MAZIARZ: Lay the bill aside.

THE SECRETARY: Calendar Number 1027, by Senator Sears, Senate Print 3331A, an

act in relation to authorizing the town of Lee, county of Oneida, to lease certain park lands.

ACTING PRESIDENT MAZIARZ: Senator Wright.

SENATOR WRIGHT: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MAZIARZ: There is a message of necessity at the desk.

SENATOR WRIGHT: I would move the acceptance of the message.

ACTING PRESIDENT MAZIARZ: All those in favor of accepting the message of necessity.

(Response of "Aye.")

Opposed.

(There was no response.)

The message is accepted.

We also have a home rule message at the desk for Calendar 1027.

Read the last section, please.

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

ACTING PRESIDENT MAZIARZ: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1051, by Senator Goodman, Senate Print 917A, an act to amend the Civil Rights Law, in relation to prohibiting the use of nonconsensual use of a person's voice.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1141, by Senator Farley, Senate Print 5120A, an

act to amend the Banking Law, in relation to establishing limitations for the percentage of savings bank's assets.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1151, by Senator Spano, Senate Print 1701A.

ACTING PRESIDENT MAZIARZ: Senator Wright.

SENATOR WRIGHT: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MAZIARZ: Yes, there is a message of necessity at the desk.

SENATOR WRIGHT: I move we accept the message.

ACTING PRESIDENT MAZIARZ: All those in favor of accepting the message.

(Response of "Aye.")

Opposed.

(There was no response.)

The message is accepted.

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1173, by Senator Cook, Senate Print 5164A, an act in relation to authorizing the town of Greenville, Orange County, to sell and convey certain park land.

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

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1189, by Senator Solomon, Senate Print 2854A, an act to amend the Civil Practice Law and Rules, in relation to fees for referees.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number

1328, by Senator Sears, Senate Print 3839A, an act to amend the General Business Law, in relation to false price comparisons.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

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 MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1334, by Senator Johnson.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MAZIARZ: Lay the bill aside.

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 MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The

bill is passed.

THE SECRETARY: Calendar Number 1344, by Senator Maltese, Senate Print 5302, an act to amend the General Procedure Law, in relation to jury consideration of lesser included offenses.

ACTING PRESIDENT MAZIARZ: Lay the bill aside.

THE SECRETARY: Calendar Number 1345, by Senator Levy, Senate Print 5326, an act to amend the Vehicle and Traffic Law, in relation to authorizing the Department of Motor Vehicles to sell to the highest bidder.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1346, by Senator Leibell, Senate Print 5329, an act to amend the Private Housing Finance Law, in relation to the state's involvement.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1347, by the Senate Committee on Rules, Senate Print 5333, an act to amend the Tax Law, in relation to extending the effectiveness of provisions.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1348, by Senator Marchi, Senate Print 5343, an act to amend the Navigation Law, in relation to pilotage fees.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1350, by Senator Johnson, Senate Print 5357.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MAZIARZ: The bill is laid aside.

THE SECRETARY: Calendar Number 1352, substituted earlier today, by the Assembly Committee on Rules, Assembly Print 8042, an act to amend the Social Services Law, in relation to the pass-through of federal cost of living adjustments.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 4. This act shall take effect December 31.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1376, substituted earlier today, by the Assembly Committee on Rules, Assembly Print 7667, an act to amend Chapter 420 of the Laws of 1991, amending the Real Property Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1377, by Senator Larkin, Senate Print 5361, an act to amend the Real Property Tax Law, in relation to making technical and clarifying amendments thereto.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1378, by Senator Stafford, Senate Print 5365, an act to amend the Public Health Law, in relation to establishing the ovarian cancer information program.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1379, substituted earlier today, by the Assembly Committee on Rules, Assembly Print 8095, an act to amend the Family Protection and Domestic Violence Intervention Act of 1994, in relation to changing the date of operation.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1380, by the Senate Committee on Rules, Senate Print 5392, an act to amend Chapter 653 of the Laws of 1984, amending the Social Services Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The

bill is passed.

THE SECRETARY: Calendar Number 1382, by Senator Sears, Senate Print 5413, an act to amend Chapter 1 of the Laws of 1994, amending the Personal Property Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MAZIARZ: The bill is laid aside.

THE SECRETARY: Calendar Number 1383, by Senator Farley, Senate Print 5436, an act to amend the Banking Law, in relation to interstate branching.

Senator Wright.

SENATOR WRIGHT: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MAZIARZ: There is a message at the desk.

SENATOR WRIGHT: I move we accept the message.

ACTING PRESIDENT MAZIARZ: All those in favor of accepting the message of necessity.

(Response of "Aye.")

Opposed.

(There was no response.)

The message is accepted.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MAZIARZ: Lay the bill aside.

THE SECRETARY: Calendar Number 1384, by Senator Galiber, Senate Print 4181, an act to amend the Education Law, in relation to providing grants to school districts.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1385, by Senator Abate, Senate Print 2548, an act to amend the Alcoholic Beverage Control Law,

in relation to requiring applicants for licenses and renewals.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: That's all right, Mr. President. Let it go.

ACTING PRESIDENT MAZIARZ: Are you sure, Senator Paterson?

SENATOR PATERSON: Some other time maybe.

ACTING PRESIDENT MAZIARZ: Senator Wright.

SENATOR WRIGHT: We will acknowledge the Deputy Minority Leader's request.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Wright, for what purpose do you rise?

SENATOR WRIGHT: I believe that completes the noncontroversial calendar.

If you would take up the controversial calendar, Senator Spano is ready, and we'll call 861.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: Calendar Number 861, by Senator Spano, Senate Print 3975D, an act to amend the Public Authorities Law, in relation to the cost of station operation.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MAZIARZ: Senator Spano, an explanation has been requested from Senator Paterson.

SENATOR SPANO: Mr. President, this bill would establish a formula for levying station maintenance charges by suburban counties. It would replace a system that we

have right now of cost allocations and audits that are involved in current statute, that really would adopt some middle ground where the suburban counties would pay a specified dollar amount that would be subject to an adjustment that is made annually to reflect the regional consumer price index.

The difficulties the counties right now have had is that the -- the parties are subject to a formula for station maintenance that determines the charges without regard to the actual expenses. This puts some -- makes some sense into the system -- puts some sense into the system -- something like that.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Spano.

Senator Paterson.

SENATOR PATERSON: Mr. President, all we're interested in, if Senator Spano would yield for a question?

ACTING PRESIDENT MAZIARZ: Senator Spano, would you yield for a question?

SENATOR PATERSON: What formulas

affect New York City? Does New York City get included in this formula, or how do we treat the counties in New York City right now?

SENATOR SPANO: No, this bill does not affect the city of New York at all. It excludes the city of New York and the formulas are put in place that affect only the suburban counties.

SENATOR PATERSON: Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57, nays 2, Senators Connor and Paterson recorded in the negative.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number

993, by Senator Leibell, Senate Print 5009, an act to amend the Administrative Code of the City of New York, in relation to access to correct housing maintenance code violation.

ACTING PRESIDENT MAZIARZ: Senator Wright.

SENATOR WRIGHT: Mr. President, can we lay that aside temporarily and proceed?

ACTING PRESIDENT MAZIARZ: Secretary will read.

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.

ACTING PRESIDENT MAZIARZ: Senator Johnson, an explanation has been -

I'm sorry. Senator Wright.

SENATOR WRIGHT: Mr. President, can we lay that aside temporarily, and we'll proceed to Calendar Number 1344.

ACTING PRESIDENT MAZIARZ: Proceed to Calendar 1344, please.

THE SECRETARY: Calendar Number

1344, by Senator Maltese, Senate Print 5302, an act to amend the Criminal Procedure Law, in relation to jury consideration.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MAZIARZ: Senator Maltese, an explanation has been requested by Senator Paterson.

SENATOR MALTESE: Yes.

Mr. President. This bill was introduced at the request of the Chief Administrative Judge upon recommendation of his Advisory Committee on Criminal Law and Procedure. It is carried in the Assembly by Assemblyman Wright.

It amends the Criminal Procedure Law to provide that whenever the Court submits two or more offenses in the alternative to the jury and the jury has deliberated for an extensive period of time on the greater offense and is unlikely to come to an agreement within a reasonable amount of time, it may go on to consider any lesser included offense.

The Court, in choosing to give

that instruction, must instruct the jury that if the defendant is convicted of a lesser included offense, he or she may not be tried on the greater offense.

Basically, it assists the people in eliminating possibly mistrials, eliminating the situations as occurred in the Robert Chambers case, where the jury acting under People versus Butker felt that they had to arrive at a unanimous -- and the present law - felt they had to arrive at a unanimous decision on the greater count before proceeding to the lesser count and deliberated for eight and a half days and, if they had not arrived at a plea bargaining, would undoubtedly -- the case would undoubtedly have resulted in a mistrial.

The change which has been suggested permits the jury, after consideration of the greater charge and deliberation on the greater charge and, in addition, a finding by - concurred in by the Court, that a unanimous decision on the greater charge cannot be arrived at, permits the jury to go down to the lesser

charge.

In addition, there are concurrent portions of the statute which would entitle the attorney for the defendant to except to the judge charging that the jury may, upon not arriving at a unanimous decision on the greater charge, then proceed to the consideration of the lesser charge.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Maltese would yield for a question?

SENATOR MALTESE: Yes.

ACTING PRESIDENT MAZIARZ: Senator Maltese, would you yield for a question?

SENATOR MALTESE: Yes.

SENATOR PATERSON: Senator Maltese, in the jury system, what we want is for the jurors to arrive at a conclusion in which they all concur, and what frightens me about this bill is that it opens the door to the prospective of compromised verdicts. In other

words, we can't convict him for the higher offense, so what we'll do is we'll convict him on the lower offense even though we really can't settle our differences because maybe eight of us think he is guilty and four of us don't think he is guilty.

I think way back in the late '60s or early '70s in the Chicago 7 case in Chicago, that's how they actually settled that case. There were a number of Law Review articles written in law school journals after that about this whole sense of one juror serving as liaison between two camps and creating a compromise verdict, even though three or four of the jurors walked out of the room absolutely convinced that these defendants in this particular case were not guilty.

Now, the particular case does not matter. The articles were talking about just the regular jury system. How do you think this bill can be enacted? How can we enact a law without jeopardizing the system where there is consent among jurors?

SENATOR MALTESE: Mr. President, as I had mentioned earlier, the legislation was at the suggestion of the Chief Administrative Judge and, while we have received no memos from district attorneys' organizations, at the same time we have not received memorandums from Legal Aid or any defender associations in opposition.

In addition, the fact that it is not only carried in the Assembly by Assemblyman Wright but also, I am advised, concurred in by other Assemblymen, who, I think, are justly concerned with the rights of defendants, permits me to arrive at the assumption that the rights of the defendants in these cases are assuaged.

Now, the way that's done is that this is not done in a vacuum. First of all, it is done with the consent of the judge presiding in the case. Secondly, it is only after a determination concurred in by that judge that the jury is unable to agree on a unanimous verdict on the greater charge.

In addition, it must satisfy the judge that a sufficient time has been spent on

deliberations on that point and, again, it is only when alternative charges are presented to the jury that they can go from the greater charge to the lesser charge.

In addition, I think it satisfies defense counsel and defense organizations in that it provides that when the -- unlike the federal system, that when the jury arrives at the verdict of guilty for the lesser charge, the defendant cannot be tried under double jeopardy for the greater charge in the future.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Thank you, that was quite instructive, Senator Maltese.

I raised with you a question probably that would relate more to the concerns of the defense, but there is perhaps even a problem that prosecutors would have who are often able to keep high conviction rates for high offenses.

But, correct me if I'm wrong - your previous answer may be providing me with

the answer I need for this question, being that this is really the point of last resort. This is only when the jury now informs the Court that they can not reach a decision, so it's not that the jury goes into the jury room with this option right in front of them?

SENATOR MALTESE: No -

ACTING PRESIDENT MAZIARZ: Senator Maltese, do you yield?

SENATOR MALTESE: -- Senator Paterson is correct. It is not ab initio, not when they first go out. Even if they receive the instruction from the judge, they must come back to the Court and advise the Court that they have deliberated, satisfy the Court that they have deliberated for an extensive period of time, and then that they can not arrive at a unanimous verdict, before they go down to consideration of the lesser charge.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: The defense consent is something that's addressed in this

bill. But, moving along, if Senator Maltese will continue to yield?

ACTING PRESIDENT MAZIARZ: Senator Maltese, do you continue to yield?

SENATOR MALTESE: Yes.

SENATOR PATERSON: Can this conviction to the lesser charge be accomplished over the objections of the district attorney in the proceedings?

SENATOR MALTESE: Your Honor, I believe by statute -

SENATOR PATERSON: That's "Mr. President".

SENATOR MALTESE: The statute that we're putting in, the fact that the district attorney may object would not have a bearing on this, and the jury would be able to consider the lesser charge even over the objection of the district attorney.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Mr. President, that kind of cuts both ways.

On the bill. I think that this legislation actually would affect both sides equally; and seeing that there really doesn't seem to be any major objection from anybody, even though there are some concerns, I guess we will proceed to the next piece of legislation.

Thank you.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Wright.

SENATOR WRIGHT: Mr. President, if we could take up Calendar Number 1382.

ACTING PRESIDENT MAZIARZ: Clerk will read.

THE SECRETARY: Calendar Number

1382, by Senator Sears, Senate Print 5413, an act to amend Chapter 1 of the Laws of 1994, amending the Personal Property Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MAZIARZ: Senator Sears, an explanation has been requested by Senator Paterson.

SENATOR SEARS: Yes, sir. Senator, back in the waning hours of 1994, when we were in session regarding this particular banking bill that we had to pass, I think it was in March -- I think it was retroactive to sometime in January -- there was an auto leasing bill which was long overdue that was included in that legislation.

Now, as I said, this was passed during the final hours prior to the time that the laws pertaining to the interest rates on banking were to sunset, so we had some real important things that should have been in that bill that were agreed by the Governor to be in there, and these range from complaints from consumers being charged for excess wear and tear

and failure by the dealer to disclose the costs associated with the lease, including the capitalized cost, early termination and gap insurance liability.

These are all things that we should have in any auto leasing legislation in this state. Unfortunately, we did not get those in there. They are necessary.

So, for that reason, we want to extend the date that this goes into effect by seven months so that we can renegotiate these very important things and get them into the legislation early next year.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

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

ACTING PRESIDENT MAZIARZ: Senator Sears, will you yield for a question?

SENATOR SEARS: Yes.

SENATOR PATERSON: Oh, thank you, Senator Sears. You have two bills of this sort. One is, I guess, the Assembly bill that

you are carrying over here, and one is your own bill. Do you have an objection to the Assembly bill passing? Because it seems that the Assembly's position is that they would just let the seven months elapse and let the law go into effect, and apparently the difference of opinion is that there are some substantive and technical changes that you would like to add.

Would you like to illuminate us as to what, briefly, a couple of them are?

SENATOR SEARS: Are you talking about capitalization costs?

SENATOR PATERSON: Right.

SENATOR SEARS: Well, "capitalization costs," when you go in to buy a car, you know how much you are paying for it and, then, if you want to dicker with the dealer, you can, but at least you got a starting point. It's my understanding when you lease a car, you go in and they don't have to tell you, and they don't quite often tell you what the capitalization costs are, but then when you come back in and say you want to buy that car, where

do you start as far as depreciation is concerned, because you don't know what it was worth when you first went in there and leased it or bought it.

Another problem is what they hit you with after you bring the car back in after the lease is up. What's "excessive wear and tear"? There has to be something in there for that, because it's my understanding from certain people who have complained to me about auto leasing is they get hit with every scratch that might have been on there before they even leased the car. They didn't know it, and sometimes - and, as a matter of fact, I think that Senator Bruno might have had a problem with something similar to that back a few years ago, as far as when he took that lease car back, he got hit with some pretty good bills for what they said was wrong with that car that wasn't when he leased it.

Then, of course, if you are leasing a car and you run into some bad times and perhaps you lose your job, for example, and

you can't meet the terms of that contract that you had for leasing, you might have to ask for an early termination, and the way the law is presently, I guess, or no law, that can be pretty expensive because you are at the mercy of who you leased the car from as to what those termination costs are going to be.

So for these reasons, and since this legislation has nothing to do with the bank legislation that was included in the same bill, we're asking for this seven-month delay so that these negotiations can continue so that we can have a bill that is going to be way overdue but at the same time if you don't have some of these things in that bill and this goes into effect, this certainly doesn't give the consumers much protection under the present system we have, which really isn't any because we never had any meaningful auto leasing legislation in this state and, in my opinion, if we don't extend this to January, seven months, we still won't have any meaningful legislation.

ACTING PRESIDENT MAZIARZ: Thank

you, Senator.

Senator Paterson.

SENATOR PATERSON: Mr. President, we're going to really just have a problem because Senator Sears and the Assembly just haven't been able to agree. The Assembly wants Senator Sears to pass his legislation and, otherwise, we would have to wait until January the 31st, but what Senator Sears is saying is that he has some technical corrections where he can clear up some discrepancies in the bill, and that's what he wants to do.

Now, the issue really is just that they can not agree and, unfortunately, since they can't agree, I guess we'll pass this bill, but it's not going anywhere.

But on both sides, there is some merit that is very clear from the explanation that we just heard, and I hope that at some point in the very near future we can find that agreement.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Wright.

SENATOR WRIGHT: Mr. President, will you please recognize Senator Saland to record a vote.

ACTING PRESIDENT MAZIARZ: Senator Saland.

SENATOR SALAND: Mr. President, I request unanimous consent to be recorded in the negative on Calendar 751, Senate 1243B.

ACTING PRESIDENT MAZIARZ: Without objection, so ordered.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I request unanimous consent to be recorded in the negative on Calendar 583 and also on Calendar 751.

ACTING PRESIDENT MAZIARZ: Without objection, so ordered.

Senator Wright.

SENATOR WRIGHT: Mr. President, could we lay 1383 aside temporarily.

ACTING PRESIDENT MAZIARZ: 1383 is laid aside.

Senator Wright.

SENATOR WRIGHT: Do you have any housekeeping at the desk?

ACTING PRESIDENT MAZIARZ: No, we have no housekeeping, Senator.

SENATOR WRIGHT: Then we shall pause for a moment.

ACTING PRESIDENT MAZIARZ: Senate will stand at ease.

(Whereupon, at 3:37 p.m., the Senate was at ease until 3:40 p.m.)

ACTING PRESIDENT MAZIARZ: Senator Sears.

SENATOR SEARS: Yes, mr. President. On the first calendar we had, Calendar -

ACTING PRESIDENT MAZIARZ: Can we have some order in the chamber, please?

Senator Sears, hold it.

Can we have some order?

Senator Sears.

SENATOR SEARS: -- Calendar Number 1354, Senate 5321, I would like to be recorded in the negative.

ACTING PRESIDENT MAZIARZ: Without objection, so ordered.

Senator Wright.

SENATOR WRIGHT: Mr. President, if we can return to the first active list, Calendar Number 1319.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: Calendar Number 1319, by Senator Stachowski, Senate Print 5352, an act to authorize the city of Buffalo, Erie County, to lease certain parklands.

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

SENATOR WRIGHT: Last section.

ACTING PRESIDENT MAZIARZ: Read the last section, please.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Wright.

SENATOR WRIGHT: Mr. President, if we could now return to the supplemental active list and take up Calendar Number 1334.

ACTING PRESIDENT MAZIARZ: Secretary will read.

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.

ACTING PRESIDENT MAZIARZ: Senator Johnson, an explanation has been requested by Senator Stachowski.

SENATOR JOHNSON: Mr. President, this is a simple bill. This would conform New York State law to a federal law in a certain instance here.

Mr. President, lay that bill aside, please. I had a different bill in mind. Lay it aside temporarily.

ACTING PRESIDENT MAZIARZ: Lay it aside temporarily.

Senator Wright.

SENATOR WRIGHT: Mr. President, can we then move to -- and we're on the supplemental active list -- Calendar Number 1350.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: Calendar Number 1350, by Senator Johnson, Senate Print 5357, an act to amend the Environmental Conservation Law, in relation to the definition of facility for the purposes of control of the bulk storage of petroleum.

SENATOR GOLD: Explanation.

ACTING PRESIDENT MAZIARZ: Senator Johnson, an explanation has been requested by Senator Gold and Senator Paterson.

SENATOR JOHNSON: Well, I guess I have to give two explanations then. I will start with the first one.

Mr. President, in the Environmental Conservation Law, there's regulation of underground tanks. This provides that any tanks separately or in combination over 1,100 gallons are a facility and should be regulated as such. They have to have a license to pay a fee up to $250, depending upon the size.

The federal law does not read the same. In fact, we're amending our law to be the same as the federal law, which says if the 1100 gallons is interconnected, over 1100 gallons, then it's a facility, but if there are separate tanks on the property adding up to more than that, it would not be considered a facility.

This is just a common sense thing, and the explanation we have here, which

we think is a legitimate one, is a church with a rectory or several commercial buildings on the same property with 500-gallon tanks or something adding up to more than 1100 gallons, even though they're separate tanks in separate buildings, would make the whole site considered a facility and pay this fee and this fine.

The idea of this was to have - where you could have the possibility of a major spill from a facility, all interconnected tanks, that you want to protect the groundwater, but it was never anticipated to cover 275- or 500-gallon tanks or even 1,000-gallon tanks which are separate and would be separately filled and if they developed a leak, they would be separate leaks. They would not be interconnected, would not cause a major spill.

This bill essentially says that if you have over 1100 gallons, yes, you are still a facility in one tank, but if you have over 1100 in several tanks, you are not a facility.

And this would help, as I say, a

church rectory, several small tanks on the same property. You would not have to file with the DEC and become an oil facility.

Simple bill, makes sense, should be enacted.

SENATOR OPPENHEIMER: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer.

SENATOR OPPENHEIMER: Would Senator Johnson yield for a question or two?

ACTING PRESIDENT MAZIARZ: Senator Johnson, would you yield for a question?

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer.

SENATOR OPPENHEIMER: How many existing tanks do you think would be exempted from regulation by this bill, the number? How many tanks?

SENATOR JOHNSON: I couldn't tell

you. I know it would exempt the one in your house if you have a 1,000-gallon tank in your house or a 275 on your property. It would exempt you. It would exempt a lot of farms that might have 500 gallons of diesel fuel, 500 gallons of gasoline, maybe 275 in the house for heating the house. Right now, they have to file as a facility, as an oil terminal essentially, because they have three separate tanks on the same property. Doesn't make any sense, Senator, to do that, and that's all excluded.

If you have a tank farm all connected, obviously, they have to be filed as a facility.

SENATOR OPPENHEIMER: That was a question that I had, that conceivably it could be an oil tank farm, that if each tank is separate and less than 1100 gallons, you could -

SENATOR JOHNSON: Senator, the tank farms and the service stations don't fool with tanks less than 5,000 or 10,000 gallons. Those would all be required -- any single tank

over 1100 gallons would still be required to go on the facility designation.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer.

SENATOR OPPENHEIMER: Would you continue to yield, please?

ACTING PRESIDENT MAZIARZ: Senator Johnson, would you continue to yield?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer.

SENATOR OPPENHEIMER: There is no limit on the size of the site or the number of separate tanks on one site. Now, this could conceivably result in a farm, an oil tank farm.

ACTING PRESIDENT MAZIARZ: Senator Johnson.

SENATOR JOHNSON: Well, I mean the simple fact is it's not economical to do that. No one would set up a tank farm with multiple 1,000-gallon tanks all separate, separate tanks, separate pumps, separate hoses. It doesn't make sense. It simply would not

happen.

But I'll tell you right now, Senator, you could have -- on an acre of land, you could have 8 or 10 homes, each with a 275 or a 550. You got 5,000 gallons on an acre right now, and they are not regulated. But if the same person owned two of these plots, each with a 550, then they would have to file it as a facility while the other eight homes, owned by individuals, don't not have to file as a facility. That doesn't make any sense, Senator.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer.

SENATOR OPPENHEIMER: One last question.

ACTING PRESIDENT MAZIARZ: Senator Johnson, do you continue to yield?

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer.

SENATOR OPPENHEIMER: Does the Petroleum Association support this bill, and

will this bill enhance the marketability of oil at the expense, do you think, of natural gas, because they are not subject to this kind of law?

SENATOR JOHNSON: Senator, I don't think this bill has any great influence on the marketplace at all, because people are still responsible if they have an oil leak. The designation of "facility" has no connection to your possible liability for oil leaking from your premises, or gasoline for that matter. You are still responsible. It is not a marketing situation at all.

It's just rationalizing, and removing the necessity of a person with several small tanks adding up to 1100 gallons to file as a facility with the DEC. As a matter of fact, they are not doing it now and probably violating the law, but it's not causing any particular problem.

As I said, Senator, this just conforms to the same designation as the federal government in terms of a facility. We think the

definition should be the same. We don't think we should be different because we're New York State.

SENATOR OPPENHEIMER: Thank you, Senator.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Wright.

SENATOR WRIGHT: Mr. President, we'll now move to the Supplemental Calendar Number 1, Calendar Number 1409, by Senator Velella.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: Calendar Number

1409, by Senator Velella, Senate Print 5395A, an act to amend the Public Health Law, in relation to the testing of pregnant women.

ACTING PRESIDENT MAZIARZ: Senator Wright.

SENATOR WRIGHT: Is there a message of necessity at the desk?

ACTING PRESIDENT MAZIARZ: There is a message of necessity at the desk.

SENATOR WRIGHT: I move we accept the message.

ACTING PRESIDENT MAZIARZ: All those in favor of accepting the message.

(Response of "Aye.")

Opposed.

(There was no response.)

The message is accepted.

An explanation has been requested by Senator -

SENATOR GOLD: No, I just want to be recognized.

ACTING PRESIDENT MAZIARZ: Senator Gold.

SENATOR GOLD: Thank you.

ACTING PRESIDENT MAZIARZ: For what purpose?

SENATOR GOLD: To speak on the bill, Mr. President.

Mr. President, my understanding of this is that this bill deals in an area where we have already this year passed legislation and sent it on to the Assembly. If I'm not mistaken, the bill that we passed on was Senate Print 2704, which is a bill that had rather broad sponsorship on a bipartisan basis, and when you are dealing with an issue like this, you like to think that the public interest is very much involved and that politics should be taken out of it.

At any rate, apparently the Assembly has not acted yet on 2704 -- I don't believe they have -- and now, today, we are given a new bill, 1409, by Senators Velella and Hannon, and the words I hear around in the hall are that Senator Velella and Assemblywoman Mayersohn may have reached some private new

agreement based on this bill.

When I look at the original bill, I see an awful lot of Assembly people, an awful lot of Senators involved in this issue. It's an issue that's been around a couple years. We've all worked very, very hard and, in speaking to some of my colleagues, I got the impression that passing this only muddies the water, and we don't understand it.

The Assembly has gone home until Monday, and I get the impression that almost everybody on this side of the aisle would have to vote in the negative on this bill at this point, because we are very concerned about the issue and we don't want to muddy the water. We don't want this politicized. We don't want this thrown around and new bills coming out whenever anybody gets the whim or the wish.

Nobody owns this issue. There are very significant problems. There are children; there are parents all affected. Nobody owns them or the issue, and we're all fighting for them.

I tried to find Senator Velella for the last hour, and I know he is one of our hardest working Senators, and I wasn't able to hook up with him, but I wanted to tell him the feelings before the bill was called, although I did tell Assemblywoman Mayersohn that the likelihood is that there very well might not be any votes on this side of the aisle. I can't, from my position, speak for everybody on this side of the aisle, but that's kind of the impression I get.

So, Senator Velella, if you have the votes and you want to proceed, I guess you can, but that's about it for me on this bill.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Mr. President, I think in light of what Senator Gold is saying, I might be willing to waive some of the ques tions I wanted to ask Senator Velella. I appreciate what Senator Gold is saying. I was well aware that there was bipartisan support for this bill. There was certainly a great deal of

effort to pass this bill both in the Assembly and in the Senate.

I'd just like the record to reflect that nine of us voted against this bill. We really believed that it was not an effective bill as it stood when we voted on it originally in March, and it is really no better now as it comes into this chamber today, particularly since the sero prevalence exams have pretty much been thwarted by the Centers for Disease Control because they object, for medical reasons, exactly to what is going on around here, which is the passage of this legislation leading to a presumption, obviously among an overwhelming majority of individuals, even including my friend Senator Gold, that there is some effectiveness of knowing this information, and I will not take up any more time going through the issue.

But there were some questions that I would have raised relating to the testing of pregnant women, relating to actually getting rid of the test in those cases, rendering these

women among the same status as the deceased for testing purposes, the fact that we will be testing newborns automatically, so we would be retesting the newborns even where we have tested the pregnant mothers and -- okay.

And so, I won't go through all of the issues, but I would just want the record to reflect that there are issues. I would say that there is really a higher principle in this particular discussion, which is that when members feel that a bill is the right bill - Senator Mendez is certainly one of those Senators who believes very much in the bill. She disagrees with me virulently. She should be on the bill. All those individuals who believe in this bill should be on the bill. This is not the way at this particular time.

Maybe we'll discuss the merits, but there's really a higher cause, and that is, that the bill is not being fair to all of those who support it.

ACTING PRESIDENT MAZIARZ: Senator Velella.

SENATOR VELELLA: Senator, let me first respond to the question of the sponsorship of this bill, and let me first publicly acknowledge that many members on your side of the aisle have been very supportive and very much involved in getting this issue to the point where it is today.

Assemblywoman Mayersohn, who has really been the main moving factor more than myself in this bill, was negotiating a bill with my staff, the Health Committee staff, the Majority Leader's office, the Governor's office, in an effort to respond to public comments that were made about the initial bill by the Speaker of the Assembly.

The Speaker of the Assembly had indicated that he had some reluctance to pass the original bill because it did not deal with the issue of prenatal counseling and possible testing. He thought that we ought to deal with the bill on the basis of the front end of the pregnancy and also, then, address the part after the child is born.

As you know, our original bill just dealt with the part after the baby was born. We had discussed this with several people over in the Assembly. They feel this may give the Speaker the opportunity to work with this bill and to accept some kind of a compromise which is provided for in this bill, where we have prenatal counseling, we have prenatal testing, and we have the parts and elements of the original bill.

Now, this bill and the language was only ironed out last night at midnight. While the bill is now open for co-sponsorship by anybody, as I told you when you first approached me outside about an hour and a half or two hours ago, I would be happy to have you on. Certainly, your name would add prestige to the bill, and it would also reflect your support of this cause, or any other member in the house. It wasn't a partisan thing.

The fact of the matter is there are a lot of Republicans who are not listed as co-sponsors. I would not take the liberty at

midnight to add names to a bill of this nature without letting people have the opportunity to read it and see it. I thought they would have the opportunity to read it and see it this morning and today, and they could buck-slip it, and they have my open authorization.

I was asked about a half an hour ago by the counsel to the Majority Leader if I had any objection to opening the bill to the Minority. I said, no, I did not. The bill was open to the Minority. It is open to the Minority. It is not a partisan issue. There are Republican members on this side of the aisle that are not on this bill that will be buck slipping onto it. I think this is such a worthwhile cause that there is enough credit to go around to everybody in this house who wants to support this measure.

Let me say that the changes in this bill addressing the merits of the bill, I think, go a long way to trying to compromise as to what the Speaker had indicated he was inter ested in. A lot of the counseling provisions

are part of the bill that Senator Tully passed in this house last year, which Assemblyman Gottfried also had part in.

So I think this is a good basis. Hopefully, the Speaker will see fit to pass this bill. He may see fit to make some changes that we can agree to, and we may see this issue brought back for a third time when we return to the Senate.

But, certainly, I think this is a very positive step. It goes a lot further than my original bill in dealing with the issues of counseling women, providing them with the opportunities to have the information available for them, and also the opportunity to deny the right to be tested prenatally. So while there may have been a rush to print this and get it done by today, I want to clearly state that there was no offense intended to anyone that was omitted from the bill, whether they be Republican or Democrat. It's just that at midnight, you can not put people's names on it. It certainly is open to be buck-slipped in, and

anybody can have the pleasure of putting their name on the bill, as I had said an hour ago.

ACTING PRESIDENT MAZIARZ: Senator Stavisky.

SENATOR STAVISKY: Sometimes in the closing days or hours of a session, nerves are frayed, people are tired, mistakes are made, and there probably is enough blame to go around as to why mistakes were made in the handling of this issue. Nevertheless, I don't believe that we should allow errors in judgment with regard to how legislation comes before us and whose name is on and whose name is off to be the sole consideration if the cause itself is just, and I believe that the cause is as just now as it was when we originally tackled this issue.

Not everyone will agree with that, and I respect your individual positions, but I hope that in the effort to prevent children from being tested without their parents' knowledge of what the test results were, and in our equally important desire to have prenatal counseling, which I support -

and, in fact, last year, without Senator Velella's approval, I took a bill that had passed in the Assembly under Speaker Silver's name and I added a hostile amendment, or was prepared to add a hostile amendment in this chamber incorporating Assemblywoman Mayersohn's concept, which would have been a compromise bringing together the disclosure of the results of the testing to the mother in order to protect the baby and at the same time providing for counseling and other precautionary prenatal actions.

I don't like the way the bill came, in this rushed manner, today. I don't like the fact that people who were sponsoring either or both of these measures when they were separate have had their names removed because, allegedly, there wasn't enough time to consult them. If we want to make enough time, we know how to do it. We know how to do a lot of things when the cause is just or even when it's not so just, and we want to get a bill passed.

So I'm saying, I hear what

everyone has said. I respect Senator Gold's position. I respect the explanation of Senator Velella, and I'm going to ask Senator Velella to yield to a question.

ACTING PRESIDENT MAZIARZ: Senator Velella, will you yield?

SENATOR VELELLA: Yes.

SENATOR STACHOWSKI: Senator Velella, on the record, when a bill that is acceptable to the Assembly and is acceptable to the leadership of this house comes before us later in the session, do I have your assurance that the names of people who wish to co-sponsor that bill, presumably a done deal, a state statute, that all these names will be on the final bill?

SENATOR VELELLA: Certainly, Senator. Because as I said in the beginning, the Governor is very committed to this. Certain members on this side and members on your side of the aisle are committed to it. I don't believe this is an issue that sees partisan lines, and I will be happy to have my Democrat colleagues on

any bill and will commit to you that they will have the opportunity to be on any bill.

ACTING PRESIDENT MAZIARZ: Senator Stavisky.

SENATOR STAVISKY: With that explanation, I will ask that my name be added with a buck slip to this bill, and I will ask Senator Velella to keep that commitment to the members of this chamber who desire to be on a final version of a bill dealing with prenatal care as well as disclosure of HIV testing to the parents of the children.

I don't believe the issue needs a lengthy debate. We've had one in this chamber. The feelings are very strong on both sides, and I ask that the members rationally, without feeling that they've been had or they've been taken for granted, that you agree to disagree as individuals. Do not be put into a lockstep because of a feeling that you have been ignored or bypassed or overlooked. When a mistake is made, it should be acknowledged. Once it's acknowledged -

Is it my understanding that this bill will be laid aside?

SENATOR VELELLA: At the request of the Minority Leader, to give the minority members an opportunity to put their slips in to the desk before the bill is passed, I would ask that the bill be laid aside for a few minutes, and they can get their buck slips in and then we'll continue on with the debate. That's at the request of the Minority Leader.

ACTING PRESIDENT MAZIARZ: The bill is temporarily laid aside. We will, however, maintain the list.

SENATOR STAVISKY: Are the buck slips at the desk now so we don't have to go back to our office?

Thank you.

ACTING PRESIDENT MAZIARZ: Senator Velella.

SENATOR VELELLA: Any Republican members can submit their slips now or later on, as the case may be.

(There was a pause in the

proceedings.)

ACTING PRESIDENT MAZIARZ: Senator Velella.

SENATOR VELELLA: The sponsorship of the bill will remain open if any Republican members or Democratic members wish to put their names on the bill, even after this little interlude, so that members can file their buck slips.

ACTING PRESIDENT MAZIARZ: The bill is temporarily laid aside to permit members to sign on if they wish, and the slips are right down here at the desk.

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President. We will now return to the original active list, Calendar Number 1375.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: 1375, by Senator Nozzolio, Senate Print 5328A, an act to amend the Tax Law, in relation to extending the period for an additional one percent, Monroe County

sales tax rate.

ACTING PRESIDENT MAZIARZ: Senator Wright.

SENATOR WRIGHT: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MAZIARZ: Yes, there is a message of necessity at the desk.

SENATOR WRIGHT: I move we accept the message.

ACTING PRESIDENT MAZIARZ: All those in favor of accepting the message of necessity, say aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message of necessity is accepted.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes -

ACTING PRESIDENT MAZIARZ: Senator Dollinger is recognized.

Senator Dollinger.

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

ACTING PRESIDENT MAZIARZ: Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: Mr. President, this bill extends the sales tax in Monroe County and represents a compromise and a worked-out settlement between the county executive, the mayor, school districts, towns -

ACTING PRESIDENT MAZIARZ: Excuse me, Senator Dollinger.

Can we have some order in the house so that Senator Dollinger can be heard, please.

Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

It represents a compromise

between the county, the city, the towns, the suburban school districts. There was a great deal of input during the process to come to this conclusion. I think, Mr. President, that sometimes when a compromise is reached, not everybody is ecstatic, not everyone is over whelmed but, as one person once described it, they reach a mutual level of dissatisfaction, and I think that's what we have here.

We have an agreement that may not be everything that the city wanted, everything that the county wanted, but, nonetheless, reflects a reasonable compromise. The mayor supports it, the county executive supports it, the school districts support it, the towns support it, and I stand here today to support it as well.

I commend my colleague from Monroe County, from the Webster portion of Monroe County, and the rest of Western New York, for his leadership in bringing the bill to the floor, and I hope we can pass this and, hopefully, use this bill as a jumping off point

for an extended discussion about the use of sales tax versus property taxes in the Monroe County community in the future.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I ask permission to explain my vote.

Mr. President, my colleagues: I echo those sentiments. By passing this legislation to extend the Monroe County sales tax, our Senate has honored the commitment to Monroe County and the city of Rochester and the many towns and school districts within Monroe County.

The legislation was crafted with a cooperative spirit advanced in the Senate in a bipartisan manner, and I compliment each of the Monroe County delegation members on both sides of the aisle for their attention and spirit of cooperation throughout the deliberations. As one who is entrusted with that responsibility of representing Monroe County, it's been a great

honor to work with my colleagues in the Senate, as well as Assemblyman Gantt, in adopting this legislation.

County Executive Jack Doyle and Rochester Mayor Johnson deserve special commendation for their hard work on this issue and for promoting a spirit that can only lead to further enhancements for the people of Monroe County by our state legislative delegation.

I rise in support and urge my colleagues to do the same, Mr. President.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Nozzolio.

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Wright.

SENATOR WRIGHT: Mr. President, at this time, is there any housekeeping at the desk?

ACTING PRESIDENT MAZIARZ: No, at this time there is no housekeeping at the desk, Senator Wright.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Mr. President, would you be kind enough to recognize Senator Nanula.

ACTING PRESIDENT MAZIARZ: Senator Nanula.

SENATOR NANULA: Mr. President, if I had been in the chamber last evening, for the record, I would like it to show that I would have voted in the negative on Calendars 937 and 1327.

ACTING PRESIDENT MAZIARZ: The record will so reflect.

SENATOR NANULA: Thank you.

ACTING PRESIDENT MAZIARZ: Senator Wright.

SENATOR WRIGHT: Mr. President, we're going to return now to Calendar Number 1409.

ACTING PRESIDENT MAZIARZ: Calendar Number 1409. The Secretary will read.

THE SECRETARY: Calendar Number 1409, by Senator Velella, Senate Print 5395-A, an act to amend the Public Health Law, in relation to the testing of pregnant women for the human immunodeficiency virus.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Yes. I was asking for an explanation, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Velella, an explanation has been asked for.

SENATOR VELELLA: Senator Paterson, as I mentioned before, this bill is the result of a lot of work, most particularly by Assemblywoman Mayersohn, a lot of members from our side of the aisle, a lot of members

from your side of the aisle and definitely a commitment from the new executive of this state to seriously address the problem of baby AIDS or children being born with the AIDS virus or antibody.

As you know, my prior bill dealt only with the post-birth problem of identifying or letting parents know that their child had been born with the presence of the HIV antibody and providing for the unblinding of the test.

This is a commitment by the Governor, both financially and his own personal belief. When he was a member of this house, he supported the bill and he supported Senator Tully's bill on counseling that we have to address this problem, not only after the child is born and identify those children who have the virus or have the potential for the virus or have the antibody, but we also must do the best that we can do in view of new technology, new testing that's available to make it make women aware, one, of the problem and the availability of testing, and this bill provides for when a

woman first goes to a doctor and it's determined that she is pregnant, that the doctor advises her about the wisdom of being tested for HIV and give her the opportunity to reject if she so chooses that test but to counsel her and to discuss with her the need for being tested so that if, in fact, she does have that dreaded disease, it will not be transmitted or some prevention can be used by treatment with AZT which seems to be something that is progressing, and hopefully as we go on each month, we will find newer and newer things to deal with this problem, but certainly there has been some success in treating women during the course of their pregnancy to prevent transmission of the disease to their child. In addition, once the child is born and should the test -- the child test positive, again, there is a provision for test -- for counseling for referral services.

This is very expensive, as you know. It's several millions of dollars. The Governor of this state has committed the money for the counseling part, for the testing part

for this program. It is a giant step forward from where we were when we were talking about the other bills that have been passed by this house.

People will have the opportunity to be counseled, to get the proper referrals and to get the proper treatment. I think this is a giant step forward for all of us and it is a major commitment by the Governor of this state to basically put his money where his mouth is, that he is concerned about this problem. He is willing to commit the dollars to it and make the commitment for the future to see that these children do not contact this dreaded disease if, in fact, it is at all preventable and if, in fact, they do have it to make their days here as safe, enjoyable and pleasant as possible and probably save a few lives along the way.

So I think that that basically sums up where we are on this bill and I will be happy to answer any questions that you have.

ACTING PRESIDENT MAZIARZ:

Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

This bill marks an important turning point in New York State because we are beginning to come out of the dark ages where we have, unfortunately, treated the entire HIV issue from a political perspective much too often, instead of regarding the problems of HIV as a communicable disease issue, and if we can shift the focus through this bill and other bills so that the affected populations can get the earliest medical intervention possible, we will have saved lives and we will have done something truly significant.

I have been a sponsor of the earlier measure. I have now buck-slipped my name to retain my sponsorship on this new compromised bill, and I will continue to speak out openly and vigorously on the need for greater testing, in a few cases mandatory testing of other populations, including the inmate population in the state of New York which I have sponsored a bill a number of years that

would address that issue and I look forward to the day when it too can become a matter of law.

I am somewhat troubled, however, and want to just pause for a moment because we are going into the final days of session in this house, in this Legislature, at the beginning of a new term for the Governor of this state who is operating under many, many constraints, coming into office and discovering an enormous deficit dealing with new leadership in one house on both sides of the aisle, not to mention the get acquainted problems of bringing together an enormous staff and getting to know the landscape of the state. It must be a very, very onerous and burdensome responsibility.

Throughout this time, Governor Pataki has been a -- a warm-hearted individual, I think on many fronts. He has been well received in my part of the state. Although we are from different political parties, I continue to have much respect for him and agree with him philosophically on many things.

But one thing that he campaigned

on which I hope he will not abandon was a desire to change the secrecy in Albany as it affects important decision-making, and this particular bill and the last few hours of its history are a throw-back to a bygone era and I hope we will not be subjected to this type of maneuvering in midnight meetings in the future.

I can recall being asked to attend a bipartisan press conference, I think it was about the 2nd of April -- the 1st or 2nd of April -- one of the few that we had in this hall this year. In fact, one of the few in many years at which Senator Velella and Assembly Mayersohn -- Assemblywoman Mayersohn and a whole host of legislators from both houses, from both sides of the aisle, stood and made our pledge to do what this bill would now do. It was a -- it was a special moment because it signified true bipartisan cooperation and determination to see something through.

To hear on the floor earlier today that a measure had been agreed to only at midnight last night and there was not time to

contact the original sponsors is simply not an acceptable way for us to conduct business, and while I very much appreciate Senator Velella's taking the time and being gracious enough to allow all of us to have our names added again to the bill, I recall reading a newspaper story a few months ago that listed a very large number of staff people who worked for Senator Velella and my guess is he probably could have had some of those staff, including the very capable Donna Montalto who was a member of my staff many years ago as an intern, they probably could have contacted all ten of the Democratic sponsors and every Republican sponsor in the hours from midnight last night until 4:00 o'clock this afternoon to ask us if we wanted to remain on the bill.

In fact, there are many examples of that courtesy having been extended this year. In fact, not too long ago, Senator Velella -

ACTING PRESIDENT MAZIARZ: Senator Hoffmann, would you yield to Senator

Velella?

SENATOR HOFFMANN: In one second. Just let me complete this.

SENATOR VELELLA: Just a quick question.

SENATOR HOFFMANN: I'll yield in one second, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Hoffmann.

SENATOR HOFFMANN: Thank you.

In fact, as a very nice case in point, not too long ago, Senator Volker as the prime sponsor of the death penalty, had one of his top counsels make frequent phone calls and FAX material back and forth, ask how late we would be available in the office while we were revising the death penalty bill as we were approaching a final close down on that measure.

So I will extend to Senator Velella my desire to be as cooperative as I possibly can. I will keep my office open. I will come in at midnight. I have FAXes at my apartment and on my farm and I will remain in

close contact as this process develops, but more importantly, I want to send the message to Governor Pataki and Senator Bruno that all of us hope that we can avoid the type of stressful experience we just endured a few moments ago in this chamber by having true bipartisan cooperation throughout the process, and now I will be more than happy to yield to Senator Velella.

ACTING PRESIDENT MAZIARZ: Senator Velella to answer a question.

SENATOR VELELLA: Senator, I would just like to ask you to do me a personal favor and make the commitment yourself to collect the phone numbers of those Minority Senators that would like my staff to have it and where they will be at midnight on any nights so that I could reach them in the event that this happens again and will be able to prevent it, so if you would turn over the numbers to me of where all of the members will be at midnight, I will be happy to be sure this never happens again.

SENATOR HOFFMANN: I will be more than happy -

ACTING PRESIDENT MAZIARZ: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

I will be more than happy to provide that information to Senator Velella, but I think it's probably quite clear that it would not have been necessary in this case since our offices were open at 8:30 this morning and it's now 4:00 o'clock in the afternoon. There had been time for that to have been done, and I also recognize that a simple call to the Minority Leader through his staff which is available 24 hours a day would have elicited that information without any great difficulty. There were only ten of us, so I'm sure that we're all off to a much better start going into the waning days of this session. We will all exchange lots of phone numbers and FAX numbers and we will have no more problems with sponsors' names disappearing from measures as they sometimes

have in the past.

ACTING PRESIDENT MAZIARZ: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

I supported the earlier form of this bill and I support this form. I thank Senator Velella and Senator Hannon for their efforts. I recognize that negotiations often take longer than anyone would like and sometimes they're rather torturous. We went through torturous budget negotiations, sometimes the procedure wasn't to everybody's liking but I think ultimately we ended up with a good budget bill, not perfect but a good one. This bill may not be perfect in every way, but it's a good bill. It's a better bill than the previous bill. Many accommodations were made and I'm pleased to support it, and I thank the efforts of those involved.

ACTING PRESIDENT MAZIARZ: The Chair recognizes Senator Mendez.

SENATOR MENDEZ: Mr. President, I

really want to express my joy at the fact that there has been agreement to pass this bill, both here and in the Assembly. The reason being that in my district as well as in all minority districts of the state of New York, 99.9 percent of minority women are the ones that, unfortunately, are being infected with the - with the AIDS virus and are the ones that, unfortunately, are giving birth to children also infected with the HIV virus.

I really must say that I want to thank Senator Velella and Senator Hannon for the work that they have done, as well as that wonderful and effective Assemblywoman Nettie Mayersohn for her interest in a subject matter, in a health problem that is -- health problem that is so vitally important to the -- to all the residents of the state of New York.

In summary, I want to mention that it is now -- once more, I want to reiterate that the -- that the greater group at risk in terms of that horrible disease are women and 99.9 percent of those women, I must say, are

minority women, so you can see the importance of this -- of this bill.

I want to thank the Governor for committing funds to pay for the -- the counseling program and for testing and what have you, and I also want to mention that, believe you me, Mr. President, I am very happy that this little tempest in a teapot has been resolved, because the bottom line is that I would have supported that bill whether my name would have been on it or not. Of course, I think that the graciousness of Senator Velella and Senator Connor and the others at resolving this issue is very important because it did give each one of those that are so strongly committed to do whatever we have to do to ease the lives of those who are suffering from this disease. It gives us the opportunity to partake in a collective effort to try to resolve, but I also want to mention that I hope that once this is in place, suddenly we don't see a whole emphasis in providing treatment of AZT to all the women who are -- who are pregnant and are -- and are -

and are found to have the HIV virus because, I believe it's two or -- two or three percent, I don't recall, of the -- of the babies that are born of women who have been pregnant receiving AZT are without the HIV virus, but normally a pregnant woman who has a child with HIV, as the child develops its own immunological system by the age of 18 months, many of them shed off the virus.

So I do hope with this program that there would also be a program of research in terms of -- in terms of, if there are any secondary effects on the development of a child of a woman who has -- who has been treated with AZT.

So it's a happy day, Mr. President, and I will be voting yes.

ACTING PRESIDENT MAZIARZ: Thank you, Senator.

The Chair recognizes Senator Gold.

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

Mr. President, I guess it becomes a question of definition as to what is a tempest in whose teapot.

I've seen members in this house get very, very excited over things that other members would shrug their shoulders about, so I guess it depends how you react to issues as to whether something is or is not a tempest in a teapot.

At any rate, I would like to correct my colleague in that, if I understood her properly, if she said that there's agreement and this will pass some way in the other house, I think it's been acknowledged there's no such agreement and this bill ain't goin' to pass in the other house.

As a matter of fact, during some of the conversations, it was made clear that this is a posturing in order to continue some kind of negotiation and I think Senator Stavisky very graciously tried to get some concessions on the floor, that when there is a bill that may be a law, that people will be listed on it.

So while this may be a just cause, we are here again spending the time of this chamber less than four hours from our appointed adjourned time, posturing.

Now, negotiations are negotiations and they take place all the time. Why we have to spend taxpayer money to print bills that are posturing in order to negotiate, I don't know. Now, I will admit to you that taxpayer money gets spent in printing bills that don't pass, but we put them in and we state our positions and we hope very much that we can pass them, but for the posturing, I say to myself, there really should be some time limit.

The other point is really a simple point. While I can respect the work that people do on an issue, very often what happens is that the Majority walks in here with its 31 votes and they don't care whether we have a minute or 30 seconds or 20 minutes to examine a piece of legislation because they've got their 31 votes and they couldn't care less what happens to it.

When there's a piece of legislation such as this issue where its very obvious without votes on our side of the aisle, well, of course, it seems to work a little better, but having said that, a member of the Legislature by definition, I think, should not be a bungee cord, and we should not be there for people to bounce us around as they want for their political purposes or for their very worthy just cause purposes.

There are people who have been recognized as leaders in a particular issue, and that's fine. Let them lead, but I never gave anybody my proxy for anything that they may do. I do not believe in legislation by label.

I know every once in a while somebody says, "Well, I don't want to vote no here because somebody back home may say that I'm switching positions" and I understand and respect peoples' respect for their constituency and how they work their particular legislative careers, but I don't believe in labels, and while I do believe in the concept of the

original bill and I do believe in the -- in the disclosing of this information, it doesn't mean I would vote for any bill in that -- in that particular field.

And if this is not the final bill and if some of the concerns of the Assembly Speaker have been met as Senator Velella says - and I don't doubt that he's telling the truth, but yet Assemblyman Silver and the Majority over there is not going to deal with this bill, I don't know what all of this is really all about. I don't understand it. We're now, I think, three hours and fifteen minutes from our orderly promised adjournment, and we're posturing, and the answer is that I feel as strongly about this issue as anybody. I respect people who will vote yes because we continuously must vote yes.

I intend personally to vote in the negative because I don't want this issue postured anymore. I want a bill. I want a final bill. I do not believe that the way you get a final bill is to just keep bringing them

up and changing it every other day. I think you sit down and work it out or you don't work it out.

There was a comment made yesterday and I commented on it but I'm going to repeat it, that we on this side did something in order to embarrass you on the other side and my comment was, if you don't believe in an issue or you do believe in an issue and that's the way you vote, why would you have been embarrassed? And it's the same thing on this.

We will negotiate with or without this bill today. I cannot believe in my wildest imagination that passing this bill today is going to change the negotiation because there are people of pretty fixed ideas on both sides and they must soften and come to some agreement on each side and then we'll have a bill and I don't think the additional posturing does anything.

I think that when we as a Senate passed 2704, we sent our message. The New York State Senate has 31 votes for a baby AIDS bill.

That was the message. It hadn't changed. So now with three hours and fourteen minutes to go, we're going to tell the other side, not only do we have 31 votes but we have 31 votes. It seems to be the same message, because when people debate this bill, you don't debate the merits of the bill, you debate the label. It's the label.

People have been running around here saying, "Can we get on a bill, not get on a bill" and they don't know what the bill does. Senator Velella, this may be a better bill, I don't know, but that's not why people want to be on it. They want to be on it because of the label.

Well, Senator, I can only speak for myself and I'm sure I'm in the minority on this, but I'm not voting for it and supporting labels.

Senator, when there's a bill that is a serious bill, I would love to look at it, probably would support it, but I'm calling an end, Senator, to this business and I'm going to

vote no.

ACTING PRESIDENT MAZIARZ: Read the last section.

I'm sorry. Senator Paterson.

SENATOR PATERSON: Mr. President, I'm sorry. I was moved by the remarks of the last speaker and didn't rise in time, but now that I have, I think that there is a great deal of support for this legislation. I think that's why we had a slight misunderstanding a little while ago, and I think there's a great deal of misunderstanding of the very few. I think there are only nine Senators in this chamber who voted against this bill and I think those individuals were labeled kind of hoodwinked and cajoled and even challenged as if they were serving out - and I was one of them -- the interest of lobbying groups and that kind of thing, and we were trying to speak to the merits of the bill and that's what I'm going to try to do right now.

I actually would have preferred the bill that I voted against in March to the

bill that exists on the floor today. Let me cite one of those reasons. In the bill we have today, we are really setting up a -- separate guidelines for testing and counseling for pregnant women as opposed to the rest of the population.

There's only one type of medical investigation in which we would not have -- in which we would have a similar situation when we separate the tested from the rest of the population, and that is an autopsy where we're testing the deceased and there's no informed consent because the deceased can't talk.

In every other situation, we have uniform testing and counseling guidelines. We have gone totally away from it in this piece of legislation by giving the commissioner the right to set up the new guidelines. We don't know what the counseling is going to be. We don't know if there's going to be any counseling at all. We don't know if the counseling is going to be so stringent that it actually could become a health care problem within itself because now

the pregnant woman is being badgered rather than being counseled for the interest of conducting this test.

Let me cite my second objection to the legislation. We are setting up in this legislation what is really going to be a situation where we're going to have double testing. We're testing the pregnant woman, then we're testing the newborn. Well, if we find out that the mother is HIV-positive, why do we have to test the newborn at that point? We already know that we have a problem, but we're going to test the newborn again. We're going to put people in this very precarious position as a result of double testing as a result of this bill -- and let me point out that this is actually different than something that existed in the last bill.

Now, the Governor has consented and has been complimented on the floor for putting money into this program, $3.8 million, but where's the money coming from? The money is coming from the bad debt and charity pool to

hospitals. So we're really, I guess, taking money that's going to try to save lives to put it in another area that's going to try to save lives, except in the original area, we're at least assured that we're saving lives.

So this $3.8 million then is generously intended, and I don't question the intentions of anyone that drafted, supported or is even lobbying for this bill, because more than any other piece of legislation I debated on the floor this year, I don't think that it's a difference of opinion. I think it's a reflection of understanding that brings us to different positions on this legislation, and $3.8 million going away from hospitals -- the hospitals are complaining now.

The hospital is required to notify the parents of the newborn that tests positive. The hospitals are already complaining that there's a pocket of individuals who are afflicted and that it has been extremely difficult and there is an extreme strain on the hospitals to get in contact with the parents

now. Now we're going to try to mandate them to go out and find individuals who probably after the testing has taken place don't even really want to be found.

And so there are just some complications that don't even have to do with the basic issue that I have with supporting this piece of legislation on its face.

Why do we want to change the inherent guidelines to such an extent that we are now going to have an entire separate system just for pregnant women; in other words, separating them from every other class of individuals who are tested in our society.

And now let's get to what I think is the critical issue, the actual treatment. We understand how deadly and hazardous this disease is, but we understand that the same way we understand that we don't want an atom bomb dropped on this chamber. Nobody knows what an atom bomb would do but everyone knows they don't want to see it fall.

The point is that when it comes

to the results of HIV testing and the finding of a -- of a positive, the treatment, particularly as I pointed out a couple months ago with AZT, can be one of the most dangerous situations we can ever involve ourselves in, particularly with newborns, and particularly if we treat the mother too early in the pregnancy.

AZT has been effective when used to treat the pregnant woman in the seventh month, but when we start to see our current medical treatments as panaceas for the problem and we're getting up and making statements that we want the earliest possible medical intervention when we don't even know that the medical intervention exacerbated the problem over five years ago when newborns that were treated with AZT, they all died, not the few or the great number of percentage that sero converted over an 18-month period.

AZT is an immunodepressant drug treating an immunodeficient virus. In other words, it exacerbates the same virus it treats, so only in specialized situations can it

actually be effective. There are other treatments for pneumonia that are actually very good that we could treat if we understand that the baby is HIV-positive and may contract the narcissoma pneumonia that we're aware of, but these are things that were taken into account when the Center for Disease Control basically threw out this system, and the reason they threw out this system was because it was being abused, not being abused by individuals who didn't care. It was being abused by individuals who didn't understand the medical protocols and they are now re-reviewing those protocols to see what the apt treatment would be for individuals who are afflicted with the HIV virus based on testing.

And so these are not only the reasons that I oppose the legislation, but I also have cited the reasons why I oppose this bill as it would discriminate against the original bill that came out that did not set up the double standard as we have today.

I think that this subject

certainly needs more work. I think that there is a desperate attempt by individuals to pass legislation right now because it's such a horrible situation that they're doing the very best they can to try to actually treat it, and for that, I commend them.

Where there is not quite an understanding of how horrible and tragic and lachrymose the results of this disease is, is a matter for research and a matter for understanding and a matter for exactly what some individuals said earlier, putting aside labels and really getting into the research that would help us to find a cure for the HIV virus and inevitably the AIDS disease.

ACTING PRESIDENT MAZIARZ: Senator Abate.

SENATOR ABATE: Yes. Would Senator Velella yield to two questions?

ACTING PRESIDENT MAZIARZ: Senator Velella, would you yield for two questions from Senator Abate?

SENATOR VELELLA: Certainly.

SENATOR ABATE: There are two issues of concern that I don't understand and maybe you can clarify -- well, there may be other issues, but two that are new issues.

In 1988, I believe, the medical profession got together through a task force or a committee and came up with a Public Health Law 2781 and it dealt with what kind of counseling, consent, post-counseling, precounseling to the testing. Why now is this legislation exempting pregnant women from this Public Health Law provision? My understanding now, only dead people are exempted and individuals that donate organs. Now we're putting pregnant women into that exemption. Why are we doing that?

SENATOR VELELLA: Well, Senator, I'll explain the reason and I'll explain something else to you about my own thinking.

My own thinking is that that whole article is nothing but a special privilege bill for the AIDS -- so-called AIDS treatment of people who are so-called AIDS victims. I believe we should treat AIDS as we do every

other communicable disease and we shouldn't be using special interest and special laws to treat them any differently. A contagious disease is a contagious disease, no matter what it is, but the reason that we have now exempted pregnant women is because of the fact that pregnant women transmit the disease to an innocent life and we're trying to stop that, and this bill and this legislation hopefully is the best shot we have at stopping that innocent, young, unborn child or newborn child from getting the disease, and the way we're doing that is by putting that exemption in that section.

SENATOR ABATE: Yes,, but my understanding of Public Health Law 2781, it really presents guidelines for the doctors in terms of how they do the counseling, and if you take those guidelines away, in effect, we may be reducing the impact and the meaningfulness of that counseling and that's what my concern is. Why are we removing pregnant women when they need meaningful counsel? We're taking them out of these guidelines, so I guess that's my -

SENATOR VELELLA: Senator, I believe again those special guidelines for this special group of people for this special disease which I call the only politically protected disease known to mankind is, in my opinion, unnecessary.

We have medical doctors who every day have to counsel people. I mean, a doctor has to tell someone that they are dying of terminal cancer. Who counsels them to accept this terrible news? Somebody has to face the fact that they're going to die of a heart attack or they're going to die of a liver disease. Doctors do this all the time. Why do we need special laws for people who have AIDS?

SENATOR ABATE: If I can just respond to that question why.

ACTING PRESIDENT MAZIARZ: Senator Abate.

SENATOR ABATE: If I can respond to the question why. I don't think there's ever a disease that has faced so much discrimination. If you remember not so long ago we were talking

about quarantines. We were talking about people who couldn't work, couldn't have housing, so it's a disease that's associated with an enormous amount of prejudice and discrimination. So that's why there's certain guidelines.

SENATOR VELELLA: Senator, would you yield to a question?

SENATOR ABATE: Sure.

SENATOR VELELLA: Have you ever heard of leprosy?

SENATOR ABATE: Yes.

SENATOR VELELLA: Have you heard of tuberculosis and some of the stories that were done with people during those times? They were serious too.

SENATOR ABATE: I guess my second -- I won't debate this issue. My second issue is it's my understanding -

ACTING PRESIDENT MAZIARZ: Senator Velella, do you continue to yield for a question?

SENATOR VELELLA: Yes.

SENATOR ABATE: My second

question, if a woman refuses a test, that piece of paper goes into her medical files, "refuses to test." I think -- I think that's the case. And that -- so clearly the doctor knows who's been tested and who hasn't been tested, yet this bill will spend $3.8 million testing all the women, even the women who have consented to be tested prenatally. My understanding is when women are adequately counseled, they will end up voluntarily testing themselves, and what this bill does, even the women, the 98 percent that agree to be tested prenatally, they also will be put in the pool on the back end and their babies will be tested and there will have to be notification and the hospitals will have to fine them. Why are we doing it for the 98 percent who have already agreed to be tested?

ACTING PRESIDENT MAZIARZ: Senator Velella, do you -

SENATOR VELELLA: The answer to that is for the exact same reason that we do it for syphilis and that we do it for a battery of other listed communicable diseases. All I want

to do is treat that disease as we do every other contagious disease and not treat it any special way. Let's fight it the way this Legislature - the way legislators long before us have had to deal with contagious diseases have fought those diseases of their time.

AIDS is the disease of our time. Let's fight it in the proven way. The same way we have wiped out those other diseases, we will wipe out AIDS and we will find a cure. We have found some very progressive things to do hope fully to prevent the transmission to children that are in their mothers' wombs. Let's do what we can to stop the spread of this disease and help those who have it.

SENATOR ABATE: I guess I disagree on these two points I raise, and the reason is when you test the baby, you're really testing the condition of the mother, and so if the woman -- the mother already agrees to be tested herself, we're not giving her any more valuable information. She knows her condition. We're wasting money. We're making hospitals

more liable. They're going to have to now communicate with mothers and we're not going to be giving them any more useful information.

But thank you, Senator Velella.

SENATOR VELELLA: May I respond to that, Senator?

SENATOR ABATE: Yes.

SENATOR VELELLA: The only thing that we are doing, and again, I tell you, when we do test those babies, we are catching the ones that have slipped through the cracks. The people probably in the most frequent -- in the most high risk group, those women that show up at the maternity ward, at the hospital ready to give birth that haven't had the advantage of prenatal treatment, that haven't had the advantage of a test, they come in, they have their baby and then we test the baby and find out, so we're going to catch a lot of those babies, the ones that fall between the cracks, and that's part of the reason why we're going to test all the babies born.

Additionally, hopefully we'll be

able to identify and can maintain the areas that there is the high frequency because, as you know, the federal government may be withdrawing their money for the blind testing, and we won't be able to determine where the high frequency is, so by testing these babies at state expense, which the Governor has made the commitment, we will be able to identify the high instance areas, the high instance groups and hopefully fight this disease the way we have otherwise.

SENATOR ABATE: Thank you.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer.

SENATOR OPPENHEIMER: I had a lot of the same concerns that were just mentioned. The fact is that the federal government has stopped in the last six weeks, seven weeks doing any testing, so that's finished as far as the blind testing, you're right, it's finished.

The funding, I would be happy to hear that some additional money was going to come into this. Unfortunately, from what I understand that $3.8 million that will be going

to test the babies is going to be coming from the bad debt and charity pool; is that true, Senator? Would you respond?

ACTING PRESIDENT MAZIARZ: Senator Velella, would you yield to a question?

SENATOR VELELLA: Yes. What's the question, Senator?

SENATOR OPPENHEIMER: I understand that the money that is going to the testing of the babies is going to be coming, that 3.8 million, from the bad debt and charity pool?

SENATOR VELELLA: That will be next year, yes, to supplement the shortfall for next year. That's a very good investment because by catching this early, we will be able to save the long-term treatment hopefully that becomes necessary for these children when they go totally untreated at birth and develop the full blown AIDS disease. We can better control it and most of these babies, unfortunately, will be funded by the bad debt and charity pool. So if we catch the disease early enough, we can do

some things to minimize the impact and it will be an offset, another $3.8 million offset, but somewhat of an offset.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MAZIARZ: Could we have some order in the chamber, please, so that we can hear both Senator Oppenheimer and Senator Velella.

Senator Paterson.

SENATOR PATERSON: If Senator Oppenheimer would just suffer a brief interruption.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer.

SENATOR OPPENHEIMER: I yield.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: If Senator Velella would just yield for a question. It's just this specific -

ACTING PRESIDENT MAZIARZ: Senator Velella, would you yield for a question from Senator Paterson?

SENATOR VELELLA: Yes.

SENATOR PATERSON: It's this specific point that disturbs me, Senator Velella. If you're talking about a pregnant woman -- treating the pregnant woman, that's one thing, but if you're talking about medical intervention to treat the newborn, those who are in favor of this bill have been able to cite evidence where some of the ancillary diseases have been able to be treated by the use of a number of drugs, but I don't know that there's any hard evidence that we can treat the HIV virus in newborns, and I think that that's where the misperception is being gained by the public and a lot of other people that we really are - even if there's some disagreement between you and I on that one point, but there seems to be an overestimation of what we can actually do if we have learned that a person is HIV-positive, because then I'm going to have to ask you the question, what do we do when adults are -- are diagnosed as being HIV-positive? Has medical intervention affected their lives when there was

early intervention?

ACTING PRESIDENT MAZIARZ: Senator Velella.

SENATOR VELELLA: If I may respond just briefly. There absolutely is no cure today for that disease and certainly I have not in any way tried to indicate that if we get an early detection, we are going to cure the disease. However, I have heard -

SENATOR PATERSON: That's all I'm saying.

SENATOR VELELLA: Just let me say to respond to the point that Senator Oppenheimer made -- let me finish -- was that by detecting the disease early in infants, we can make their lives more comfortable, reduce the instances of pneumonia and the severity of pneumonias and ultimately prolong their life into teenage when hopefully we'll have a cure.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer.

SENATOR OPPENHEIMER: Senator Velella, would you yield for another question?

ACTING PRESIDENT MAZIARZ: Senator Velella, would you yield for a question from Senator Oppenheimer?

SENATOR VELELLA: Yes, I'll yield.

ACTING PRESIDENT MAZIARZ: Can we have some quiet in the chamber so that we could hear both Senator Velella, who is very easy to hear and Senator Oppenheimer who is a little more difficult to hear.

Senator Oppenheimer.

SENATOR OPPENHEIMER: All right. I'll talk up. Would you say that a considerable number of the children that test HIV-positive at birth, perhaps as many as 75 to 80 percent do not have anything but their mother's antibodies in them and that they will shrug them off by the age of five months or six months?

SENATOR VELELLA: Senator, I believe we did this in the last debate. Absolutely right unless the virus is reintroduced to them through breast feeding or something of that nature or some kind of bodily

fluid contact. That's why it's so important that the mother be told that she has the disease and she not transmit it to the child.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer.

SENATOR OPPENHEIMER: I think we all agree on the mandatory counseling. There's no question that you have a million percent agreement on that.

The drugs that would be used, however, on the youngsters that would -- the babies, would be the same for all of these babies born HIV-positive, yet perhaps as many as three out of four would not need these strong drugs because they are just -- it's just their mother's antibodies which they will be rid of by the time they're five months old.

I have a concern that the babies that do not need this will not be benefited and might be harmed by very strong drugs. Do you have that concern also, Senator Velella?

ACTING PRESIDENT MAZIARZ: Senator Velella, would you yield to another

question?

SENATOR VELELLA: Yes, I yield, and my answer is that I would -- if this were to strike in my own family, I would rest on the basis of the fact that I would try to get the best medical treatment available for my child and I would have to rely on the doctors who told me what to do, very much like a person dying of cancer allows their doctor to introduce poison into their system through chemotherapy and try and save them in the long run.

I couldn't tell you, but I would have to rest on the best medical available information and the best course of treatment prescribed by the American Medical Society and the doctors who I would have faith in. I'm not a doctor, but one thing I do know, if we don't know the kid has the disease and we don't know the mother has the disease, we can't do anything to help him.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer.

SENATOR OPPENHEIMER: There is -

I think the analogy that Senator Velella just used is not a valid one in that the cancer patient knows he has cancer. The HIV-born baby may not have HIV, and so he may not be sick, but you are going to give him or her a very strong drug which may not be necessary at all because by age five months, that child will no longer be HIV.

I had another question, and it's not coming to me. Give me one moment. I can't think of what else I was going to ask you. You're lucky.

Thank you, Senator.

ACTING PRESIDENT MAZIARZ: Thank you, Senator.

SENATOR WALDON: Is there a list?

ACTING PRESIDENT MAZIARZ: Senator Waldon, there is a list. You are number one.

SENATOR WALDON: Thank you.

Would Senator Velella yield to a question?

ACTING PRESIDENT MAZIARZ:

Senator Velella, would you yield to a question from Senator Waldon?

SENATOR SKELOS: Mr. President, if I could interrupt for a minute.

ACTING PRESIDENT MAZIARZ: Senator Skelos.

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

ACTING PRESIDENT MAZIARZ: There will be an immediate meeting of the Rules Committee in Room 332 of the Capitol, an immediate meeting of the Rules Committee in Room 332.

Senator Velella, would you yield to a question from Senator Waldon?

SENATOR WALDON: Yes, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Waldon.

SENATOR WALDON: Thank you, Mr. President.

The learned Senator from Bronx

County, just a question or two if I may. One, of the children born who are HIV-positive, is there any way to determine which of the children born will five months or whatever length of time down the road not contract this insidious disease permanently or at birth or while being carried in the mother's womb?

ACTING PRESIDENT MAZIARZ: Senator Velella.

SENATOR VELELLA: Senator, the test is for the antibody which shows the presence of the antibody that fights the disease which means that the mother has the full blown virus, the child may develop it.

To my knowledge, there is no way to sort out those young infants that test positive for the HIV antibody and which ones will develop the full blown AIDS and which ones will reject the antibody and develop normally and have no problem in life.

SENATOR WALDON: Thank you.

Mr. President, if I may ask the Senator another question.

ACTING PRESIDENT MAZIARZ:

Senator Velella, would you continue to yield for another question from Senator Waldon?

SENATOR VELELLA: Yes.

ACTING PRESIDENT MAZIARZ:

Senator Waldon.

SENATOR WALDON: Senator, let's talk about adults for just a minute.

The mother who may not know that she has AIDS when tested, is the test only -- is the information received from the test, in your opinion, valid only in regard to the fetus or if this parent is still sexually active, can this information be used as a mechanism of alerting the parent to what may occur in terms of spreading the disease, et cetera?

SENATOR VELELLA: Unfortunately, Senator, if I had my choice, it would be but, unfortunately, because of the problem of trying to get a bill passed in both houses, we cannot mandate like we do for syphilis or for other types of communicable diseases that other sexual partners be notified.

This bill is limited -- this bill is limited only to the person involved, the parent of the child. It goes no further than that. I would have it go further but it doesn't.

ACTING PRESIDENT MAZIARZ: Senator Waldon.

SENATOR WALDON: Mr. President, if I may continue.

Senator, that wasn't the thrust of my question.

SENATOR VELELLA: Oh, I'm sorry. I misunderstood.

SENATOR WALDON: What I was trying to ask you and I probably misstated it, the fact that the woman who is positive is now made aware that she's positive, in your opinion, could this have any salutary effect in regard to if she was to remain sexually active, at least she knows that she is now a carrier. Is that -

SENATOR VELELLA: Assuming that the woman would be as you and I would like her to be a responsible adult individual, we would

assume that she would use certain precautions so she would not transmit the disease to her partner in the future. That's an assumption we would have to make.

ACTING PRESIDENT MAZIARZ: Senator Waldon.

SENATOR WALDON: Mr. President, I thank you very much. I thank you, Senator Velella.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

SENATOR PATERSON: Senator Paterson, for what purpose do you rise?

SENATOR PATERSON: We would like a slow roll call.

ACTING PRESIDENT MAZIARZ: Are there five members who desire a slow roll call? I see five members standing.

ACTING PRESIDENT MAZIARZ: The Secretary will call the roll slowly. Slow roll call for everyone who is back in their office. Let the record show that Senator Stafford is at his seat. Commence the roll call. Senator Stafford is here.

SENATOR STAFFORD: Thank you, Mr. President. The sound of your voice is reassuring.

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: Mr. President, to explain my vote.

ACTING PRESIDENT MAZIARZ: Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: Mr. President, I continue to applaud those who work at this difficult issue.

I voted against this bill last time because I was concerned about the need for mandatory counseling and I believe that this bill goes a long way to addressing the concerns that I expressed last time.

However, I do not believe it solves the problem. It's not an agreed on bill, to my understanding. It doesn't resolve the final bit of issues that need to be tucked away before we will have an enlightened policy to deal with the difficult issues of confidential ity, the difficult issues of the rights and the

best interest of the child after birth.

So while I think this bill goes a ways to solving those problems and I applaud Senator Velella for his continuing hard work on this bill to try to get the right result, I don't quite think we're there yet and so, despite the fact that it goes part of the way, it doesn't go far enough for this Senator, and I will be voting in the negative.

ACTING PRESIDENT MAZIARZ: Senator Dollinger will be recorded in the negative. The Clerk will resume the roll call slowly.

THE SECRETARY: Senator Espada.

(There was no response.)

Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Galiber, excused.

Senator Gold.

SENATOR GOLD: No.

THE SECRETARY: Senator Gonzalez.

SENATOR GONZALEZ: Yes.

THE SECRETARY: Senator Goodman.

SENATOR GOODMAN: No.

THE SECRETARY: Senator Hannon.

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

ACTING PRESIDENT MAZIARZ: Senator Hannon, to explain his vote.

SENATOR HANNON: Mr. President, this -- this bill represents an evenhanded, I think non-ideological approach to try to address all of the issues that were raised during the extensive discussions in the last two years. It's hard to see what else could be added. The whole need for the precounseling, prenatal testing, the ability to identify those women with AIDS so that lives can be saved through the use of the AZT is a necessary thing and it's a hope that the spirit that this is offered will be met by the other house and the other side of the aisle, the people voting no.

I vote in favor.

ACTING PRESIDENT MAZIARZ: Senator Hannon will be recorded in the

affirmative. The Clerk will resume the roll call.

THE SECRETARY: Senator Hoblock.

SENATOR HOBLOCK: Yes.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: Aye.

THE SECRETARY: Senator Holland.

(There was no response.)

Senator Johnson.

(There was no response.)

Senator Jones.

SENATOR JONES: Aye.

THE SECRETARY: Senator Kruger.

(There was no response.)

Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lack.

(There was no response.)

Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Aye.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Aye.
THE SECRETARY: Senator Leichter.
(There was no response.)
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: 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: Yes.
THE SECRETARY: Senator Montgomery.

(There was no response.)

Senator Nanula.

SENATOR NANULA: Aye.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Aye.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Explain my vote.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I do think that this bill has taken a giant step in the right direction in that we all, I think, universally applaud the mandatory counseling for pregnant women.

I'm concerned somewhat about the -- quite concerned about the exclusion of pregnant women from the public health standards that seem to exist for everything else, and it is a one-house bill and I will be awaiting the

two-house bill, an agreed upon bill and for now I remain not satisfied.

ACTING PRESIDENT MAZIARZ: Excuse me, Senator Oppenheimer. Could we have some order in the chamber, please, so that Senator Oppenheimer could explain her vote?

SENATOR OPPENHEIMER: I'm voting no because I'm unsatisfied.

ACTING PRESIDENT MAZIARZ: Could we have some order, please?

Senator Oppenheimer.

SENATOR OPPENHEIMER: I will be voting no because I'm not satisfied yet with this bill, but it is a step in the right direction.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer will be recorded in the negative. The Clerk will resume the roll call.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.
THE SECRETARY: Senator Rath.
SENATOR RATH: Aye.
THE SECRETARY: Senator Saland.
SENATOR SALAND: Aye.
THE SECRETARY: Senator Santiago.
(There was no response.)
Senator Sears.
SENATOR SEARS: Aye.
THE SECRETARY: Senator Seward.
(There was no response.)
Senator Skelos.
(Affirmative indication.)
Senator Smith.
(There was no response.)
Senator Solomon.
SENATOR SOLOMON: Yes.
THE SECRETARY: Senator Spano.
SENATOR SPANO: Aye.
THE SECRETARY: Senator Stachowski.
(There was no audible response.)
Senator Stafford.

SENATOR STAFFORD: Aye.
THE SECRETARY: Senator Stavisky.
SENATOR STAVISKY: Yes.
THE SECRETARY: Senator Trunzo.
(There was no response.)
Senator Tully.
SENATOR TULLY: Aye.
THE SECRETARY: Senator Velella.
SENATOR VELELLA: Aye.
THE SECRETARY: Senator Volker.
SENATOR VOLKER: Yes.
THE SECRETARY: Senator Waldon.
SENATOR WALDON: To explain my vote.
ACTING PRESIDENT MAZIARZ: Senator Waldon, to explain his vote.
SENATOR WALDON: Mr. President, my colleagues, this thing -- this phenomenon that we face today is so invidious and so insidious that I believe that whatever methods we can use to disseminate information, to discover where it is and to do all that we can to help those that are afflicted we should do.

I have heard amongst my colleagues very valid and meaningful arguments, vis-a-vis rights to privacy. While I believe that this disease which, if left unchecked, can wipe us all out, can change the face of this earth in terms of its population in every corner of this earth, is so much a danger -- of a danger to all of us, that what little steps we can take to diminish its negative impact, to distribute information, to educate and to alert those who are being touched by its insidiousness, we have a moral obligation to do and that moral obligation is higher and more important and stronger than other obligations. Therefore, I must support this legislation.

I vote yes.

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

Continue the roll.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT MAZIARZ: The

Clerk will call the absentees.

THE SECRETARY: Senator Babbush.

SENATOR BABBUSH: Yes.

THE SECRETARY: Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator Espada.

(There was no response.)

Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Kruger.

(There was no response.)

Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Leichter.

(There was no response.)

Senator Montgomery.

SENATOR MONTGOMERY: No.

THE SECRETARY: Senator Santiago.

(There was no response.)

Senator Seward.

(There was no response.)

Senator Smith.

(There was no response.)

Senator Trunzo.

(There was no response.)

ACTING PRESIDENT MAZIARZ: Results.

THE SECRETARY: Ayes 44, nays 9.

ACTING PRESIDENT MAZIARZ: The bill is passed.

SENATOR LEVY: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Levy.

SENATOR LEVY: Yes. How was I recorded on this bill, Mr. President?

ACTING PRESIDENT MAZIARZ: Senator Levy was recorded in the affirmative.

SENATOR LEVY: Thank you.

ACTING PRESIDENT MAZIARZ: You're welcome.

Senator Present.

SENATOR PRESENT: Mr. President, I move we adopt the Resolution Calendar with the exception of Resolution 1685.

ACTING PRESIDENT MAZIARZ: All in favor of adopting the calendar with the one exception signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The Resolution Calendar is adopted.

Senator Present.

SENATOR PRESENT: Mr. President, could you call up Resolution 1685 and recognize Senator DiCarlo.

ACTING PRESIDENT MAZIARZ: The Clerk -- Senator DiCarlo.

SENATOR DiCARLO: Thank you, Mr. President.

I ask that Resolution 1685 be read in its entirety.

ACTING PRESIDENT MAZIARZ: The Clerk will read Resolution 1685 in its entirety, please.

THE SECRETARY: By Senators DiCarlo, Bruno, Hoblock and Wright, Legislative

Resolution commending U.S. Air Force Captain Scott O'Grady.

WHEREAS, it is the sense of this legislative body that those who give positive definition to the profile and disposition of our American Armed Forces do so profoundly strengthen our shared commitment to the exercise of freedom; and

WHEREAS, attendant to such concern and fully in accord with its long standing traditions, it is the intent of this legislative body to commend Air Force Captain Scott O'Grady upon being rescued from hostile territory after being shot down while flying a mission for the North Atlantic Treaty Organization; and

WHEREAS, the Brooklyn born fighter was flying an escort mission for N.A.T.O. on Friday, June 2nd, 1995 when his F-16 was shot down by Bosnian Serbs with a surface-to-air missile.

Captain O'Grady survived in hostile territory for six days through the use

of his military survival training by eating insects and drinking rainwater until he was rescued on Thursday, June 8th.

Captain O'Grady was located by U.S. radar early on the morning of June 8th and a contingent of 40 aircraft from the U.S.S. Kearsarge was dispatched from the Adriatic Sea with the 24th Marine Expeditionary Unit on board two helicopters.

The Marine force flying on two CH-53 Super Stallion helicopters was escorted by four Harrier jump-jets and two Cobra helicopters in tight formation, along with F-16 and F-15 fighters, in addition to a special operations team held in reserve over the Adriatic; and

WHEREAS, seeing a plume of yellow smoke, the Marines were able to find a clearing and pull Captain O'Grady out of dense forest behind the Bosnian Serb lines and return him to the U.S.S. Kearsarge without taking any casualties; now, therefore, be it

RESOLVED, that this legislative body pause in its deliberations and commend U.S.

Air Force Captain Scott O'Grady recognizing his ability and training while also recognizing the contributions of all the men and women of the United States Armed Forces who serve this country so valiantly and honorably to maintain our international commitments and the ideals of freedom which are our American heritage; and be it further

RESOLVED, that a copy of this resolution, suitably engrossed, be transmitted to U.S. Air Force Captain Scott O'Grady.

ACTING PRESIDENT MAZIARZ: Senator DiCarlo.

SENATOR DiCARLO: Thank you, Mr. President.

I rise in support of this resolution and I think it appropriate that we here in the New York State Senate recognize what Captain O'Grady did for his country, did in the cause of saving lives and obviously, to me, his great abilities come from the fact that he is a New York born individual and most especially because he is a Brooklyn born New Yorker, so I

commend Captain O'Grady.

ACTING PRESIDENT MAZIARZ: Thank you, Senator DiCarlo. The question -

SENATOR DiCARLO: Also, Mr. President -

ACTING PRESIDENT MAZIARZ: Senator DiCarlo.

SENATOR DiCARLO: I would also take this opportunity for any other members in the house who would wish to co-sponsor this resolution, I would like to open it up for the rest of the membership.

ACTING PRESIDENT MAZIARZ: Senator Gold.

SENATOR GOLD: That was my only question.

ACTING PRESIDENT MAZIARZ: Why don't we put every member of the house on the resolution and those who do not want to be on the resolution can notify the desk.

Senator Present.

SENATOR PRESENT: Mr. President, on behalf of Senator Bruno, he would like to

offer that same option to members to co-sponsor Resolution 1650 which commemorates the 75th anniversary of the American Legion.

ACTING PRESIDENT MAZIARZ: Everyone will also be placed on Resolution 1650 as well unless they notify the desk otherwise.

The Chair recognizes Senator Maltese.

SENATOR MALTESE: Mr. President, I would like to take the opportunity to open up Resolution 1672 commemorating the 150th anniversary of the New York Police Department.

ACTING PRESIDENT MAZIARZ: That was 1672, Senator?

SENATOR MALTESE: Yes, Mr. President.

ACTING PRESIDENT MAZIARZ: The Chair will also direct that everyone be placed on Resolution 1672 commemorating the 150th anniversary of the New York Police Department unless they so notify the desk.

Senator Present.

SENATOR PRESENT: Mr. President,

can we return to reports of standing committees? I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

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

Senate Print 2771, by Senator Waldon, an act to amend the Election Law, in relation to requiring notice;

3226, by Senator Dollinger, an act to authorize the town of Brighton, Monroe County to convert to a benefit derived method;

3256, by Senator Spano, an act to amend the Retirement and Social Security Law, in relation to peace officers;

3982, by Senator Nozzolio, an act to amend the Vehicle and Traffic Law, in relation to authorizing a residential parking system;

4028, by Senator Velella, an act to amend the Public Authorities Law and the

Public Health Law, in relation to establishment, financing and construction of a New York State veterans home;

4322-A, by Senator Skelos, an act to amend the Executive Law, in relation to transaction involving services;

4416-A, by Senator Velella, an act to amend the Insurance Law, in relation to continuing education;

4567, by Senator Oppenheimer, an act to authorize tier 1 status to John P. Cossifos;

4827-A, by Senator Maziarz, an act to amend the Public Authorities Law, in relation to the financing and construction of certain facilities;

5267, by Senator Tully, an act to amend the Nassau County Civil Divisions Act, in relation to the qualifications of voters;

5290, by Senator Spano, an act to amend the Real Property Tax Law, in relation to a cooperative real property tax administration system;

5318, by Senator Bruno, an act to amend the Vehicle and Traffic Law, in relation to authorizing the city of Troy to adopt a residential parking system;

5335-A, by Senator Trunzo, an act to amend the Administrative Code of the city of New York, in relation to providing for transfer of the assets;

5349, by Senator Larkin, an act to amend Chapter 708 of the Laws of 1992, amending the General Municipal Law and others;

5376, by Senator Nozzolio, an act to amend Chapter 754 of the Laws of 1985, relating to authorizing the county of Monroe;

5382, by Senator Larkin, an act in relation to the Real Property Tax Law levied for library purposes;

5389, by Senator Goodman, an act to authorize the conveyance of certain lands to the Brooklyn Academy of Music;

5391, by the Senate Committee on Rules, an act to authorize the Department of Social Services to contract for chronic care

management demonstration program;

5394, by the Senate Committee on Rules, an act to amend the Public Health Law, in relation to utilization review agents;

5396-A, by Senator Skelos, an act in relation to authorizing service awards for the Lawrence-Cedarhurst Fire Department, Inc;

5403, by Senator Nozzolio, an act to amend the Penal Law, in relation to estab lishing the crime of aggravated harassment;

5404, by the Senate Committee on Rules, an act to amend the Public Authorities Law and the Education Law, in relation to providing for the financing and construction of capital facilities;

5418, by Senator Holland, an act to amend the Public Health Law, in relation to authorizing the Mid-Hudson Emergency Medical Service Council;

5421, by Senator Trunzo, an act to amend the Administrative Code of the city of New York, in relation to providing for transfer;

5427, by Senator Levy, an act to

amend the Vehicle and Traffic Law, in relation to escort vehicle driver requirements;

And 5447, by Senator Rath, an act to amend the Executive Law, in relation to changing the name of the Office for Regulatory and Management Assistance;

All bills ordered directly for third reading.

ACTING PRESIDENT MARCELLINO: Senator Present.

SENATOR PRESENT: I move we accept the Rules report.

ACTING PRESIDENT MARCELLINO: All in favor of accepting the Rules -- the report of the Rules Committee signify by saying aye.

(Response of "Aye".)

Those opposed, nay.

(There was no response.)

The report is accepted.

Senator Present.

SENATOR PRESENT: Mr. President, let's take up the non-controversial on Senate Supplemental Calendar Number 2.

ACTING PRESIDENT MARCELLINO: The Secretary will read the non-controversial calendar.

THE SECRETARY: Calendar Number 1389, by Senator Waldon, Senate Print 2771, an act to amend the Election Law, in relation to requiring notice of certain civil penalties.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1401, by Senator Dollinger, Senate Print 3226, an act to authorize the town of Brighton, Monroe County to convert.

ACTING PRESIDENT MARCELLINO: Call the roll. I'm sorry. Read the last

section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1410, by Senator Spano, Senate Print 3256, an act to amend the Retirement and Social Security Law, in relation to peace officers.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1411, by Senator Nozzolio, Senate Print 3982, an act to amend the Vehicle and Traffic Law, in relation to authorizing a residential parking system.

ACTING PRESIDENT MARCELLINO: There is a home rule -- there is a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1412, by Senator Velella, Senate Print 4028, an act to amend the Public Authorities Law and the Public Health Law, in relation to establishment, financing and construction.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1413 -

ACTING PRESIDENT MARCELLINO: The bill is high. Lay it aside.

THE SECRETARY: Senator Velella moves to discharge from the Committee on Rules, Assembly Bill Number 6124-A and substitute it for the identical Calendar Number 1414.

ACTING PRESIDENT MARCELLINO: The substitution is ordered.

THE SECRETARY: Calendar Number 1414, by Member of the Assembly Grannis, Assembly Print 6124-A, an act to amend the Insurance Law, in relation to continuing education.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1415, by Senator Oppenheimer -

ACTING PRESIDENT MARCELLINO: There is no home rule message at the desk. Lay the bill aside.

THE SECRETARY: Calendar Number 1416, by Senator Maziarz -

ACTING PRESIDENT MARCELLINO: The bill is high. Lay it aside.

THE SECRETARY: Calendar Number 1417, by Senator Tully, Senate Print 5267, an act to amend the Nassau County Civil Divisions Act, in relation to the qualifications of

voters.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1418, by Senator Spano, Senate Print 5290, an act to amend the Real Property Tax Law, in relation to a cooperative real property tax administration system.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1419, by Senator Bruno -

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

THE SECRETARY: -- Senate Print 5318, an act to amend the Vehicle and Traffic Law, in relation to authorizing the city of Troy to adopt a residential parking system.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1420, by Senator Trunzo -

ACTING PRESIDENT MARCELLINO: Bill is high. Lay it aside.

THE SECRETARY: Calendar Number 1421, by Senator Larkin, Senate Print 5349, an act to amend Chapter 708 of the Laws of 1992.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1422, by Senator Nozzolio, Senate Print 5376, an act to amend Chapter 754 of the Laws of 1985.

ACTING PRESIDENT MARCELLINO: There is a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1423, by Senator Larkin, Senate Print 5382, an act in relation to the real property tax levied for library purposes.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1424, by Senator Goodman, Senate Print 5389, an act to authorize the conveyance of certain lands

to the Brooklyn Academy of Music, Incorporated.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1425, by Senator -

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT MARCELLINO: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1426, by the Senate Committee on Rules, Senate Print 5394, an act to amend the Public Health Law, in relation to utilization review agents.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MARCELLINO: Lay it aside.

THE SECRETARY: Calendar Number 1427, by Senator Skelos, Senate Print 5396-A, an act -

SENATOR PATERSON: The bill is high. Lay it aside.

THE SECRETARY: Calendar Number 1428, by Senator Nozzolio -

ACTING PRESIDENT MARCELLINO: The bill is high. Lay it aside.

THE SECRETARY: Calendar Number 1429, by the Senate Committee on Rules, Senate Print 5404 -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside, please.

THE SECRETARY: Calendar Number 1430, by Senator Holland, Senate Print 5418, an act to amend the Public Health Law, in relation to authorizing the Mid-Hudson Emergency Medical Service Council.

ACTING PRESIDENT MARCELLINO:

Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1431 -

ACTING PRESIDENT MARCELLINO: The bill is high. Lay it aside.

THE SECRETARY: Calendar Number 1432, by Senator Levy, Senate Print 5427, an act to amend the Vehicle and Traffic Law, in relation to escort vehicle driver requirements.

ACTING PRESIDENT MARCELLINO: Senator Present.

SENATOR PRESENT: Is there a message of necessity at the desk on this bill?

ACTING PRESIDENT MARCELLINO: There is a message of necessity at the desk,

Senator.

SENATOR PRESENT: I move that we accept the message.

ACTING PRESIDENT MARCELLINO: All in favor aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect on January 1.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1433, by Senator Rath -

ACTING PRESIDENT MARCELLINO: The bill is high. Lay it aside.

ACTING PRESIDENT MARCELLINO:

Senator Present -- Senator Gold.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MARCELLINO: Yes, Senator Gold.

SENATOR GOLD: I understand that the bill is being laid aside as being high, but I would want to alert the Majority that -

ACTING PRESIDENT MARCELLINO: Senator Gold, which bill are you referring to, the last one read?

SENATOR GOLD: Yeah, 1433. I would like to alert the Majority that at first blush there seems to be a question as to the propriety of the legislation since it indicates it was introduced June 14th, which was yesterday at the request of the Governor and the rules that were promulgated by the Majority, I believe, would be violated by this piece of legislation and I know how serious Senator Bruno is about this -- God bless you -- about -

ACTING PRESIDENT MARCELLINO: Excuse me, Senator Gold. Excuse me one second. Please. I'm sorry.

SENATOR GOLD: I just wanted to point that out, since we're not dealing with the bill, it may not be an issue, but if the bill does come up again, it might very well become an issue.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Skelos, why do you rise?

SENATOR SKELOS: Just in a polite response, I believe there's one major differ ence. We have a new administration that came into office in January, a new administration in place. I believe Senator Dollinger has been in place for about two -- two years, six months and 15 days, not that we're counting, Senator Dollinger, and I think we should have a little flexibility with the new administration, understanding that it's a first-time budget, first-time session, and we're just trying to cooperate with the new administration.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Gold.

SENATOR GOLD: Senator Skelos said that he would be polite. I was shocked to hear that. I can't imagine him being anything but polite. So let it be with Caesar.

ACTING PRESIDENT MARCELLINO: The record will read that Senator Gold thinks that Senator Skelos is polite at all times.

SENATOR GOLD: Mr. President, I don't know how Senator Dollinger gets into this.

ACTING PRESIDENT MARCELLINO: He gets into everything, Senator.

SENATOR GOLD: That poor man has been exemplary today. We went in at 10:00 o'clock. I have seen a cooperative, distinguished, bright, alert gentleman from Rochester and I don't know why he gets brought into this. You always look for a target, I don't know why, but the bottom line is, Mr. President, I don't have with me any records on Mario Cuomo or any records on Hugh Carey or Malcolm Wilson or Nelson Rockefeller, but I think that program bills went in all along. If George Pataki didn't do it, that's okay, I don't

-- I think he's in the press every day taking credit for things which is fine anyway, but all I'm saying, Senator Skelos, is that you control the rules. If you want to amend the rules, I'm not telling you I would oppose an intelligent amendment to the rules. I'm not even saying, Senator Skelos, I would oppose a motion to suspend the rules if it was appropriate.

All I'm saying, Senator Skelos, is that if it turns out that you want to deal with this bill, it might very well be in violation of existing rules, and I know that that would give Senator Bruno a rash and I wouldn't want that to happen.

ACTING PRESIDENT MARCELLINO: Senator Present, what's your pleasure?

SENATOR PRESENT: Mr. President, can we return to the original calendar, 425.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 425.

THE SECRETARY: Calendar Number 425, by Senator Saland, Senate Print 2113-B, an act to amend the Family Court Act, in relation

to authorizing the court to permit a petitioner.

ACTING PRESIDENT MARCELLINO: Senator Present.

SENATOR PRESENT: Is there a message of necessity at the desk?

ACTING PRESIDENT MARCELLINO: Yes, Senator Present, there is a message of necessity at the desk.

SENATOR PRESENT: I move that we accept the message.

ACTING PRESIDENT MARCELLINO: All those in favor of accepting the message of necessity vote aye.

(Response of "Aye".)

Those opposed.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 12. This act shall take effect on the 90th day after it shall have become a law.

ACTING PRESIDENT MARCELLINO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, can we take up Calendar Number 607.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 607, by Senator Saland, Senate Print 3918-A, an act to amend the Public Housing Law, in relation to creating the town of Patterson Housing Authority.

ACTING PRESIDENT MARCELLINO: Senator Present.

SENATOR PRESENT: Mr. President, is there a message of necessity at the desk on Calendar Number -

ACTING PRESIDENT MARCELLINO: Yes, there is, Senator.

SENATOR PRESENT: I move that we

accept the message.

ACTING PRESIDENT MARCELLINO: Move to accept the message of necessity. All those in favor say aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Leibell.

SENATOR LEIBELL: Abstain.

ACTING PRESIDENT MARCELLINO: Senator Leibell abstains, without objection.

Senator Present.

SENATOR PRESENT: Mr. President,

can we take up Calendar Number 543.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar 543.

THE SECRETARY: Calendar Number 543, by Senator Lack, Senate Print 1465-B, an act in relation to the real property tax assessed by the town of Smithtown.

SENATOR PRESENT: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MARCELLINO: Yes, Senator Present, there is.

SENATOR PRESENT: I move that we accept the message.

ACTING PRESIDENT MARCELLINO: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Present, we have some housekeeping at the desk. Why don't we take that up.

SENATOR PRESENT: Take up the housekeeping.

ACTING PRESIDENT MARCELLINO: The Chair recognizes Senator DiCarlo.

SENATOR DiCARLO: Mr. President, on behalf of Senator Levy, I wish to call up his bill, Print 4985-A, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 875, by Senator Levy, Senate Print 4985-A, an act to amend the Transportation Law.

SENATOR DiCARLO: Mr. President,

I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 59.

SENATOR DiCARLO: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MARCELLINO: The amendments accepted. The house will come to order.

Senator Present.

SENATOR PRESENT: Mr. President, can we take up Calendar Number 993.

ACTING PRESIDENT MARCELLINO: The Secretary will -- the Clerk will read Calendar Number 993.

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

ACTING PRESIDENT MARCELLINO: Read the last section.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO: Explanation has been asked for, Senator Leibell.

SENATOR LEIBELL: This is the one we did the other day, Senator. I would repeat the explanation I gave the other day. We had gone through an extensive discussion on this issue. To confer jurisdiction upon the housing part of the New York City Civil Court to entertain applications for landlords for orders requiring tenants to provide access to their apartments when such access is necessary to permit the owner to correct violations.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Thank you.

I just wanted to put on the record that we had discussed this bill the other day, Senator Leibell and myself, and due to the lateness of the session, I'm sure that there are bills we haven't gone through the first time so

we don't need any summer reruns from myself and Senator Leibell, and so you can read the last section, Mr. President.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO: Please indicate the vote when the votes are tabulated.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Gold, to explain your vote, sir?

SENATOR GOLD: Yeah. I don't want to slow this up any more than our distinguished Deputy Minority Leader, but I think for people who may be listening but not in the chamber, this is legislation which Senator Paterson and I think myself the other day pointed out does not really leave a level

playing field, because while it does take into consideration -

ACTING PRESIDENT MARCELLINO: Excuse me, Senator Gold. Please, ladies and gentlemen, you can just about hear him up here.

Senator Gold.

SENATOR GOLD: While it does take into consideration a problem on the landlord part of this equation, it does not really take into account the problems it will be causing for the tenant population. It does not, for example, really require the landlord to do enough in advance before they take someone away from employment, et cetera, et cetera. So for those people who may have had to leave the chamber for a short period of time and may be listening, this am the bill, that's the problem.

I vote in the negative.

ACTING PRESIDENT MARCELLINO: Senator Gold will be recorded in the negative. State the results when you have them.

THE SECRETARY: Those recorded in the negative on Calendar Number 993 are Senators

Abate, Babbush, Connor, Gold, Gonzalez, Markowitz, Montgomery, Padavan, Paterson, Solomon; also Senator Onorato; also Senator Oppenheimer; also Senator Goodman; also Senator Velella.

ACTING PRESIDENT MARCELLINO: Senator DiCarlo.

THE SECRETARY: Also, Senator DiCarlo.

ACTING PRESIDENT MARCELLINO: Senator Spano.

THE SECRETARY: And Senator Spano.

ACTING PRESIDENT MARCELLINO: Senator Maltese.

THE SECRETARY: Also, Senator Maltese. Ayes 42, nays 17.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Present.

SENATOR PRESENT: Can we take up Calendar 1426.

ACTING PRESIDENT MARCELLINO:

Clerk will read Calendar 1426.

THE SECRETARY: Calendar Number 1426, by the Committee on Rules, Senate Print 5394, an act to amend the Public Health Law, in relation to regulating utilization review agencies.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO: Explanation has been called for. Senator Hannon will give it. Senator Hannon.

SENATOR HANNON: Yes, Mr. President. A couple of days ago we passed a bill that would apply the same type of utilization review standards just to health maintenance organizations. Now, the point was made that these universal standards ought to apply across the board to entities or employers that provide all health care services including the preferred provider organizations, third party programs that provide health care services, insurers under Articles 32, 42 or 43

of the Insurance Law, HMOs, and a couple of others, and then we have exclusions for things that might well be excluded that are contained in page 2 of the bill.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Senator Paterson. Excuse me.

SENATOR PATERSON: Mr. President, this bill involves review of the utili... utilization review agents who are the ones who determine whether or not these claims are going to be paid out. I know that you've had this bill on for a couple of years, Senator Hannon. Is there any chance that this is going to be negotiated?

ACTING PRESIDENT MARCELLINO: Senator Hannon, do you yield for a question?

SENATOR HANNON: Yes, I do.

This -- in one major sense, this utilization review here is fundamentally

different than the past approaches. The past approaches were all home grown TAG regulation of the state and looking just to use the exist... the standards that would be imposed by the state, the Department of Health.

What this seeks to do is to use the national standards, URAC, it's a not-for-profit organization at the national level that has come up with utilization review and it really applies in a couple of different ways. One is as providing a system for the customer to appeal in the event that procedures they feel ought to be granted are not granted.

Second, there would be a system for the physician to appeal in case something should be given to one of their patients that's not given.

Third, it is a way for people providing the care to take a uniform look at the types of care that's being given and it also goes beyond that, to provide for standards of confidentiality, standards of quality, so it's a much broader approach, and it's a whole -

fundamentally, this would be a different bill than you've seen in the past.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: This bill is passed.

Just to let everyone know we're awaiting some information. Let the record reveal that this never occurred when Senator Kuhl was in the chair.

SENATOR GOODMAN: Mr. President, may I inquire?

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

SENATOR GOODMAN: Have you taken measures to brace the handle on that gavel because I fear, even if you tap it gently, it

will be under enormous strain.

ACTING PRESIDENT MARCELLINO: Sir, this gavel is well reinforced.

SENATOR GOODMAN: Thank you, sir. Mr. Chairman.

SENATOR STAVISKY: Mr. President, are we -

ACTING PRESIDENT MARCELLINO: We're in a brief pause.

Senator Stavisky will be recognized. Will the chamber please come to order.

SENATOR STAVISKY: Without objection, may I be recorded in the negative on Calendar Number 993?

ACTING PRESIDENT MARCELLINO: Senator Stavisky will be recorded in the negative on Calendar -

SENATOR STAVISKY: 993.

ACTING PRESIDENT MARCELLINO: 993. Senator Waldon, why do you rise?

SENATOR WALDON: Senator, without objection, if there is none, in the negative on

Calendar 993.

ACTING PRESIDENT MARCELLINO: Without objection, so ordered.

Senator Present?

Senator Trunzo.

SENATOR TRUNZO: Mr. President, 1409, I understand there was a slow roll call. I was not in the chamber at the time. Had I been there, I would have been recorded in the affirmative.

ACTING PRESIDENT MARCELLINO: The record will reflect that had you been in the chamber at the time, you would have been recorded in the affirmative.

SENATOR TRUNZO: Thank you.

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Present.

SENATOR PRESENT: Mr. President, can we take up Calendar 1429.

ACTING PRESIDENT MARCELLINO: The clerk will read Calendar Number 1429.

SENATOR PRESENT: Mr. President,

that's on Senate Supplemental Calendar Number 2.

THE SECRETARY: Calendar Number 1429, by the Senate Committee on Rules, Senate Print 5404, an act to amend the Public Authorities Law and the Education Law, in relation to providing for the financing and construction of capital facilities.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT MARCELLINO: An explanation has been asked for by the Minority Leader.

SENATOR PRESENT: Mr. President, this would allow school districts outside the city of New York to finance their school construction individually or collectively through the Dormitory Authority.

ACTING PRESIDENT MARCELLINO: Senator Paterson? Senator Stachowski.

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

ACTING PRESIDENT MARCELLINO:

Senator Present, do you yield to Senator Stachowski?

SENATOR PRESENT: Yes, sir.

ACTING PRESIDENT MARCELLINO: Senator Stachowski, Senator Present yields.

SENATOR STACHOWSKI: Would the rehab and the reconstruction, for example, of Buffalo and the other cities other than the city of New York, where the schools are older and sort of in bad shape, would that all qualify for this funding also?

SENATOR PRESENT: Yes, they would be eligible.

SENATOR STACHOWSKI: If the Senator would continue to yield.

ACTING PRESIDENT MARCELLINO: Senator Present, do you continue to yield?

SENATOR PRESENT: Yes.

ACTING PRESIDENT MARCELLINO: He continues to yield, sir.

SENATOR STACHOWSKI: I would think that would be a rather high proposition and is there a ceiling on how much Dormitory

Authority money we're going to be allowed to use for this particular program, or is there a problem with how much they make available or is the sky the limit, so to speak, on which schools can come in and get rehab'ed and -

SENATOR PRESENT: They'll all be by bonding that the schools will be doing any way. They'll bond through the Dormitory Authority, but there will be no limit on it, no cap.

SENATOR STACHOWSKI: Well, if the Senator would yield for one more question then.

ACTING PRESIDENT MARCELLINO: Senator Present, do you continue to yield?

SENATOR PRESENT: I'll try.

ACTING PRESIDENT MARCELLINO: He'll try.

SENATOR STACHOWSKI: Tell me if I'm right or wrong on this. The schools will decide what they want to fix. They'll use Dormitory Authority bonding and then they will be paying it back, the school district will be paying it back; that's how it works?

SENATOR PRESENT: Exactly.

SENATOR STACHOWSKI: Thank you.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Present would yield for just a couple of questions.

ACTING PRESIDENT MARCELLINO: Senator Present, do you yield to Senator Paterson?

SENATOR PRESENT: Yes.

ACTING PRESIDENT MARCELLINO: Senator Present yields, sir.

SENATOR PATERSON: Senator, we're talking about the bonding for the rest of the state and Senator Stachowski was talking about the big four. We recognize that New York City is not included because of the School Construction Authority, but the School Construction Authority doesn't allow for any bonding, and my question is does -- how would we allow New York City to receive the same bonding capability that the rest of the state has?

SENATOR PRESENT: Senator Paterson, I'm told the city of New York is able to bundle, because of the large school district is able to bundle it and do their bonding collectively within the city. This will allow those school districts outside the city to do similar through the Dormitory Authority.

SENATOR PATERSON: They don't - they don't bond.

ACTING PRESIDENT MARCELLINO: Senator Present, do you continue to yield? He yields, sir.

SENATOR PATERSON: They don't bond through the School Construction Authority? Can you explain to me how they bond collectively?

SENATOR PRESENT: They bond through the City, the end -- the school district gets the advantage of the size of the city.

SENATOR PATERSON: Oh, I understand now what you're saying. Hold on a minute.

SENATOR PRESENT: Sure.

SENATOR PATERSON: I -- Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: What concerns us -- on the bill.

ACTING PRESIDENT MARCELLINO: Senator Paterson, on the bill.

SENATOR PATERSON: Those same opportunities for bonding that the -- that the districts would have, even if this bill did not exist so, in other words, all would be included as in any other city, but what we're saying in this particular piece of legislation is that now they're going to be -- outside New York City they're going to be able to bond directly and they're going to be able to do it through this -- this type of financing, but New York City doesn't have it.

I have one last question if Senator Present -

ACTING PRESIDENT MARCELLINO: Senator Present, do you yield for one last

question?

SENATOR PRESENT: I don't think the last one was a question. O.K.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR PATERSON: This question is the last question. Does the adoption of this resolution in any way affect the Wicks Law?

SENATOR PRESENT: This will give school districts the ability to participate in the same options as given to the city school districts of New York.

SENATOR PATERSON: O.K. Thank you, Senator.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Mr. President, just to explain my vote.

ACTING PRESIDENT MARCELLINO:

Senator Paterson to explain his vote.

SENATOR PATERSON: I'm getting the impression from that answer that Senator Present gave that these districts that -- in this fashion, they would actually be exempt from the Wicks Law, and I'm going to have to vote no.

ACTING PRESIDENT MARCELLINO: Senator Paterson will be voting no. Read the last section.

Senator Abate.

SENATOR ABATE: To be recorded in the negative.

ACTING PRESIDENT MARCELLINO: Senator Abate in the negative. Senator Stavisky in the negative. Give the vote when tabulated. Senator Paterson negative, Senator Connor negative.

Can we read the last section?

THE SECRETARY: Section 16. This act shall take effect on the first day of July.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56, nays 3, Senators Abate, Paterson and Stavisky recorded in the negative.

ACTING PRESIDENT MARCELLINO: I believe Senator Connor wanted to be recorded in the negative too on that.

THE SECRETARY: Also Senator Connor.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, can we take up the non-controversial calendar on Supplemental Active List of Thursday, June 15, 1955.

ACTING PRESIDENT MARCELLINO: The clerk will read the non-controversial calendar, the Supplemental Active List starting with Number 42.

THE SECRETARY: Calendar Number 42, by Senator Nozzolio, Senate Print 580A, an act to amend the Public Authorities Law and the

Executive Law, in relation to creating the Cayuga County Water and Sewer Authority.

ACTING PRESIDENT MARCELLINO: There is a message. I'm sorry.

SENATOR PRESENT: Mr. President, I understand there is a message at the desk. I move we accept it.

ACTING PRESIDENT MARCELLINO: You read my line, sir. There is a message at the desk. All in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 335, by Senator Kuhl, Senate Print 3667A, an act to amend the Agriculture and Markets Law, in relation to agricultural commodities.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 492, by Senator Stafford, Senate Print 3808, an act to amend the Public Authorities Law, in relation to empowering the Olympic Regional Development Authority.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 581, by Senator Trunzo, Senate Print 3755A, an act to amend the Vehicle and Traffic Law, in relation to the use of head lamps and flashers.

ACTING PRESIDENT MARCELLINO: Please read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 1st day of January.

ACTING PRESIDENT MARCELLINO: Call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 738, by Senator Goodman, Senate Print 3418, an act to amend the Town Law, in relation to

providing for the election of a third town justice.

ACTING PRESIDENT MARCELLINO: Will the clerk please read the title of Calendar Number 738 once again.

THE SECRETARY: Calendar Number 738, by Senator Goodman, Senate Print 3418, an act to amend the Administrative Code of the city of New York in relation to the repayment of outstanding debts.

ACTING PRESIDENT MARCELLINO: There is a home rule message at the desk. Please read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 180th day after it shall have become a law.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: This bill is finally passed.

THE SECRETARY: Calendar Number

739, by Senator Goodman, Senate Print 3419, an act to amend the General City Law and others, in relation to authorizing the establishment of the New York City Tribunal.

ACTING PRESIDENT MARCELLINO: There is a home rule message at the desk. Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 744, by Senator Marchi, Senate Print 3842A, an act authorizing the city of New York to release its interest in certain real property acquired by in rem tax foreclosure in the borough of Staten Island.

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

Please read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 763, by Senator Leichter, Senate Print 2286B, an act to amend the Judiciary Law, in relation to judicial proceedings held on certain religious holy days.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The

bill is passed.

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 MARCELLINO: We have a home rule message at the desk. Please read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The calendar, if you're reading the supplemental list, Calendar Number 1319, S. 5352, passed previously, so we'll skip over that.

The bill is passed, the previous bill.

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 MARCELLINO: There is a home rule message at the desk. Please read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Present, why do you rise?

SENATOR PRESENT: Mr. President, we're going to have a little lapse of time. Is there any housekeeping that can be handled at this time?

ACTING PRESIDENT MARCELLINO: We may have some in a moment, sir. Hold on for a

second.

Senator Trunzo.

SENATOR TRUNZO: Mr. President, can we please remove the star on Calendar Number 600, Print Number 2920.

ACTING PRESIDENT MARCELLINO: So ordered.

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Yes, Mr. President. I would like unanimous consent to be recorded in the negative on Calendar 1429.

ACTING PRESIDENT MARCELLINO: So ordered. Thank you. 1429.

Senator Santiago, why do you rise?

SENATOR SANTIAGO: Mr. President, I would like the record to show if I had been in the chamber when 1409 was called, I would have been recording in the negative.

ACTING PRESIDENT MARCELLINO: The record will reflect, Senator, that if you had been in the chamber when the roll call was made,

you would have been in the negative on 1409.

SENATOR SANTIAGO: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator.

SENATOR SANTIAGO: Mr. President, I would also like to be in the negative on Calendar Number 993.

ACTING PRESIDENT MARCELLINO: 993, Senator Santiago will be recorded in the negative.

SENATOR SEWARD: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Seward.

SENATOR SEWARD: Yes. I would ask unanimous consent to be recorded in the negative on Calendar Number 581.

ACTING PRESIDENT MARCELLINO: Senator Seward, without objection, will be recorded in the negative on Calendar 581.

SENATOR SEWARD: And also, Mr. President, on Calendar Number 1409 which passed earlier today on a slow roll call, I was unavoidably out of the chamber, and I would ask

that the record reflect that had I been in the chamber, I would have voted in the affirmative.

ACTING PRESIDENT MARCELLINO: Senator Seward, the record will reflect, had you been in the chamber when 1409 was called, you would have been voting in the affirmative.

SENATOR SEWARD: Thank you.

SENATOR FARLEY: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Farley, why do you rise?

SENATOR FARLEY: I'd like to be in the negative on 581.

ACTING PRESIDENT MARCELLINO: Senator Farley would like to be recorded in the negative on Calendar Number 581.

Senator Seward, the Chair recognizes you.

SENATOR SEWARD: Yes, Mr. President. I move, on behalf of Senator Levy, I move to amend Senate Number 4985B by striking out the amendments made on June 15th and restoring it to its previous Print Number 4985A.

ACTING PRESIDENT MARCELLINO: Amendments received and accepted.

SENATOR SEWARD: The Senate bill on its first passage was voted unanimously. I now move that the amended bill have its third reading at this time.

ACTING PRESIDENT MARCELLINO: Secretary will read.

THE SECRETARY: Calendar Number 875, by Senator Levy, Senate Print Number 4985A, an act to amend the Transportation Law, in relation to the investigation of accidents.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Present.

SENATOR PRESENT: Mr. President, I think it will be a few moments before we have any action here, so we'll stand at ease.

ACTING PRESIDENT MARCELLINO: Senate will stand at ease for a few moments.

(Whereupon at 6:46 p.m., the Senate stood at ease until 7:12 p.m.)

ACTING PRESIDENT HOBLOCK: The house will come to order. Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. If we could return to the first calendar of the day, Calendar Number 66, and you could ask the Secretary to call up Calendar Number 957.

ACTING PRESIDENT HOBLOCK: Secretary return to the original calendar and call Calendar Number 957.

THE SECRETARY: Calendar Number 957, by Senator Marcellino, Senate Print 4951B, an act to amend the Social Services Law, in relation to child day care.

SENATOR KUHL: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT HOBLOCK: Yes, there is a message of necessity at the desk.

SENATOR KUHL: I'd move we accept the message of necessity.

ACTING PRESIDENT HOBLOCK: Without objection, the message will be accepted. All those in favor?

(Response of "Aye.")

Opposed?

(There was no response.)

The message is accepted.

Senator Paterson, why do you rise?

SENATOR PATERSON: I rise in support of voices screaming all over the chamber for an explanation.

ACTING PRESIDENT HOBLOCK: Explanation has been asked for, Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President.

This bill amends subdivision (1) of Section 390 of the Social Services Law to add some language requiring one care giver for every two children under two years of age in a group family day care situation. It amends Section 12 of 390 and adds family day care to the exemption of single-family homes used for day care from zoning review. It also amends Section 390 (a) to correct a misspelled word and adds a statement with regard to the subsequent courses to be taken after family day care providers receive their initial training. It also amends Section 424 (a) to allow persons screened as substitutes to serve as substitutes for registered day care providers as well as licensed child care centers.

ACTING PRESIDENT HOBLOCK: Senator Stachowski, why do you rise?

SENATOR STACHOWSKI: If Senator Marcellino would yield to a couple questions.

ACTING PRESIDENT HOBLOCK: Senator Marcellino, would you yield?

SENATOR MARCELLINO: Yes, I will,

sir.

SENATOR STACHOWSKI: Senator, when your bill came out, some of the family day care center providers in my district wrote me a letter complaining about -- and I don't know if this is true; I'm going to ask you -- complain ing about one of the things your bill did was let you take a facility that was in the home and have that family day care center locate in an another facility, like another building and they thought all that was doing was circumventing day care regulations where, if it's not going to be in a home setting and going to be in a different facility, then it should be covered by day care center provisions rather than home day care center provisions.

I don't know if your bill does that or not. That's what my people told me it does, and so I'm asking you, does it do that or not?

SENATOR MARCELLINO: Senator, you're partially correct. The initial writing of the bill did do that. We received the same

letters that you received apparently and we have made the corrections and adjustments to this bill, it's my understanding, so that it now has to be in the home of the provider.

SENATOR STACHOWSKI: Thank you very much.

SENATOR MARCELLINO: And it's also my understanding that the people who were in objection, although we do not have memos from them yet, no longer object.

ACTING PRESIDENT HOBLOCK: Senator Stavisky.

SENATOR STAVISKY: No, I'm sorry.

ACTING PRESIDENT HOBLOCK: Read the last section.

SENATOR GOLD: Wait a minute, Mr. President.

Mr. President, would the Senator yield to a question?

ACTING PRESIDENT HOBLOCK: Senator Gold. Senator Marcellino, do you yield?

SENATOR MARCELLINO: No.

Senator, with trepidation I yield.

SENATOR GOLD: No. Did you say part of what this does was correct some spelling errors?

SENATOR MARCELLINO: No, there was a word misspelled. It corrects it.

SENATOR GOLD: Was this originally a Nozzolio bill? No, I'm only kidding.

SENATOR NOZZOLIO: I rise to a point of high personal privilege.

ACTING PRESIDENT HOBLOCK: Read the last section. Oh, Senator Oppenheimer.

SENATOR OPPENHEIMER: I'm trying to figure out what is the change here as, Senator Marcellino, it says permits the use of a single-family dwelling for family day care programs. Isn't that what we've always had? Isn't it always what we've had, family residential, single -

SENATOR MARCELLINO: I'm sorry, Senator, but I -- I'm sorry. I can not hear you.

SENATOR OPPENHEIMER: S-s-sh! S-s-sh! S-s-sh!

ACTING PRESIDENT HOBLOCK: Can we have a little order in the chamber, please.

SENATOR OPPENHEIMER: I'm unclear as to what the changes are from the present law. This permits the use of a single-family dwelling for day care programs. Isn't that what currently exists, single-family homes?

SENATOR MARCELLINO: This -- the original bill, I think we went back to what was the case because the original bill allowed them to go to other dwellings, other situations than the home of the provider, and -

SENATOR OPPENHEIMER: Other than the home of the provider.

SENATOR MARCELLINO: We went back to the original situation with this bill and further changes thereafter.

SENATOR OPPENHEIMER: Can you tell me what prompted the decision to change from other than the provider's home?

SENATOR MARCELLINO: Frankly, no,

Senator, I really don't know. I believe, Senator, they were trying to clean up some language, some technical language in this thing. They also tried to get around some zoning, local zoning issues so that they couldn't zone them out of existence locally because of some problem with group home situations, and this bill clearly defines the difference between a group home and a family day care by limiting to a maximum of six the number of toddlers and infants that can be in the family situation with one provider, care provider, for every two infants, whereas the group home, as you well know, goes up to ten.

SENATOR OPPENHEIMER: Except that under family day care you can have double that number, you can have 12 little children with two providers; that is in the law presently. I'm questioning residential setting. Isn't a residential setting a singly -- single-family dwelling?

SENATOR MARCELLINO: Could be.

SENATOR OPPENHEIMER: O.K. Well,

it looks like a good bill. I was just curious about some of the language. I think part of the problem is that too many of our communities have zoned out family day care. They say it's a business in a residential setting and so, if this clarifies the law, this is a very beneficial bill.

SENATOR MARCELLINO: Thank you for your comments, Senator.

ACTING PRESIDENT HOBLOCK: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 120th day.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT HOBLOCK: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. If we could now go to the Supplemental 2 Calendar and if we could have the

Secretary call up Calendar Number 1427.

ACTING PRESIDENT HOBLOCK: Supplemental 2 Calendar, Secretary will read Calendar Number 1427.

THE SECRETARY: Calendar Number 1427, by Senator Skelos, Senate Print 5396A, an act in relation to authorizing service awards for the Lawrence-Cedarhurst Fire Department, Inc.

SENATOR KUHL: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT HOBLOCK: There's a message of necessity at the desk.

SENATOR KUHL: I move we accept the message of necessity.

ACTING PRESIDENT HOBLOCK: All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed?

(There was no response.)

The message is accepted. Read the last section.

THE SECRETARY: Section 3 -

Section 7. This act shall take effect immediately.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT HOBLOCK: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes. Can we now stand at ease for a few moments, please.

ACTING PRESIDENT HOBLOCK: Stand at ease for a few moments.

(Whereupon at 7:17 p.m., the Senate stood at ease, reconvening at 7:34 p.m.)

ACTING PRESIDENT KUHL: Senate will come to order.

The Chair recognizes Senator Hoblock.

SENATOR HOBLOCK: Mr. President, can we go to the original calendar and call up Calendar 271, Senate Bill 3292A, by Senator

LaValle.

ACTING PRESIDENT KUHL: Secretary will read the title of the Calendar Number 271 off of the original calendar.

THE SECRETARY: On page 7, Calendar Number 271, by Senator LaValle, Senate Print Number 3292A, an act to amend the Education Law, in relation to procedures for standardized testing.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect September 1st.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Hoblock.

SENATOR HOBLOCK: Mr. President, would you please call up Calendar Number 849, Senate Bill 1610A, by Senator Goodman.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 849, by Senator Goodman, Senate Print 1610A, an act to amend the Vehicle and Traffic Law, in relation to the civil liability of vehicle owners.

ACTING PRESIDENT KUHL: Senator Hoblock.

SENATOR HOBLOCK: Mr. President, is there a message at the desk?

ACTING PRESIDENT KUHL: The Secretary informs me that there is.

SENATOR HOBLOCK: I move that we accept the message.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity at the desk. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Secretary will read the last section.

THE SECRETARY: Section 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 58, nays 1, Senator Padavan recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Chair recognizes Senator Wright.

SENATOR WRIGHT: Mr. President, I request unanimous consent to be recorded in the negative on Calendar 581, Senate 3755A.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Wright will be recorded in the negative on Calendar Number 581.

Senator Hoblock.

SENATOR HOBLOCK: Mr. President, I ask unanimous consent that had I been in the chamber yesterday in a slow roll call on

Calendar Number 91, Senate Bill Number 973, that I would have voted in the affirmative.

ACTING PRESIDENT KUHL: Senator Hoblock, the record will reflect that had you been in the chamber yesterday when the roll call was called on Calendar Number 91, that you would have voted in the affirmative.

Senator Hoblock.

SENATOR HOBLOCK: Mr. President, would you please call up Calendar 1048, Senate 181, by Senator Tully.

ACTING PRESIDENT KUHL: Secretary will read the title to Calendar Number 1048.

THE SECRETARY: Calendar Number 1048, by Senator Tully, Senate Print Number 181, an act to amend the General Municipal Law, in relation to providing coverage for injuries.

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 January 1st.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Hoblock.

SENATOR HOBLOCK: Mr. President, can we stand at ease for a few moments, please.

ACTING PRESIDENT KUHL: The Senate will stand at ease.

(Whereupon at 7:37 p.m., the Senate stood at ease until 7:42 p.m.)

SENATOR FARLEY: Mr. President.

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

SENATOR FARLEY: I'd like to be recorded in the negative on Calendar Number 271.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Farley will be recorded in the negative on Calendar Number 271.

...At 7:48 p.m....

ACTING PRESIDENT KUHL: Senate

will come to order.

The Chair will recognize Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Earlier today I laid aside my bill, Calendar Number 1365, Bill Number S. 4252. I wish to withdraw the lay aside and call the matter.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 1365 which is on the original calendar of the day.

THE SECRETARY: Calendar Number 1365, by Senator Nozzolio, Senate print 4252, an act to amend the Alcoholic Beverage Control Law, in relation to regulating the hours of sale by a winery.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, if you would recognize Senator Solomon.

ACTING PRESIDENT KUHL: Senator

Solomon.

SENATOR SOLOMON: Thank you, Mr. President.

I'm not going to ask the sponsor any questions on this. We've been trying to work out a resolution of the problems that face parts of my Senate district and other parts of the state, and I know the sponsor of this bill, along with some other members of the Majority, are committed to trying to resolve those problems and indeed get my piece of legislation out on the floor of this house.

I am going to vote in the negative. I'm going to vote against this bill because again, in terms of fairness to a lot of the people in my Senate District who have written to me, petitions have been collected where they have had problems on a regular basis and not on being closed on Saturday and being closed on Sunday and in other instances because Jewish holidays fall on certain other days, they could be closed Saturday, Sunday, and Monday, and Saturday, Sunday, Monday and Tuesday in many

instances or Thursday, Friday, Saturday and Sunday, and we basically have a problem of fairness and where this wine will in fact now be sold in certain parts of the city of New York on Sundays.

Thank you.

ACTING PRESIDENT KUHL: Secretary will read the last section. Excuse me, Senator Paterson.

SENATOR PATERSON: Mr. President, I just have one statement on the bill, and it is that I think that this piece of legislation really in many respects diminishes the meaning of having the types of laws that we have about the distribution of alcohol on Sunday. I think there's a special circumstance -

ACTING PRESIDENT KUHL: Senator Paterson, apparently we're having a little camp fire over here in the south part of the chamber.

SENATOR DOLLINGER: Scoutmaster Gold.

ACTING PRESIDENT KUHL: Scout

master Gold, if you could help your scouts to find their way to their chairs, I'm sure your colleague, Senator Paterson, would be most appreciative if they would pay their attention to him.

O.K. We have lots of business still to do in a fairly short time, so let's see if we can conclude it.

Senator Paterson.

SENATOR PATERSON: Mr. President, that demonstration is exactly my point. This mirth and frivolity that obviously we're trying to prevent on Sundays, we made an exception in the cases where the wineries, for purposes of commercial development and for purposes also of tourism, can sell their product but once we start allowing them at state fairs or different types of events such and the like, we're going to start getting complaints from parts of the state that don't have them. There will be some similar kind of contingent plan that they will have, and then we're really just going to subjugate the message of not distributing

alcohol on Sunday.

Now, I suggest that there are two ways to solve that problem. One is to allow it and the other would be not to allow it. Right now the law is that we don't allow it and with the exceptions that we have, that actually exist probably, when we open the door to establish the exceptions, some Senator got up at that time and said, you see, If we do this then they're going to start having them at state fairs.

I think that wine distributors who are outside of New York State are actually penalized and aren't really allowed to be in the fair competition really based on the statute that restricts the sale on Sundays, while we're allowing New York State companies that opportun ity based only on the fact that they are from New York State and the type of, I would say religious tenet that's impinging upon the statute really, I think, in many respects, should focus us on not really trying to in any way diminish the meaning of it.

If we're not going to have it, we

have certainly rolled back a lot of our "blue laws" about Sunday in other areas. Maybe we need to do this with alcohol distribution. If that's the case, then let's do it, but while we are continuing to have it, then I think that the effects must be equal, and I'm going to have to vote no as well.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Padavan.

SENATOR PADAVAN: I want to record my vote.

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 1365 are Senators Connor, DiCarlo, Gold, Holland, Jones,

LaValle, Levy, Marcellino, Onorato, Padavan, Paterson, Skelos, Solomon, Stavisky, Waldon, and Senator Hoblock; also Senator Tully.

ACTING PRESIDENT KUHL: Results.

THE SECRETARY: Also Senator Farley. Ayes 41, nays 18.

ACTING PRESIDENT KUHL: The bill is passed.

Chair recognizes Senator Skelos.

SENATOR SKELOS: Mr. President, could I have unanimous consent to be recorded in the negative on Calendar Number 849, Senate 1610A.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Skelos will be recorded in the negative on Calendar Number 849.

SENATOR GOLD: Mr. President.

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

SENATOR GOLD: Yeah. Would Senator Libous yield to a question?

ACTING PRESIDENT KUHL: Senator

Libous yields.

SENATOR GOLD: Senator, are you lost?

SENATOR LIBOUS: I'm a great believer in flexibility in life.

ACTING PRESIDENT KUHL: Chair recognizes Senator Tully.

SENATOR TULLY: Yes, Mr. President. May I have unanimous consent to be recorded in the negative on Calendar Number 849, Senate 1610A.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Tully will be recorded in the negative on Calendar Number 849.

Chair recognizes Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, can I have unanimous consent to be recorded in the negative on Calendar Number 849.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Stachowski will be recorded in the negative on

Calendar Number 849.

Senator Velella.

SENATOR VELELLA: Mr. President, I was out of the chamber when Senate Bill 849, Senate Bill 1610A, was called. I was recorded in the affirmative. I'd like to be recorded in the negative.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Velella will be recorded in the negative on Calendar 849.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President, I apologize, I was out of the chamber. Could I be recorded in the negative on Calendar Number 1365, please.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Maziarz will be recorded in the negative on Calendar Number 1365.

Senator Maltese.

SENATOR MALTESE: Mr. President, without objection, may I be recorded in the

negative on Calendar Number 1365.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Maltese will be recorded in the negative on Calendar Number 1365.

The Chair recognizes Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President. I would like to be recorded in the negative on Calendar Number 1365.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Montgomery will be recorded in the negative on Calendar Number 1365.

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT KUHL: Will the Senate come to order, please. Chair recognizes Senator Bruno.

SENATOR BRUNO: We have an immediate meeting of the Rules Committee in Room 332.

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.

SENATOR BRUNO: And, Mr. President.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: I might note that the purpose of this meeting will be to get the last calendar to the floor.

ACTING PRESIDENT KUHL: For those of you who did not hear because of the noise in the chamber, the intended purpose of the Rules Committee is to create the last calendar of the day and of the session.

...At 9:00 p.m....

ACTING PRESIDENT KUHL: The Senate will come to order. Members please find their chairs, staffs please find a place.

If you have any conversations to be had, please take them out of the chamber.

Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President,

can we return to the reports of standing committees, and I believe there's a report from the Rules Committee, and ask that it now be read.

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

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

Senate Print 180B, by Senator Tully, an act to amend the General Municipal Law, in relation to service award programs;

598A, by Senator Holland, an act to amend the Real Property Tax Law, in relation to a proceeding;

1020, by Senator Johnson, an act to amend the Environmental Conservation Law, in relation to the acceptance of used oil;

1242, by Senator Onorato, an act to amend the Penal Law, in relation to making possession of a lockable folding knife the crime

of criminal possession;

1617A, by Senator Goodman, an act to amend the Arts and Cultural Affairs Law, in relation to authorizing the award of grants;

2132, by Senator Johnson, an act to amend the Environmental Conservation Law, in relation to stewardship agreements;

2149B, by Senator Spano, an act to amend the Environmental Conservation Law, in relation to authorizing certain wildlife rehab ilitators;

2542B, by Senator Hannon, an act to amend the General Municipal Law, in relation to prompt payment;

2880A, by Senator Lack, an act to amend the Judiciary Law, in relation to juror compensation;

2981A, by Senator Velella, an act to amend the General Business Law, in relation to advertising the square footage;

3182A, by Senator Wright, an act to amend the Environmental Conservation Law, in relation to special beaver management areas;

3320, by Senator Maltese, an act to amend the Penal Law, in relation to false reporting of incidents;

3335, by Senator Velella, an act to amend the Real Property Law, in relation to rights of tenants organizations;

3396A, by Senator Velella, an act to amend the Vehicle and Traffic Law, in relation to the adjudication of parking infractions;

3440B, by Senator Velella, an act to amend the Vehicle and Traffic Law, in relation to reports required upon accident;

3450A, by Senator Skelos, an act to amend the Civil Practice Law and Rules, in relation to the method of commencing an action;

4315A, by Senator Hannon, an act to amend the Public Authorities Law, in relation to the powers and duties of the Power Authority of the state of New York;

4395A, by Senator Seward, an act to amend the Highway Law, in relation to designating a portion of the state highway

system;

4651, by Senator Waldon, an act authorizing the city of New York to reconvey its interest in certain real property;

4679A, by Senator Lack, an act to amend the Surrogate's Court Procedure Act, in relation to when service of process upon an infant is completed;

5317, by Senator Bruno, an act in relation to authorizing the city of Troy, county of Rensselaer, to establish and operate a municipal ambulance service;

5325, by Senator Cook, an act to amend the Insurance Law, in relation to delaying community rating;

5350, by Senator Sears, an act making certain findings and determinations with respect to the establishment and consolidation of various water districts;

5398, by Senator Goodman, an act to amend the General Business Law, in relation to delinquent accounts;

5405, by Senator Kuhl, an act to

amend the Alcoholic Beverage Control Law, in relation to a certain exemption from provisions relating;

5415, by the Senate Committee on Rules, an act to amend the Tax Law, the General City Law and the Administrative Code of the city of New York, in relation to the imposition of certain taxes;

5416, by the Senate Committee on Rules, an act to amend the Tax Law and Chapter 272 of the Laws of 1991, amending the Tax Law;

5417, by the Senate Committee on Rules, an act to amend the Local Finance Law, in relation to the sale of bonds and notes;

916A, by Senator Goodman, an act authorizing the city of New York to reconvey its interest in certain real property;

1349, by Senator Oppenheimer, an act to amend the Executive Law, in relation to information on persons applying to be an auxiliary police officer;

1381, by Senator Johnson, an act to amend the Uniform District Court Act and the

Uniform City Court Act, in relation to authorizing such courts;

1461A, by Senator Goodman, an act to amend the Vehicle and Traffic Law, in relation to unlicensed and fraudulent operators;

5305, by Senator Velella, an act in relation to authorizing the public sale of taxicab licenses in the city of New York;

5369, by Senator Stafford, an act to amend the Alcoholic Beverage Control Law, in relation to licenses to sell beer and wine;

5400, by Senator Padavan, an act to amend the Administrative Code of the city of New York, in relation to amortization of the balance sheet liability;

5409A, by Senator Spano, an act to amend Chapter 12 of the Laws of 1995, relating to providing a retirement incentive;

5411, by Senator Goodman, an act to amend the Administrative Code of the city of New York, in relation to the rate of regular interest;

5472, by Senator Hoblock, an act

to amend the Public Authorities Law, in relation to enabling the Dormitory Authority;

5478, by the Senate Committee on Rules, an act to amend the Public Authorities Law, in relation to the board of trustees of the Long Island Power Authority.

All bills ordered directly for third reading.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, I move that we accept the report of the Rules Committee.

ACTING PRESIDENT KUHL: 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.

Senator Saland, did you want to cast a vote?

SENATOR SALAND: Thank you, Mr.

President. I would request unanimous consent to -- on Calendar Number 849, to be recorded in the negative.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Saland will be recorded in the negative on Calendar Number 849.

Senator Bruno.

SENATOR BRUNO: Mr. President, I ask at this time that we take up the non-controversial part of Calendar Number 3.

ACTING PRESIDENT KUHL: Secretary will read the Supplemental Calendar Number 3, non-controversial.

THE SECRETARY: Calendar Number 1434, by Senator Tully, Senate Print 180B, an act to amend the General Municipal Law, in relation to service award programs for volunteer firefighters.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, is there a message of necessity at the desk?

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

SENATOR BRUNO: I move that we accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Secretary will read the last section.

THE SECRETARY: Section 8. 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.

THE SECRETARY: Calendar Number 1435, by Senator Holland, Senate Print 598A.

SENATOR CONNOR: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1436, by Senator Johnson, Senate Print Number 1020, an act to amend the Environmental Conservation Law, in relation to the acceptance of used oil by service establishments.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1437, by Senator Onorato.

SENATOR HOFFMANN: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1438, by Senator Goodman Senate Print Number 1617A, an act to amend the Arts and Cultural Affairs Law, in relation to authorizing the award of grants for records management improvement.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. The 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar - Senator Johnson moves to discharge from the Committee on Rules, Assembly Bill Number 3208 and substitute it for the identical Calendar Number 1439.

ACTING PRESIDENT KUHL:

Substitution is ordered.

THE SECRETARY: Calendar Number 1439, by member of the Assembly Englebright, Assembly Print 3208, an act to amend the Environmental Conservation Law, in relation to stewardship agreements.

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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1440, by Senator Spano.

ACTING PRESIDENT KUHL: The bill is high. It will be laid aside.

THE SECRETARY: Calendar Number 1441, by Senator Hannon, Senate Print 2542B, an act to amend the General Municipal Law, in

relation to prompt payment by public owners.

SENATOR CONNOR: Lay aside -- no, last section.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1442, by Senator Lack, Senate Print 2880A, an act to amend the Judiciary Law, in relation to juror compensation, and to repeal certain provisions of such law relating thereto.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect February 15th.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Velella moves to discharge from the Committee on Rules, Assembly Bill Number 1170A and substitute it for the identical Calendar Number 1443.

ACTING PRESIDENT KUHL: Without objection, substitution is ordered.

THE SECRETARY: Calendar Number 1443, by member of the Assembly Dinowitz, Assembly Print 1170A, an act to amend the General Business Law, in relation to -

VOICE: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1444, by Senator Wright, Senate Print 3182A.

SENATOR CONNOR: Lay aside, please.

ACTING PRESIDENT KUHL: Lay the

bill aside.

THE SECRETARY: Calendar Number 1445, by Senator Maltese, Senate Print 3320, an act to amend the Penal Law, in relation to false reporting of incidents.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Velella moves to discharge from the Committee on Judiciary, Assembly Bill Number 1502 and substitute it for the identical Calendar Number 1446.

ACTING PRESIDENT KUHL: Without objection, substitution is ordered.

THE SECRETARY: Calendar Number 1446, by member of the Assembly Dinowitz, Assembly Print 1502, an act to amend the Real Property Law, in relation to the right of tenants organizations to meet in community rooms.

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 58, nays one, Senator Leibell recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1447, by Senator Velella, Senate Print Number 3396A, an act to amend the Vehicle and Traffic Law, in relation to the adjudication of parking

infractions.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect 60 days after it shall have become law.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1448, by Senator Velella, Senate Print Number 3440B, an act to amend the Vehicle and Traffic Law, in relation to reports required upon accidents.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: 1449, by Senator Skelos.

ACTING PRESIDENT KUHL: Bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1450, by Senator Hannon.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1451, by Senator Seward, Senate Print Number 4395A, an act to amend the Highway Law, in relation to designating a portion of the state highway system.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1452, by Senator Waldon, Senate Print 4651, an act authorizing the city of New York to reconvey its interest in certain real property required by in rem tax foreclosure in the borough of Queens.

ACTING PRESIDENT KUHL: There's 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Lack moves to discharge from the Committee on Rules, Assembly Bill Number 7861, and substitute it for

the identical Calendar Number 1453.

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

THE SECRETARY: Calendar Number 1453, by the Assembly Committee on Rules, Assembly Print 7861, an act to amend the Surrogate's Court Procedure Act, in relation to when service of process upon an infant is complete.

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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1454, by Senator Bruno, Senate Print 5317, an act in relation to authorizing the city of Troy, county of Rensselaer, to establish and operate a

municipal ambulance service.

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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1455, by Senator Cook, Sen...

SENATOR CONNOR: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1456, by Senator Sears, Senate Print 5350, an act making certain findings and determinations with respect to the establishment and consolidation of various water districts.

ACTING PRESIDENT KUHL: There's 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1457, by Senator Goodman.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: 1458, by Senator Kuhl, Senate Print 5405, an act to amend the Alcoholic Beverage Control Law, in relation to certain exemption from provisions relating to the unlawful interests of a manufacturer.

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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1459, by the Senate Committee on Rules.

SENATOR CONNOR: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1460, by the Senate Committee on Rules, Senate Print 5416, an act to amend the Tax Law and Chapter 272 of the Laws of 1991 amending the Tax Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 31. 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.

THE SECRETARY: Calendar Number 1461, by the Senate Committee on Rules, Senate Print 5417, an act -

SENATOR CONNOR: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1462, by Senator Goodman.

ACTING PRESIDENT KUHL: Bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1463, by Senator Oppenheimer, Senate Print 1349, an act to amend the Executive Law, in relation to information on persons applying to be an auxiliary police officer.

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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Johnson moves to discharge from the Committee on Judiciary, Assembly Bill Number 2054 and substitute it for the identical Calendar Number 1464.

ACTING PRESIDENT KUHL: Without objection, substitution is ordered.

THE SECRETARY: Calendar Number 1464, by member of the Assembly Sweeney, Assembly Print 2054, an act to amend the Uniform District Court Act and the Uniform City Court Act, in relation to authorizing such courts.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1465, by Senator Goodman, Senate Print 1461A, an act to amend the Vehicle and Traffic Law, in relation to unlicensed and fraudulent operators.

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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1466, by Senator Velella, Senate Print 5305, an act in relation to authorizing the public sale of taxicab licenses in the city of New York.

ACTING PRESIDENT KUHL: There's 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1467, by Senator Stafford.

SENATOR CONNOR: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1468, by Senator Padavan, Senate Print 5400, an act to amend the Administrative Code of the city of New York, in relation to amortization of the balance sheet liability.

ACTING PRESIDENT KUHL: There's 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1469, by Senator Spano, Senate Print 5409A, an act to amend Chapter 12 of the Laws of 1995, relating to providing a retirement incentive.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message, Mr. President?

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

SENATOR BRUNO: Move we accept the message.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity. All those

in favor, signify by saying aye.

(Response of "Aye.")

Opposed nay.

Message is accepted. 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1470, by Senator Goodman, Senate Print 5411, an act to amend the Administrative Code of the city of New York, in relation to the rate of regular interest.

ACTING PRESIDENT KUHL: There's 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1471, by Senator Hoblock, Senate Print 5472, an act to amend the Public Authorities Law, in relation to enabling the Dormitory Authority to finance and construct facilities.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk, Mr. President?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: I move we accept the message.

ACTING PRESIDENT KUHL: Motion is to accept the message at the desk. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

Secretary will read the last section.

THE SECRETARY: Section 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.

THE SECRETARY: Calendar Number 1472, by the Senate Committee on Rules, Senate Print Number 5478, an act to amend the Public Authorities Law, in relation to the board of trustees of the Long Island Power Authority.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message, Mr. President?

ACTING PRESIDENT KUHL: There is,

Senator Bruno.

SENATOR BRUNO: I move we accept the message of necessity at the desk.

ACTING PRESIDENT KUHL: Motion to accept the message of necessity at the desk. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Secretary will read the last section.

SENATOR CONNOR: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

Senator Bruno, that completes the non-controversial calling of Supplemental Calendar Number 3.

SENATOR BRUNO: Senator, could you at this time recognize Senator Stavisky for the purposes of voting.

ACTING PRESIDENT KUHL: Senator Stavisky.

SENATOR STAVISKY: Mr. President,

on 1444, would you consent to the reading of the last section?

ACTING PRESIDENT KUHL: Secretary will read the last section, Calendar Number 1444.

SENATOR STAVISKY: Mr. President, I -

THE SECRETARY: Calendar Number 1444 by -

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 1444.

THE SECRETARY: Calendar Number 1444, by Senator Wright, Senate Print 3182A, an act to amend the Environmental Conservation Law, in relation to special beaver management areas.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

SENATOR STAVISKY: May I be recorded as voting in the negative?

ACTING PRESIDENT KUHL: Senator Stavisky is recorded as voting in the negative.

The roll call is withdrawn. The bill is laid aside.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up the controversial Calendar 3.

ACTING PRESIDENT KUHL: Secretary will call Supplemental Calendar Number 3, controversial calendar.

THE SECRETARY: Calendar Number 1435, by Senator Holland, Senate Print 598A, an act to amend the Real Property Tax Law, in relation to proceeding to review.

SENATOR CONNOR: Explanation.

ACTING PRESIDENT KUHL: Senator Holland, an explanation of Calendar Number 1435

has been asked for by the Minority Leader.

SENATOR HOLLAND: Yes, Mr. President.

This is a tax certiorari bill. The problem started in the 1980s when the value of housing and commercial buildings started raising greatly; then the assessors raised the assessments on the properties so that the towns and villages could raise more money. Then, in 1990, when the assessments went down, the assessments were still high, the commercial and residential owners came to the assessors and asked that the assessment be reduced.

Today, particularly in the commercial areas, you can wait for four years and accumulate all that value for four years before you can claim a tax certiorari. We are simply asking, because it has such a huge hit particularly on the schools, that it not be a four-year wait but it be a two-year eight-month wait so the hit on the school district is not so heavy.

ACTING PRESIDENT KUHL: Senator

Connor.

SENATOR CONNOR: Explanation satisfactory.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes -

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar 1435 are Senators Hoblock, Kuhl, Lack, Larkin, Libous, Stachowski and Tully, also Senator Farley,.

ACTING PRESIDENT KUHL: The Secretary will read the negatives.

THE SECRETARY: Those recorded in the negative on Calendar Number 1435 are Senators Farley, Hannon, Hoblock, Hoffmann,

Kuhl, Lack, Larkin, Leibell, Libous, Marcellino, Maziarz, Nozzolio, Sears, Seward, Skelos, Stachowski, Tully, wright, and Senator Jones, also Senator DeFrancisco, also Senator Levy. Ayes 39, nays 20.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT KUHL: Chair recognizes Senator Bruno.

SENATOR BRUNO: Can we at this time return to main Calendar Number 163.

ACTING PRESIDENT KUHL: Secretary will read the title of the Calendar Number 163 on the main calendar, original calendar 66, for the day.

THE SECRETARY: On page 5 Calendar Number 163, by Senator Goodman, Senate Print 1746A, an act authorizing the Dormitory Authority of the state of New York to plan, design and acquire a facility.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move we accept the message.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity at the desk. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Secretary will call the roll.

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

ACTING PRESIDENT KUHL: Call the roll.

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Regular order, Mr. President.

ACTING PRESIDENT KUHL: Return to the controversial reading of Supplemental Calendar Number 3.

THE SECRETARY: Calendar Number 1437, by Senator Onorato, Senate Print Number 1242, an act to amend the Penal Law, in relation to making possession of a lockable folding knife the crime of criminal possession of a weapon.

ACTING PRESIDENT KUHL: Senator Gold -- excuse me. Senator Cook, why do you rise?

SENATOR COOK: I'd like to ask some questions.

SENATOR CONNOR: On the bill?

SENATOR COOK: Yeah. Mr. President, I just need a clarification on a couple of points if you could. Could you -- I'm not clear as to what type of knife we're really talking about. Is this -- is this what we would call a jackknife or what is a locking -- a locking knife?

SENATOR CONNOR: What this is, is a switchblade.

SENATOR COOK: A switchblade?

SENATOR CONNOR: Yes, because it's a knife -- it's defined as a folding knife which, when opened, is capable of being locked in an open state by means of a particular mechanical device, in other words you open it and you push a button and it's a switchblade.

SENATOR COOK: O.K.

SENATOR CONNOR: But there are exceptions. It's not a total switchblade; there's a rider to this. There are all sorts of exceptions. It's a legitimate -

ACTING PRESIDENT KUHL: Secretary will read the last section.

Senator Sears, why do you rise?

SENATOR SEARS: I do have a couple of questions on this. Is a switchblade knife one that you push a button and the blade flips open, is that correct?

SENATOR CONNOR: Yes.

SENATOR SEARS: Well, this says any folding knife which, when open, is capable of being locked in an open state by means of a

stable mechanical device. My problem with this part of it is this. I do a lot of hunting with a knife. When I push the blade, it doesn't fly open.

SENATOR CONNOR: When you lock it, it doesn't come back on your finger.

SENATOR SEARS: Right.

SENATOR CONNOR: This doesn't let you do that, because it says specifically when the knife is being used for or in a place where it's being used for hunting, camping, hiking, picnicking, so virtually any legitimate use, it would permit that, as it should, Senator.

SENATOR SEARS: O.K.

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

SENATOR HOFFMANN: Senator Connor yield for a question?

ACTING PRESIDENT KUHL: Senator Connor yields.

SENATOR HOFFMANN: Senator Connor, I realize this isn't your bill. I appreciate you answering some of these

questions. If I am feeding cattle at 6:00 o'clock in the morning in my barn, with a small folding knife manufactured by Utica Cutlery in Senator Sears' district, which has a locking mechanism, and I go back into the house and I take that knife off my belt and I stick it in my purse so that it will be handy the next time that I need it, and I drive to Albany and I walk into these chambers, would I then be in violation of the law with that knife on my person, because I would not be in the process of hiking, hunting, camping or picnicking or being a Girl Scout? As a New York State Senator, would I not be in violation of the law with that locking knife on my person?

SENATOR CONNOR: Well, Senator, I don't know. Do you belong to a paramilitary -

SENATOR HOFFMANN: Well if I considered myself a member of a military -

SENATOR CONNOR: We have to get all the facts out.

SENATOR HOFFMANN: On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Hoffmann, on the bill.

SENATOR HOFFMANN: I rise on this bill right now to recognize that there are a number of us in this chamber, Senator Sears and myself in adjoining districts, who are very concerned about the concerns raised by Utica Cutlery, an esteemed manufacturer of fine knives, which number among them knives with locking mechanisms, not switchblades, my colleagues.

There are many types of locking knives which are commonly used in everyday practice and one of them fits neatly on a belt, I wish I had it with me to show everyone. It's a dandy little knife. I wear it right next to my leather awl, which is another multi-purpose tool which no one should be without, but a good locking buck knife is an invaluable tool and we should not be making this illegal.

If the sponsors of this bill would like to outlaw the possession of such knives for people engaged in drug trafficking or

a specific illicit activity, then they should create a bill that specifically targets that illicit activity instead of trying to anticipate all other types of activities where law-abiding citizens might have them and in omitting some of the activities that those of us in this chamber and many of our constituents pursue.

I really think this is a very bad bill, much too broad bill, and I think that we would look a little foolish if we pass this bill. I would urge all of my colleagues to vote no.

ACTING PRESIDENT KUHL: Chair recognizes Senator Abate.

SENATOR ABATE: Just to clarify on the bill. I would agree with Senator Hoffmann, if this were a law banning these weapons as a per se weapon, this would still make the prosecutor prove that it was not just mere possession. They'd have to prove the intent to use this weapon unlawfully, so this is not a per se weapon. It wouldn't be the mere possession of this knife is a criminal action.

It would be the possession with intent to use unlawfully, so if someone that was carrying it to and from their house and it's in their purse, it would not be a crime. It would not be a crime if it's used for hunting. It would not be a crime if it's used to pare an apple. It would only be a crime if it's used in the course of criminal activity. So it's not as broad. It's not a per se weapon.

SENATOR CONNOR: Last section.

ACTING PRESIDENT KUHL: Lay the bill aside.

SENATOR CONNOR: I didn't say lay aside. Last section.

ACTING PRESIDENT KUHL: Last section.

Senator Saland, why do you rise?

SENATOR SALAND: Again, I realize this is not your bill, but could you tell me if there is anything in this bill that would say that somebody who collects lockable folding knives, those with unusual handles that are hand-crafted, that would be protected under this

bill or might, in fact, be guilty of violating the law.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1443, by member of the Assembly Dinowitz, Assembly Print 1170A, substituted earlier today, an act to amend the General Business Law, in relation to advertising the square footage of rentable commercial property.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR CONNOR: I'm sorry. 1443?

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1444, by Senator Wright, Senate Print 3182A, an act to amend the Environmental Conservation Law, in relation to special beaver management areas.

SENATOR CONNOR: Explanation, please.

ACTING PRESIDENT KUHL: Senator

Wright, an explanation of Calendar Number 1444 has been asked for by the Minority Leader.

SENATOR WRIGHT: Thank you, Mr. President.

Well, while I recognize the bill has achieved a certain degree of recognition among my colleagues, it is, in fact, a very serious matter in the St. Lawrence River valley and, as a result, has got strong support from the Department of Environmental Conservation, Bureau of Wildlife Management, as well as the Farm Bureau attempting to address the concerns that are being created.

What the bill does is establishes a means of addressing the property damage to personal property that is occurring throughout our region of the state and develop a compre hensive management plan with the designation of special management areas for that purpose. That approach was developed on the basis of a series of public meetings throughout the area securing the input from the various stakeholders, to develop appropriate means of addressing the

problems and the concerns.

Now, let me just share with you some of the statistics that the Wildlife Management Bureau has maintained as indicative of the type of difficulties that are being encountered.

Within the period of fall of 1993 to 1994, the beaver population increased by over 10 percent. That population is expected to continue to increase peaking at 46,000 colonies within the next ten years up from 19,000 at the current time.

Each one of those colonies compose -- are composed of roughly five beavers. To give you an indication of the nature of the complaints that are being generated, in 1994 DEC regional offices received 2466 beaver-related complaints reflecting a 12.5 percent increase. At peak populations it's expected there will be in excess of 8,000 annual complaints at an average cost of $2500 in damage which in this last year alone exceeded $6 million in personal property damage. At its

peak it's expected that there will be $20 million in personal property losses as a result of the problems being caused.

So the approach was to use special management areas that authorize DEC to then develop and implement, by regulation, a particular management plan to protect the interests of the landowners and, at the same time, to protect the environmental concerns relative to wetlands and downstream impacts.

To give you an idea, in one wild life management area in the past year the beaver removal harvest was 6264. In addition, special permits were issued for another 612, bringing the total number of removals to 6800 animals. That is still 3,000 less than the projected population management targets of the Wildlife Bureau, and a recent aerial survey indicated that the population ratio, even after those kind of numbers are taken, is still too high at one and a quarter colonies per square mile and that's a very intensive situation.

So there has been considerable

effort made to recognize the nature of the problem, to recognize the sensitivity of the animal itself, but at the same time to recognize the concerns of the property owners, of the farmers who literally end up with hundreds of acres under water preventing it from being productive management property and, as a result, this is the approach that's been developed in consultation with the Department of Environmental Conservation to take a reasonable approach to management.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Yes. Will the Senator yield for a question?

SENATOR WRIGHT: Yes, I will, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR CONNOR: Senator, with respect to this dam bill, could you -

SENATOR WRIGHT: I appreciate the levity, Senator.

SENATOR CONNOR: That's d-a-m, d-a-m, please. There are some others that I could share with you that have been shared with me.

Could you please tell me where, in fact, these special beaver areas are?

SENATOR WRIGHT: They are not designated at this point in time. The statute authorizes, and I would read the section where it specifically designates. When it finds that an area of the state is suffering excessive damage caused by the beaver, the Department may, by regulation, designate such an area as a special management area and then it goes on to articulate the considerations to be taken into account.

SENATOR CONNOR: Would the Senator further yield, Mr. President?

ACTING PRESIDENT KUHL: Senator Wright, do you yield?

SENATOR WRIGHT: Yes, I do.

ACTING PRESIDENT KUHL: Senator Wright yields.

SENATOR CONNOR: Thank you, Mr. President.

I wonder if Senator Wright could tell us whether, for example, public lands would be eligible to be designated as a special beaver management area under this legislation.

SENATOR WRIGHT: In terms of DEC's definition, you have public wildlife units that include both public and private lands.

SENATOR CONNOR: So if the Senator would yield for a further question. Could -- under this legislation and its regula tions, for example, could forever wild lands in the Adirondacks be designated as special beaver management areas, thus allowing the destruction of dams without any supervision by DEC?

SENATOR WRIGHT: No, Senator, I do not believe that's the intent of the agency. It's certainly not my intent and, again, I think if you'll note, the criteria is "suffering excessive damage" and the background material that we shared that the agency has been using is all predicated on personal property damage,

damage to roadways, damage to farms going under water, those are the kinds of conditions that are certainly not the type of concern that would exist in a designated forever wild area in the Adirondack Park.

SENATOR CONNOR: Will the Senator yield for a further question?

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

SENATOR WRIGHT: Yes, I will.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR CONNOR: Senator, I once had the wonderful experience of seeing a dam in formation on a hiking trail in the Adirondacks, a laid-out hiking trail. You had to get off the trail because the energetic beavers, who I guess are the world's best engineers, had actually begun the formation of a dam in a little stream that crossed the trail, and the water was building up. I think they only had been at it a couple of days. It was amazing to see.

Now, would you consider, for

example, interfering with such a marked trail as -- as the kind of damage to property that would warrant designation of it as a special management area?

SENATOR WRIGHT: No, Senator, I don't anticipate that that would be a circumstance that this would be utilized in either. Again, the intent -- and I've seen those dams under construction myself as I've had occasion to walk those trails with my daughter who has enjoyed that experience as much as I have, but I've also had the occasion to see fertile agricultural property under water where it was previously productive. I've seen fertile timber land that was previously productive under water. I've seen roadways that have been under cut as a result of the water and the erosion that have cost additional monies to small towns and villages on a recurring basis, so I've seen the down side of what I'm sure was a very good experience for you as it was for me, and so we're trying to take both of those factors into consideration in designating a management area

and allowing the agency to respond in an appropriate fashion dictated by the problems that are occurring.

SENATOR CONNOR: Mr. President, would the Senator yield for one further question?

ACTING PRESIDENT KUHL: Senator Wright -

SENATOR WRIGHT: Yes, I will.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR CONNOR: Presently, is there not a program of DEC which informs property owners that have beaver problems to call the regional office and provides for technicians from DEC and the Division of Fish and Wildlife to promptly inspect the property to assess the conditions and they authorize the issue of immediate permits even if the dams are on a regulated fresh water wetland or a protected stream; isn't there presently a program like that?

SENATOR WRIGHT: Yes, there is

Senator; there is a program. I think the two controlling words are "immediate" and "promptly", two you have utilized that have not been the experience and, as I pointed out, under the existing permit system, even when those permits have been issued, there continues to be a rapid growing older population that is not part of the planned management control of that population and, as a result, the very agency that is administering this program has actively sought for the last year public input from the various stakeholders as to how to best resolve this problem.

The fact that they are having increasing complaints, the fact that even when they respond promptly and when they provide timely permits, it does not sufficiently mitigate the problem and consequently they have developed this alternative as the best approach to utilize.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you.

I wonder, are you aware, Senator Wright, that there are -- if you would yield for a question.

ACTING PRESIDENT KUHL: Senator Wright, do you yield to Senator Oppenheimer?

SENATOR WRIGHT: Yes, I do.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR OPPENHEIMER: -- that there are alternatives to the measures that you are suggesting in your bill? There are alternatives that are humane that already exist in other states for controlling the beaver population?

SENATOR WRIGHT: Yes, I am aware of that, Senator, and I would point out that the bill in no way precludes utilization of those techniques. In fact, the bill does not specify a particular technique to be utilized. The bill authorizes the designation of a management area, the development of a comprehensive management plan within that area and a variety of techniques that can be utilized by the agency

conditioned upon the circumstances that they feel warrants that kind of response. So those alternatives used in Maine and other areas are not precluded at all and, in fact, may well be the appropriate response that is incorporated within the management plan within the designated area.

SENATOR OPPENHEIMER: Then I guess I would have to question how you feel about the legalization of underwater snare traps which is a part of this bill?

SENATOR WRIGHT: What this bill does, Senator, is it authorizes the utilization of that but, if you'll notice, on line 24 the controlling word is "the Department may by regulation permit the use" and again, it is an alternative that is available to the agency and again predicated on the conditions and the severity of those conditions would dictate whether or not the agency utilized that particular approach.

SENATOR OPPENHEIMER: But you will admit that the fact that it is permitted

when it has not heretofore been permitted is legalizing a form of trap that we have felt is not humane throughout the state.

SENATOR WRIGHT: I would note here, Senator, that there has been legalized trapping of the beaver. This particular al ternative has not been authorized. It is authorized as an alternative and an option that may be utilized by the agency again based on what I believe to be a reasonable assessment of the severity of the conditions.

If, in fact, all of the circumstances that are being predicted here do come to fruition, then it may well be an alternative that they would have to pursue. I don't envision them taking that lightly. I think they well recognize, as I do, and I'm sure my colleagues recognize, that that is not an alternative that has been authorized heretofore. This simply provides it as an alternative, the controlling language being "may" as opposed to "shall".

SENATOR OPPENHEIMER: And if you

would yield further.

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

SENATOR WRIGHT: Certainly.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR OPPENHEIMER: Could you tell me the reasoning behind increasing the time period that traps go unchecked from one day to two or three days? If traps are not checked and animals are caught in them, it's an extremely painful slow death to not be taken out for three days instead of our present one day.

SENATOR WRIGHT: Well, Senator, I think it's just a recognition of the timeliness of checking those particular traps. The -- the extension of the period of time here, I do not believe would have any adverse effect on -- on the use of the trap one way or the other.

SENATOR OPPENHEIMER: All right. Thank you, Senator. On the bill, please.

ACTING PRESIDENT KUHL: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: Well, we've been talking pretty much about animals, and that's an important part of this, and another important part is our state's historic commitment to wetlands, an issue that I have been involved with for over 20 years, and this would involve the destruction of as much as a hundred thousand acres of wetland, and there would be almost no oversight by DEC.

DEC has limited oversight now in that they are approving the permits with almost no oversight at all, but at least there is still a role that DEC can play. With this bill, there would be no role and the environmental impacts are severe for wetlands as well as for the dependent wildlife that I mentioned earlier.

I feel a great risk on many animals with the underwater snare trap, and we're talking about otters, ducks, loons, turtles, I'm talking of beavers and many water foul, and these will be experiencing very slow death by drowning, and it's -- it's something that I don't, you know, the needless suffering

is appalling to me, and the leg hold traps we have not permitted because they are so abusive to the animal and cause such suffering.

There are alternatives in -- in Maine, the Department of Inland Fisheries and Wildlife and the U. S. Fish and Wildlife Service have both stated that destroying beavers and dynamiting their dams only allows more beavers to move into the vacated habitat. Flooding problems will continue. However, by working with beavers and controlling local water levels with human made devices of pipes and fencing, they can attain a permanent and economical solution, and this is what I think we ought to be pursuing. We ought to be looking at those alternatives and, on a more humane note, we should note that the beaver, since 1975, is the animal of New York State. It is our state animal, and I -- I feel very strongly and so do every one of the environmental groups, that this is a very poor bill because it's harmful to wildlife and it's harmful to our state program of wetland conservation.

I'll be voting no.

ACTING PRESIDENT KUHL: Senator DiCarlo.

SENATOR DiCARLO: Thank you, Mr. President.

Does the Senator yield for a question?

ACTING PRESIDENT KUHL: Senator Wright, do you yield to Senator DiCarlo?

SENATOR WRIGHT: Senator will yield.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DiCARLO: Senator Wright, Senator Oppenheimer raised one point that I was going to raise with you. Were you aware of the fact that the state animal of New York State was the beaver?

SENATOR WRIGHT: Senator DiCarlo, I'm well aware of that fact, as you have pointed out to me on numerous occasions as we've dis cussed this bill in this corner of the chamber and as other colleagues have pointed out to me.

I would point out that, as the Senator noted, it has been the state animal for some period of time and during that entire period of time, we were authorized to trap and by permit to take beaver. So this does not alter our relationship with our state animal.

SENATOR DiCARLO: Does the Senator yield?

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

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

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DiCARLO: Along the same lines, Mr. President, a question. Is Senator Wright also aware that the beaver is the symbol of a major -- some say major, some say minor party in the state of New York and is he aware of the party that the beaver is the symbol for?

SENATOR WRIGHT: I was not aware of that, Senator, until you brought it to my attention earlier this evening; however, I'm

sure that this bill will achieve bipartisan support.

SENATOR DiCARLO: Mr. President, through you, the question again to Senator Wright, is he aware of the party that the beaver is the symbol of?

SENATOR WRIGHT: I do not have personal knowledge, Mr. President. The knowledge that I have is secondhand provided by a colleague and whether or not that's accurate knowledge, I can't vouch for.

ACTING PRESIDENT KUHL: Senator DiCarlo.

SENATOR DiCARLO: Well, to answer the question that I posed to the Senator, the beaver is the symbol of the Conservative Party.

On the bill.

ACTING PRESIDENT KUHL: Senator DiCarlo, on the bill.

SENATOR DiCARLO: This is a very, very serious issue and one thing I can say about Senator Wright is this bill, he and I have sat next to each other for almost two years now.

This is our second session, and this bill has been a bill that I've spoken to the Senator about for two years now, and I never thought he would bring this bill out and he brought it out tonight, and this is an important bill to the Senator.

Far be it from me as a guy from Brooklyn to tell the North Country how to run their affairs. We've had a lot of good fun with this bill, but it is a serious bill, and I will listen to the advice of my colleague from the North Country and I would support this legislation.

ACTING PRESIDENT KUHL: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

I recognize that some of my colleagues in the chamber have received the memorandum from the Environmental Planning Lobby. As they are wont to do, they have provided us with their summation of this bill and, to quote Senator Cook, it has three cigars

indicating they think it is a very, very bad bill, and I would dispute their rating of this bill with the three cigars, but more importantly, I would like to offer the perspective of a landowner and a farmer as to what it means to the stewards of the land in this state, farmers who are faced with enormous environmental danger and damage to their own land, something which EPL seems not to even consider when it puts out this memo and, in fact, it troubles me greatly to see that a group which labels itself as an environmental protection group would have so little regard for the manner in which farmers conduct their activities because farmers more carefully safeguard the land than do any of the rest of the citizens in this state because it is, in fact, their livelihood.

But EPL, in putting this memo together, has used the phrase that, because this bill would essentially create an open season on beavers -- not true, by the way, for anybody reading the bill as Senator Wright so carefully

explained -- and I'm further quoting from the EPL memo, "*** and lead to the destruction of thousands of acres of wetland, EPL strongly opposes this bill."

This shows just how backwards EPL has this situation. It is not farmers destroying wetlands that is the issue here. It is beavers creating wetlands out of viable farm land that is the issue that has led to the necessity for this bill.

Most farmers enjoy beavers as do the rest of us. I have a couple of beavers building a beautiful lodge. Senator Connor, you might like to bring your children; Senator Wright, your children are welcome to come and watch this lodge and dam under construction just adjacent to my farm.

Now, let me tell you what is happening with that lodge and that dam. All of us have heard the expression "busy as a beaver." By golly, these little critters have made sure that in a relatively short period of time they have flooded the stream over its banks

and it is continuing to flood and soon will engulf a great deal of tillable land.

The result of that is that a farmer who is forced to get a permit from DEC or forced to wait for an authorized DEC trapper to come and remove those beavers will face the certain loss of a crop or hay or pasture land, and agriculture, my colleagues, is our number one industry in this state. There may not be many farmers left in this Legislature in either house, but we owe it to respect the farmers of this state that when they feel the need for a measure like this, we should give it some serious consideration.

I think it's unfortunate that it's come up this late, that it didn't come through the usual committees, but I think Senator Wright did an admirable job of explaining it. He used careful statistical analysis, discussed the relationship between DEC and those purveyors of the land, those who have timber or agricultural -- other agricultural activities who would be affected by this. So

before you take too literally the words of EPL, listen to those of us who do have to live side by side with beavers and do experience the loss of our lands to wetlands. It is not, as EPL would describe, the loss of wetlands to agriculture that has necessitated this bill.

I would urge an "aye" vote on this measure tonight.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 9. This act shall take effect on the 1st day of October.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

The Chair recognizes Senator Sears to explain his vote.

SENATOR SEARS: Thank you, Mr. President.

I would just like to point out

that I value the beaver as the state animal. I am also a co-sponsor of this bill, and let me just point out one other thing and that is that when you trap the beaver, you don't have to trap them to kill them.

We have a situation that a very popular shopping center up in New Hartford just outside of Utica, there was a problem when it was built because there was beaver to the wetland. We solved the problem by taking these beaver out of there, but we live trapped them and replanted them somewhere else and there was nothing wrong with them. We didn't kill them. They had a brand new life, they started building beaver dams at another location. So this thing isn't all bad.

I might remind you of something else. I think so much of the beaver, those of you who may have had an illness at one time or another, I developed a get well card that uses the beaver in it, and for those of you who may have received one, it simply is a clothesline with a beaver in a night shirt hangin' on the

clothesline like this (indicating) and my message simply says "Hang in there and get better."

I vote for the bill. Thank you.

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

Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: It's just about every environmental group that is against this, it's not just EPL. It's Sierra; it's Audubon; it's a whole listing of them, and I agree with Senator Sears that there are humane ways to trap the beaver. I just do not believe that the leg snare trap is something that we want to subscribe to in the state of New York.

I'll be voting no.

ACTING PRESIDENT KUHL: Senator Oppenheimer recorded in the negative. Senator Paterson to explain his vote.

SENATOR PATERSON: Mr. President, I just want the record to note that Environmental Advocates, Sierra Club, Actors and

Others for Animals, People for Animal Rights and a number of groups are against this bill. One of their sources of opposition was not mentioned in this discussion is the fact that the under water traps that are also allowed in this bill would trap the loons which are an endangered species, would also trap otters and turtles and probably anybody else who would be in the stream.

We urge a no vote.

ACTING PRESIDENT KUHL: How do you vote, Senator Paterson?

SENATOR PATERSON: No.

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

THE SECRETARY: Those recorded in the negative on Calendar 1444 are Senators Abate, Dollinger, Goodman, Jones, Leibell, Maltese, Marcellino, Markowitz, Maziarz, Oppenheimer, Paterson, Solomon, Stachowski, Stavisky, Senator Tully, Senator Connor, also Senator Montgomery, also Senator Levy, also

Senator LaValle. Ayes 40, nays 19.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 1450, by Senator Hannon, Senate Print Number 4315A, an act -

SENATOR CONNOR: Explanation.

ACTING PRESIDENT KUHL: Senator Hannon, an explanation of Calendar Number 1450 has been asked for by the Minority Leader.

SENATOR HANNON: Yes, Mr. President.

This bill requires that any contract by NYPA, New York Power Authority be - that would be between it and the federal entity be under the determination that it's for the benefit of the area ratepayers.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Yes, Mr. President. Will Senator Hannon yield to a

question?

SENATOR HANNON: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR CONNOR: Thank you, Senator.

Could you give me an example? Are there existing contracts? I mean is this a real problem somewhere, or are we just anticipating somehow or other in the future that the New York Power Authority will start giving away electricity to the federal government?

SENATOR HANNON: Well, the genesis of this is that the -- there's currently a vieing between the Con Ed and NYPA as to who can supply power to the United States for usage in the New York City area and, of course, NYPA, if it does it, can supply power at a no tax basis, no utility gross receipts basis, et cetera, so they have this distinct advantage and the thought here is, unless they do something that would be for the benefit of the area involved, the city of New York, that they ought

not to do that.

Remember, we have about one-third of gross receipts of the Con Ed that goes for some tax of one form or another, so we as a state and the -- the legislators have a vested interest in having it being -- go towards Con Ed, so we can use it as a vehicle for greater tax collection. We know that both the city and the state have problems in revenue, so this would be a good reason for doing it.

SENATOR CONNOR: Mr. President, would the Senator yield for another question?

SENATOR HANNON: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR CONNOR: Senator, I assume you're referring to indirect taxes because would not any direct taxes by a ratepayer find the federal government exempt from such state taxation?

SENATOR HANNON: The gross receipts that come to the utilities, I don't believe so.

SENATOR CONNOR: That's an indirect tax.

SENATOR HANNON: When I said a third, we're talking about the indirect tax.

SENATOR CONNOR: O.K.

SENATOR CONNOR: That's why we have a separate category for utilities just in the city of New York. That's why we have them keeping their same percentage of the rate base, of the real property tax base, that they've always had; so yeah, but it's a question of where we're going to collect the money.

For instance, the other thing that I thought of is, look, NYPA gets to sell this at about, oh, about 7 cents a kilowatt. I don't know what Con Ed's price is, but my guess is it's about 13, 14 cents a kilowatt, so you can see the advantage that it has.

If we want to have that type of differential, why don't we get those low kilo watts going to residents of the city of New York and Westchester and Long Island where we're paying way above that? I just can't see it and

this is all at a time, surprised you'd be, you know, objecting to this. This is all at a time when the federal government says in its drive to balance the budget they're going to take billions of dollars out of the state of New York.

SENATOR CONNOR: Thank you. On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Connor, can you excuse me just a minute? Gentlemen, ladies, can we keep it down just a little bit, please. It's very noisy in here. We only have a few bills left, and members please take their seats, conversations out of the chamber.

Thank you, Senator Connor. Senator Connor, on the bill.

SENATOR CONNOR: Yes, Mr. President.

I didn't realize that we had such a problem. I can think of these federal facilities in the city of New York with which I'm familiar in my own district, Governor's

Island which was for many years an Army facility and then the Coast Guard, I think, they're going to close that now. I think the city of New York would rather keep those 6,000 military personnel there and remember when they represented Staten Island, we had a Homeport, big investment by the federal government supported by many, many people in New York City, albeit controversial in some quarters. Unfortunately, that's closed.

I know just a couple years ago the city of New York was fighting to keep the Homeport. It seems to me that while local input is important, the federal government is just not the enemy. I would hate to see federal installations moved from New York State and New York City because regrettably for some of the reasons Senator Hannon pointed out in terms of gross receipts taxes and other things, regrettably in past years utilities somehow or other had looked like easy pickings because they're there and they can't go anywhere and the ultimate taxpayer, the ratepayer, has the impact of the taxes somehow or other, but I would

really in this time of shrinking federal government, shrinking federal facilities, military and non-military, as the federal government moves to balance its budget, there is only one way it can do it and that is by making government smaller and more efficient as the President just outlined, and I know Congress has their version of that, and I'm sure they'll work that out.

I would just hate to do something that would encourage the federal government to say, Let's pull out of New York because, gee, power costs there are too much. Senator Hannon said they could conclude, Gee, we're paying 14 cents a kilowatt hour because of all the taxes there. If we have a choice between closing the whatever department's facility, whether it's Bureau of Prisons or military or whatever in New York or in Tennessee where power is cheap because of a federal authority, let's close up in New York because we would lose the jobs. We would lose other sorts of revenue that New Yorkers who were employed by the federal

government contribute in state taxes, and so on.

So I don't see a direct problem here. I see Senator Hannon raises a theoretical problem, and I can see that leading to some very practical problems whereby we could actually lose jobs in New York provided by the federal government.

ACTING PRESIDENT KUHL: Chair recognizes Senator Hannon.

SENATOR HANNON: Yes, Mr. President, just to close.

That's why the whole point about benefit. That's why it's a good one and that's why we say that there should be a finding that any agreement would be for the benefit of the ratepayers and for the state because we could recognize there could be some direct benefit. Otherwise, we would just be having these contracts entered into for the aggrandizement of some public benefit corporation which I don't think is why they should exist.

I think we should-- they have had

a long period of good service to the state. This is just -- the whole thing has just come up in the last two years, and I think we should let them continue with their tradition of service, and that's what this would encourage them to do.

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 1450 are Senators Connor, Hoffmann, Maziarz, Paterson, Sears, Seward and Stachowski. Ayes 52, nays 7.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number

1455, by Senator Cook, Senate Print 5325.

SENATOR CONNOR: Explanation.

ACTING PRESIDENT KUHL: Senator Cook, an explanation of Calendar 1455 has been asked for by the Minority Leader.

SENATOR COOK: Mr. President, as I -- the information that I have available is that originally the school districts within this particular BOCES had self-insurance, health insurance. I don't know how you do that, but apparently they did.

At one point, it became apparent to them that that was not a good idea, so they did pool all of these self-insurance programs into a -- an insurance plan that's functioning, that operates through the BOCES. But they retained the individual plans to the point where the experience rating for each school district became the basis for the rate for that individual school district, so that each one continued to pay its premium based upon whatever claims were made by that -- by the employees from that particular school district.

Community rating, of course, requires now that there be a common rate across the entire plan, and what this -- what is going to happen as a result of going to community rating, because there are some school districts that have had very low rates and some that have had comparatively high rates within the system, is that one school district is actually going to face a 77 percent increase in the premium if they have do it all in one year.

That's why they're asking for a three-year phase-in so that they can phase that 77 percent or whatever those increases are in over a period of time, so that they ultimately will get to community rating, but they want a three-year phase-in period.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Yes, Mr. President. Would Senator Cook yield to a question?

SENATOR COOK: Yes.

ACTING PRESIDENT KUHL: Senator

yields.

SENATOR CONNOR: Will not the ratings of some of the, for lack of a better word, better rated school districts in this consortium under community rating go down?

SENATOR COOK: They -- yes, they will.

SENATOR CONNOR: Yes, the higher rated ones.

SENATOR COOK: Yes. At a certain point, Senator, Mr. President, if I may, at a certain point, that's correct, and, of course, that's what community rating is supposed to do, but their original agreement, this is by common agreement among all of them, when they started was they were going to have individual rates so these districts are willing to -- to accept the fact that they will not get, if you will, the benefit simply because it was the original agreement, that was the way they were going to work. Now, they will get there eventually, but it is by common agreement.

SENATOR CONNOR: Thank you.

Explanation satisfactory.

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 58, nays one, Senator Dollinger recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1459, by the Senate Committee on Rules, Senate Print 5415, an act to amend the Tax Law, the General City Law and the Administrative Code of the city of New York.

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. Those members voting in the negative please put your hands up and keep them up so the Secretary can record the negatives.

THE SECRETARY: Those recorded in the negative on Calendar 1459 are Senators Cook, Hannon, Holland, Johnson, Lack, Larkin, LaValle, Leibell, Levy, Libous, Marcellino, Oppenheimer, Saland, Skelos, Trunzo, and Tully. Ayes 43, nays 16.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Wright, why do you rise?

SENATOR WRIGHT: Mr. President, could I request unanimous consent to be recorded in the negative on Calendar Number 1450.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Wright

will be recorded in the negative on Calendar Number 1450.

Secretary will continue to call the controversial calendar, Supplemental Calendar Number 3.

THE SECRETARY: Calendar Number 1461, by the Senate Committee on Rules, Senate Print 5417, an act to amend the Local Finance Law, in relation to the sale of bonds and notes of the city of New York.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1467, by Senator Stafford, Senate Print 5369, an act to amend the Alcoholic Beverage Control Law,

in relation to licenses to sell beer and wine.

SENATOR CONNOR: Explanation.

ACTING PRESIDENT KUHL: Senator Stafford, an explanation of Calendar Number 1467 has been asked for by several members of the Minority.

SENATOR STAFFORD: Thank you, Mr. President.

I think I can explain this in a rather timely manner.

ACTING PRESIDENT KUHL: Senator Stafford, excuse me for the interruption. It's still too noisy in here. Quiet it down, please.

SENATOR STAFFORD: I'll try to be very clear. The industry has asked for this legislation. At the present time, if someone sells both beer and wine spritzers -- wine coolers, excuse me. I'm trying to get out of work here -- wine coolers, they pay $180.

Now, what this bill will do, there'll be just one permit and you can sell both for $150. Also to clear it up, at the

present time, most of the products sold is malt based, so it really comes under the beer tax, so this is something, I think, that will clear - and no one will be confused and have a beer license and a few wine coolers that are left that would be covered. They will not be selling them without the proper permit.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Yes. If the Senator would yield -- I'm sorry, Senator. Reading the bill and I find the license -

SENATOR STAFFORD: I had the same confusion.

SENATOR CONNOR: Yeah. One is $150 and one is $320. Which one costs which? I don't understand that. In other words, the annual fee for a license to sell beer and wine products at retail not to be consumed under the present shall be $150.

SENATOR STAFFORD: That's what it will be if the bill passes.

SENATOR CONNOR: Then it says,

"However, when the applicant is the holder of two such licenses ..." You mean if they own two stores?

SENATOR STAFFORD: More than two stores. That's the way it is now so it would be the same there. If you have more than two licenses, that's what it would be.

SENATOR CONNOR: Is that for more than two premises?

SENATOR STAFFORD: Right.

SENATOR CONNOR: And then you pay $320 -

SENATOR STAFFORD: Right.

SENATOR CONNOR: -- for each such license?

SENATOR STAFFORD: That's the way it was.

SENATOR CONNOR: So your first license is $150 and every one after that is $320, is that it?

SENATOR STAFFORD: Right. I will -- let me just emphasize -- okay.

Thank you.

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

THE SECRETARY: Section 6. This act shall -

ACTING PRESIDENT KUHL: Senator Markowitz -- Senator Jones.

SENATOR JONES: Would the sponsor just yield to a question?

ACTING PRESIDENT KUHL: Senator Stafford, do you yield to Senator Jones? The Senator yields.

SENATOR JONES: Can you just clarify for me, Senator, does this just apply to beer and wine coolers that are currently sold or does this allow retail stories to sell actually bottles of wine that they're not currently doing?

SENATOR STAFFORD: Very good question. I asked that this morning. Nothing to do with bottles of wine.

SENATOR JONES: It has nothing to do -- this does not give grocery stores the right to -- Thank you.

SENATOR STAFFORD: I hope that answers the question.

SENATOR JONES: That's what I needed to know. Thank you.

ACTING PRESIDENT KUHL: Senator Markowitz, did you wish to speak or was that your question?

SENATOR MARKOWITZ: Just one further question, Senator Stafford.

ACTING PRESIDENT KUHL: Senator Stafford, do you yield to Senator Markowitz? The Senator yields.

SENATOR MARKOWITZ: Thank you.

In those sections where we refer to wine spritzers or wine coolers, is it commonly referred to in the lower as wine -- as wine products?

SENATOR STAFFORD: Wine products.

SENATOR MARKOWITZ: So what is - let me ask you a question then.

SENATOR STAFFORD: Very confusing.

SENATOR MARKOWITZ: Yeah. What

is wine -- I mean, wine is not considered a wine product?

SENATOR STAFFORD: Another law altogether.

SENATOR MARKOWITZ: Thank you.

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

THE SECRETARY: Section 6. This act shall take effect January 1.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1472, by the Senate Committee on Rules, Senate Print 5478, an act to amend the Public Authorities Law.

SENATOR CONNOR: Explanation.

ACTING PRESIDENT KUHL: The message of necessity was previously accepted. An explanation of Calendar Number 1472 has been

asked for.

Senator Johnson.

SENATOR JOHNSON: Mr. President, this bill makes certain changes in the Public Authorities Law relating to the Long Island Power Authority. It would change the present nine-member board to a seven-member board. It would be five appointees by the Governor, including the chairman and one each from the Speaker of the Assembly and the President of the Senate -- Temporary President of the Senate. There's going to be an oversight function by the Public Authorities Control Board. Anything - any spending over $1 million or any bonding would have to be approved by that body.

Also, I think it's very significant that any project which is undertaken by this Authority would have to be determined to be financially feasible, not negatively affect the real property tax rates, hopefully at lower or equal or lower utility rates and not higher rates, and that is what we founded this group nine years ago for. It hasn't done anything

helpful in terms of tax rates or utility rates yet, but we're hopeful under this new Governor's administration that this body will be able to function effectively and help Long Island with the horrendous utility rates which we presently suffer under.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Connor.

SENATOR CONNOR: Yes. Mr. President, would Senator Johnson yield for a question?

ACTING PRESIDENT KUHL: Senator Johnson, do you yield?

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR CONNOR: Senator, at this late hour, maybe I can shorten it. Do you regard this as significant legislation?

SENATOR JOHNSON: Do I think it's significant?

SENATOR CONNOR: Yes.

SENATOR JOHNSON: I would say so, yes.

SENATOR CONNOR: Thank you. And this is a Governor's program bill, if you would yield to a further question, is it not, Senator?

SENATOR JOHNSON: Yes, it is.

SENATOR CONNOR: Thank you.

Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Connor, on the bill.

SENATOR CONNOR: Mr. President, we have rules in this house as the Majority is always prone, and properly so in most cases, to point out to the Minority, but the rules do provide that the Executive, in submitting program bills, must have them in by April 4th, I believe was the date this year. As of April 4th, the Governor had submitted but six or seven program bills.

Now, as Senator Johnson pointed out, this is significant legislation before us. This involves the governance of an important

Authority. It involves a change of some of its membership from an elective to appointive capacity. It involves an Authority that has unlimited authority to go to the market for debt, literally to borrow 8- or $9 billion. Some people have thrown that number around. Indeed, significant legislation, and I look at the bill and it says at the request of the Governor, and I look at the date of introduction and it says June 14th, yesterday.

I saw a draft of this yesterday afternoon. This print didn't exist until last night, and I'm informed that actually yesterday in the last 48 hours, some of it as recently as 24 hours ago, the Governor has sent up dozens of program bills. Even as thanks to the diligence of the members of this house and the concern of our Majority Leader for a timely conclusion, we are in the closing moments of the -- at least the most -- the regular and ordinary session of this year's session of the Senate, and I wonder -- realistically, a new Governor, I'm not saying, "Gee, he missed April 4th, we shouldn't

consider his proposals that are significant." I'm the one who said he didn't have enough time to prepare a budget under our constitutional system. I think we ought to build some more time and we ought to allot a new administration some time but, really, June 14th to propose a whole slew of significant program bills, including this one, to force this Senate in introducing not just this bill but in introducing a couple dozen that have not been brought to the floor today as recently as last night in contravention of the rules of the Senate which require the introduction by April 4th?

This is picky, picky, picky, gee whiz, so what about the rules, you know, as one member said, What's the Constitution among friends? I guess we can say, What are the Senate rules among friends? As long as we have unanimous consent, I suppose we can do just about anything in terms of the rules, but the more important thing is, where is the public? When does the public get to examine this

legislation? Where is the public's view of it? Where is the openness in the process that the Governor promised the public? Where is the chance to scrutinize important legislative proposals? Why deny our fine committee chairs in the Senate as well as in the Assembly and the respective ranking Minority members and the memberships of those committees a chance to have public hearings on these program bills, on these many significant program bills, some of which the Governor announced two days ago in a press conference, things like term limits or whatever, substantial proposals whether you're for them or against them.

We need public input. That's what's been wrong with the legislative process, with the governance of this state for some years, and this tardiness putting forth these proposals and expecting the Legislature to act on them -- and I credit the Majority here, frankly, and I know -- I understand their loyalty and general support for the philosophy of the Governor; it's understandable, but I

congratulate, frankly, the Majority here for not bringing out more of these program bills even though I fault them over bringing out this one.

The fact is, the public ought to have a chance to scrutinize these measures, to question the Governor, to question the Legislature and to have some say so, and we as colleagues ought to have more time -- and I respect, again, the Majority Leader, we're not here -- this is a speech sometimes you would give at 4:00 or 5:00 in the morning and it's not happening. It's only 10:30 at night, but it is 10:30 at night and we're just taking up this legislation that was only printed up last night that the public doesn't know about.

While this was percolating this afternoon, I heard reports. I received phone calls from Long Island. I heard one Republican county executive didn't like this legislation, was against it. Now, that might have changed in the last few hours, but certainly this afternoon he didn't like it. I heard a member, a present member of this board, a Democratic long active,

I guess a Cuomo appointee to this board, didn't like this legislation. That was earlier this afternoon.

Why can't we hear from such people in a public forum instead of phone calls from county exec's, "I hear this bill is coming out. It was printed last night. I don't like it." Why aren't there hearings in Long Island about this? We have many fine representatives here from Long Island. Regrettably, they're currently all Republicans in one sense, but fine representatives, perfectly capable of going out and soliciting input from their constituents as they ought to about what Senator Johnson candidly admits is significant legislation involving a significant public authority, a public policy, a public authority that has literally the financial capacity to borrow billions of dollars.

I don't understand this. I don't understand this when we were promised with this new administration openness, accountability, public input, no more legislating behind closed

doors, reflection and consideration for legisla tion. I don't understand this Legislature being treated to the spectacle of program bills which come out literally the night before the session closes when, in fact, even for a new administration, I wouldn't make this complaint if it was a month late, if we got it on May 4th or May 10th. There would at least be some time to let the press scrutinize this, some time to let the public comment, some time for me, my colleagues to make phone calls to people involved in this issue and say, "What do you think of this?" There's no such time.

In view of that such significant legislation going from elected representatives to appointed representatives involving all of this, I urge my colleagues under the circumstances to vote no.

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

THE SECRETARY: Section 7. This act shall take effect July 15th.

SENATOR CONNOR: Slow roll call.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Are there five Senators standing? A request for a slow roll call has been made.

The Secretary will call the roll slowly.

THE SECRETARY: Senator Abate.

SENATOR ABATE: No.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Bruno.

SENATOR CONNOR: Party vote in the negative.

ACTING PRESIDENT KUHL: The Secretary will record the party line votes.

SENATOR BRUNO: Party vote in the affirmative.

THE SECRETARY: Ayes 36, nays 23.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, that completes the

controversial calendar. Can we have order in the chamber, please.

The Chair recognizes Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

Upon the assurance of the Majority Leader that this, indeed, is the close of session, although we are planning a return to Albany in two weeks, I would like to take this opportunity as a rookie Minority Leader to make some brief traditional closing remarks.

It has been an interesting session, in many ways, as I just alluded to. I have some disappointments about the process, but there have certainly been signs of encouragement as well, encouragement in this house.

I want to thank the Majority Leader and the members of the Majority certainly for their courtesies and Senator Bruno who, if I may characterize him also as a rookie Majority Leader, has been refreshing, sometimes demanding, Senator, but always courteous and

always full of new ideas. I think in many respects you have kept your promise to open up things in many important respects, and for that I thank you. We are disappointed in others and we will engage you, from time to time, in the coming year to point out what we view at least as some shortcomings.

I am disappointed that the budget process which I was very excited to join, given the promise of the Governor in his campaign in the State of the State address developed into weeks of three men and a budget and that is something we should all address not in a partisan way but we ought to look at ways to change the system.

On a personal level, I certainly must thank someone who has just done a superb job, in my opinion, for our side day after day out here. I think really except for the last few bills when I exercised my prerogative to lead through the calendar, he has been here every other day of this session and has certainly discharged his responsibilities with

great grace, wit and intellect and much loyalty and love: Senator David Paterson, my deputy, and for that, I thank him.

(Applause.)

My thanks also to the assistant floor leader who has been very helpful both to me and David, Senator Bill Stachowski, to someone who we have not seen much of this session, but I assure you as an elder advisor, I think I talked today to Joe Galiber three times and twice yesterday, and so on. He has been present with me and us certainly more in spirit but in communicating to us at least twice a day getting a call from him saying, What's going on, and sharing his advice and we do wish him a speedy return, but I do want to mention the Ranking Minority member on Finance, Senator Galiber, and I know he would like to hear from all of you, cards, notes, letters and calls.

To the rest of our leadership and to my colleagues in the Minority, I thank you. I thanked you in the beginning for your expressions of trust. I thank you now for your

cooperation which has been superb. You have been responsive. You have worked well as a team and I have had a whole lot of fun doing this, and so while we will be back shortly, I also want to thank my staff, my counsel, Michael Boxley, John Quirk, our Finance secretary and Mark Bloom, our secretary to the Minority, Amy Solomon and many, many other members of my staff, senior, junior and otherwise who have taught me very much this session.

Mr. President, I do thank all these people. I thank you for your courtesy and I wish everyone, I would say an enjoyable break. It will be a short one and then we'll launch a real summer, hopefully in two weeks.

Thank you very much.

(Applause.)

SENATOR BRUNO: Mr. President, would you recognize Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President.

I would ask to be recorded in the negative on Calendar 1466 with unanimous

consent, please.

ACTING PRESIDENT KUHL: Without objection, Senator Montgomery will be recorded in the negative on Calendar Number 1466.

The Chair recognizes Senator Bruno.

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

Mr. President, it seemed like really not too many days ago that we started this session in January, we were gathered here, and the months have gone by and we're concluding on June 15th as we had planned, and I want to thank everyone that has been involved in the process in my first term and year here as Majority Leader and as a rookie, along with my good friend and colleague, Senator Marty Connor.

To do what we have done this year took a lot of support and a lot of help, and I'm not going to go on at great length, but I have to say thank you to so many people, and there are many that I won't mention who also deserve thanks, because people worked literally through

the night seven days a week to make things happen, and we did a lot of good things this session, Mr. President.

We've served the people well. We passed a budget; we in this house passed one on March 31st. We passed a final budget that literally turns the direction of this state in a very positive way by meeting the needs of the people. We have a great Governor who has provided the leadership in the submission of his budget and being diligent in staying with what he believed in and helped us through the process, and I am grateful to Governor Pataki for his guidance, his leadership on our behalf and the people of this state, and all the people that worked very closely with him who have helped make this evening a successful evening.

I want to thank people who are very close to us here. On my right, Senator Dean Skelos, our deputy who has spent hours in this chamber, hours when he has been diligent in helping make all of the effective things happen in this chamber and making us look good so,

Dean, I thank you very much for that.

(Applause.)

And for all of you -- all the other people in leadership positions that have participated in the process and really made it happen, I thank you.

Abe Lackman who -- the Secretary to Finance, I would not go through or want to go through a budget negotiation without Abe there helping, directing, leading in making something happen that was important to all of us here in the state. So, Abe, thank you. I wouldn't want to count the hours and the days that he spent along with his staff who stayed with him -- many of the men in the room now, and I thank you all for that.

(Applause.)

And the chair of the Finance Committee, Senator Ron Stafford, who has been a real partner in helping us with all of the things that we've had to do and, Ron, thank you for being a good friend.

(Applause.)

Tim Collins and Dave Dudley, I can't recount all the good things that they have done and all of us recognize what it takes, I believe, to get a calendar, a live list, believe it or not, a day before session, I think continually, constantly getting the Rules reports out, maybe for the first time in my 19 years that I saw that happen, happen so well, and other than a little printing problem we had, things were flawless.

This evening we were slowed down for about 45 minutes or an hour for truly mechanical difficulties, but I want to say thank you to both of you for all of the time, all of the effort that you've spent to help get us here tonight. I want to applaud them.

(Applause.)

My chief of staff, Steve Boggess, I believe is here in the chamber, and Steve has been with me for more years than either one of us care to remember. I keep aging, he gets younger. Something is wrong, but thank you, Steve, for being there and being here tonight,

and Pat Stackrow, my executive assistant, and all of the others that helped me do the job that we've had to do this year and I really couldn't function without these good people around me.

John McArdle, who handles the office of communications and who is as diligent as any individual can be, and Marsha White, my press secretary who this year took on responsibilities not knowing what she or John were getting into in trying to make me look good and sound good. Most of the time they did all right, sometimes not so good.

(Applause.)

We have a Minority Leader in the Assembly, "Rap" Rappleyea who has really been a leader to me and has been extremely helpful, and if "Rap" hears us, I just want to say a sincere thank you to him.

And there's so many other people that are around me and I know that as soon as I sit down, I will realize that I have neglected to mention them. I won't be able to sleep tonight, we'll have to convene again tomorrow so

I can finish.

Senator Marty Connor, our Minority Leader, has been a very worthy member of this house and of the Minority and has handled himself in all of the ways that he should in representing his side of the aisle and his constituency and has been as cooperative as he could be and not so cooperative at appropriate times, and I recognize the necessity of that, but we have had an early process and, you're right with Senator Dave Paterson who has been in the chamber who helped make it work and make it happen and I thank you very, very much, because we really couldn't have the process orderly or disorderly at times without your participation in the process, because it takes both sides of the aisle to make anything happen that is really worth making happen. So thank you for your participation most of the time.

And the Journal clerks work through the night and I thank you for that and Steve Sloan, our Sergeant-at-Arms, our pages that are here who just make it all happen around

here, and those of us that work here and deliberate here take a lot of things for granted. I know I do and I did, and I just want to at this moment recognize that none of this happens by itself. It takes all of the people that are around us to help us do what we get done, and I thank them for that.

We did do a lot of good things. I'm not going to go through them. We adopted a budget that will make us all proud as we go out in our constituency. For the first time in 51 years, we cut state spending by 364 million or so. We did a death penalty. We did a $3.6 billion tax package, faced a $5 billion deficit and we're able to get a budget together. We did welfare reform. We truly did change the direction of this state, and we all in this chamber can be proud.

We are concluding our regular session and we will reconvene on the 27th, hopefully to adjourn on the 29th. In the interim, we will have a selective calendar that we will put together. We will not have an open

calendar, so this closes our regular session, and I'm proud to have served with you through this first session and proud of the fact that we're able to, with you and without you we couldn't have done it. Started on time. Had no all-night sessions, and I'll stop talking so we don't do this one all night, but we did it, and a lot of people were skeptical in that we couldn't do it, but working together cooperatively we did it, and I think we can all be proud of that.

I am proud of it, proud of you and the participation that we've had. This has been a team and all of us are on that team, everyone.

So I thank you.

And now my counsels will tell me what I forgot. I would like to at this time, Mr. President, recommit all the calendar bills to the Committee on Rules.

ACTING PRESIDENT KUHL: Without objection, all bills will be recommitted to the Committee on Rules.

SENATOR BRUNO: And I -- before I move for adjournment, I want to also recognize our Lieutenant Governor who was here earlier and couldn't be here now and thank her publicly for her good work in this chamber and outside of this chamber on behalf of the Senate and all of the people of this state.

And, Mr. President, there being no further business to come before this house, I move that we adjourn until 10:00 a.m. on June 27th, intervening days to be legislative days.

Thank you, and thank you, Mr. President.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until Tuesday, June 27th, at 10:00 a.m.

(Applause.)

(Whereupon, at 10:55 p.m., the Senate adjourned.)