ALBANY, NEW YORK

March 12, 1996

3:00 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, 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 join me in the Pledge of Allegiance.

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

The invocation today is by Father Peter Young, Blessed Sacrament Church, Bolton Landing.

FATHER YOUNG: Please let us pray.

We pray for all of our New York State people, that their wealth and their power might become a force for peace rather than conflict; a source of hope rather than discontent; an agent of friendship rather than enmity.

May the actions of this Senate be that example.

We ask You this now and forever.

Amen.

THE PRESIDENT: Amen.

The reading of the Journal, please.

THE SECRETARY: In Senate, Monday, March 11. The Senate met pursuant to adjournment. The Journal of Sunday, March 10, was read and approved. On motion, 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.

The Secretary will read.

THE SECRETARY: Senator Tully, from the Committee on Water Resources, reports the following bill:

Senate Print 5850, by Senator Johnson, an act to amend the Environmental Conservation Law, in relation to excluding from the definition of facility.

Senator Sears, from the Committee

on Consumer Protection, reports the following bills:

Senate Print 1243B, by Senator Skelos, an act to amend the General Business Law and the Education Law, in relation to the registration of hearing aid dispensers;

Senate Print 3603, by Senator Cook, an act to amend the General Business Law, in relation to licensing of barbers;

4114, by Senator Cook, an act to amend the General Business Law, the Education Law, the Business Corporation Law, and the Not-For-Profit Corporation Law;

4457, by Senator Libous, an act to amend the General Business Law, in relation to unlawful possession of tobacco;

4493, by Senator Libous, an act to amend the General Business Law, in relation to storage, sale, and rental;

5760, by Senator Cook, an act to amend the General Business Law, in relation to requiring certain notification;

5772, by Senator Marcellino, an

act to amend the General Business Law, in relation to conversion of oil;

5941, by Senator Velella, an act to amend the General Business Law, in relation to prohibiting discrimination;

6066, by Senator Sears, an act to amend the Personal Property Law, in relation to exclusion of certain transactions.

Senator Padavan, from the Committee on Cities, reports the following bills:

Senate Print 3159, by Senator Cook, an act to amend the General City Law and others, in relation to the creation of the position of zoning enforcement officer, reported with amendments;

6084, by Senator Padavan, an act to amend Chapter 890 of the laws of 1982, relating to the establishment of certain water charges.

Senator Stafford, from the Committee on Finance, reports the following bills:

Senate Print 1423, by Senator Saland, an act to amend the Executive Law, in relation to fees and expenses;

4837, by Senator Skelos, an act to amend the New York State Printing and Public Documents Law, in relation to requiring vegetable ink printing;

5729A, by Senator Seward, an act to amend the Executive Law, in relation to energy purchasing programs;

5756A, by Senator Hannon, an act to amend the Social Services Law, in relation to services of emergency physicians;

5764, by Senator Johnson, an act authorizing the Commissioner of Transportation;

5949, by Senator Seward, an act to amend the Abandoned Property Law and the Cooperative Corporations Law, in relation to the disposition.

Senator DiCarlo, from the Committee on Aging, reports the following bills:

Senate Print -

ACTING PRESIDENT KUHL: Hold on. Excuse me.

SENATOR SKELOS: If I could just interrupt for a moment. There will be an immediate meeting of the Local Governments Committee in Room 332 of the Capitol, and there will be a meeting of the Transportation Committee in Room 332 of the Capitol at 3:30, not 3:32.

ACTING PRESIDENT KUHL: Immediate meeting of the Local Governments Committee in Room 332, the Majority Conference Room; and at 3:30, there will be an immediate meeting of the Transportation Committee in Room 332, Majority Conference Room.

Secretary, continue to read.

THE SECRETARY: Senator DiCarlo, from the Committee on Aging, reports the following bills:

Senate Print 4497, by Senator Libous, an act to amend the Vehicle and Traffic Law, in relation to authorizing senior citizens;

4632B, by Senator Goodman, an act

to amend the General Business Law, in relation to additional civil penalties.

Senator Volker, from the Committee on Codes, reports the following bills:

402, by Senator Skelos, an act to amend the Penal Law, in relation to the monetary standards;

1436, by Senator Saland, an act to amend Chapter 505 of the Laws of 1985, amending the Criminal Procedure Law;

1972, by Senator DeFrancisco, an act to amend the Criminal Procedure Law, in relation to access to sealed records;

2445, by Senator Volker, an act to amend the Civil Practice Law and Rules, in relation to limitations;

3450A, by Senator Skelos, an act to amend the Civil Practice Law and Rules in relation to methods of commencing;

3695A, by Senator Volker, an act to amend the Civil Practice Law and Rules, in relation to the jurisdiction limit;

3768, by Senator Volker, an act to amend the Civil Practice Law and Rules, in relation to objections to service;

3784, by Senator Volker, an act to amend the Civil Practice Law and Rules, in relation to the recording of judicial rulings;

3811, by Senator Volker, an act to amend the Civil Practice Law and Rules, in relation to the nonjoinder and misjoinder of parties;

4439, by Senator Libous, an act to amend the Criminal Procedure Law, in relation to venue;

4633A, by Senator Volker, an act to amend the Civil Practice Law and Rules, in relation to personal service by mail;

4686, by Senator DeFrancisco, an act to amend the Criminal Procedure Law, in relation to the time limitations;

5740, by Senator Volker, an act to amend the Civil Practice Law and Rules, in relation to product liability actions;

5743, by Senator Goodman, an act

to amend the Penal Law, in relation to computer network.

Senator Marcellino, from the Committee on Environmental Conservation, reports the following bills:

Senate Print 608, by Senator Stafford, an act to amend the Environmental Conservation Law, in relation to increasing the criminal penalties;

4531, by Senator Libous, an act to amend the Environmental Conservation Law, in relation to taking of pheasants;

5104, by Senator Saland, an act to amend the Environmental Conservation Law, in relation to the composition of the Hudson River Valley Greenway Communities Council;

6113, by Senator Marcellino, an act to amend the Environmental Conservation Law, in relation to interfering;

6213, by Senator Marcellino, an act to amend the Environmental Conservation Law, in relation to the drawing off of water from storage reservoirs;

6316, by Senator Marcellino, an act to amend the Environmental Conservation Law, in relation to permitting the hunting of game on Sunday;

6345, by Senator Marcellino, an act to amend the Environmental Conservation Law, in relation to providing for the revocation or suspension of a hunting license.

Senator Hoblock, from the Committee on Veterans and Military Affairs, reports the following bills:

Senate Print 218, by Senator Holland, an act to amend the Real Property Tax Law, in relation to alternative veterans exemption;

256A, by Senator Maltese, an act to amend the Real Property Tax Law, in relation to an optional school tax;

441, by Senator Maltese, an act to amend the Vehicle and Traffic Law, in relation to authorizing distinctive plates;

1963, by Senator Larkin, an act to amend the Education Law, in relation to

expanding student aid programs;

2092A, by Senator Maltese, an act to amend the Education Law, in relation to a program for graduate student aid to Vietnam veterans;

2984, by Senator Leibell, an act to amend the Education Law, in relation to student aid programs for Vietnam veterans;

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

5796, by Senator Hoblock, an act to amend the Civil Service Law, in relation to the use of credits for veterans and disabled veterans; and

5844, by Senator Marchi, an act to amend the Highway Law, in relation to designating a portion of the state highway system.

All bills ordered directly for third reading.

ACTING PRESIDENT KUHL: Without

objection, all bills are reported directly to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Chair recognizes Senator Farley.

SENATOR FARLEY: Mr. President, on behalf of yourself, Senator Kuhl, I wish to recommit Senate Print Number 3535, Calendar 215, that is on the order of the third reading to the Committee on Housing and Community Development.

ACTING PRESIDENT KUHL: Calendar Number 215 is recommitted, enacting clause is stricken.

Senator Farley.

SENATOR FARLEY: I don't know that it -- it blanked out the enacting clause on this.

ACTING PRESIDENT KUHL: That's all right. We'll just recommit Calendar Number 215.

SENATOR FARLEY: Just -- I don't

know whether they want to strike the enacting clause. They do not.

On behalf of Senator Nozzolio, on page 18, I offer the following amendments to Calendar 376, Senate Print 3537, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 376 are received and adopted. Bill will retain its place on Third Reading Calendar.

Senator Farley.

SENATOR FARLEY: On behalf of Senator Padavan, on page 17, I offer the following amendments to Calendar 367, Senate Print 669, and I ask that that bill retain its place.

ACTING PRESIDENT KUHL: Calendar Number 367, the amendments are received and adopted. The bill will retain its place on Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President,

would you place a sponsor's star on Calendar Number 347.

ACTING PRESIDENT KUHL: Calendar Number 347 is starred at the request of the sponsor.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. On page number 9, I offer the following amendments to my bill, Calendar Number 249, Senate Print Number 4529C, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 249 are received and adopted. Bill will retain its place on the Third Reading Calendar.

Senator Holland.

SENATOR HOLLAND: Mr. President. On page 18, I offer the following amendments for Senator Cook, Calendar Number 375, Senate Print Number 3153, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL:

Amendments to Calendar Number 375 received and adopted. Bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President. At this time, may we please adopt the Resolution Calendar.

ACTING PRESIDENT KUHL: The motion is to accept and adopt the Resolution Calendar.

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, Resolution Number 2656, which concerns Greek Independence Day, if anybody wishes to sponsor it, you're more than welcome to do so. It's the Skelos-Onorato Resolution.

ACTING PRESIDENT KUHL: Those

members who would like to sponsor Resolution Number 2656, by Senator Skelos, please indicate to the clerk that they would like to indicate or have such done.

Senator Skelos, it appears that most members would like to be on it. Would you like to put everybody on it, and those who don't want to be a sponsor of the resolution, please indicate to the clerk that they don't want to be on it.

Senator Skelos, that brings us to the calendar.

SENATOR SKELOS: Mr. President, at this time, if we could take up the noncontroversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the noncontroversial calendar.

THE SECRETARY: On page 10, Calendar Number 263, by Senator Padavan, Senate Print 3089B.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 308, by Senator Lack, Senate Print 6038.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 311, by Senator Present, Senate Print 1931A.

SENATOR PATERSON: Lay it aside.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 312, by Senator Wright, Senate Print 3073, an act to amend the State Administrative Procedure Act, in relation to requiring that agencies conduct and include a formal cost/benefit analysis.

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

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

SENATOR PATERSON: Lay it aside.

SENATOR GOLD: Lay it aside at the request of Senator Paterson.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 313, by Senator Wright, Senate Print 3137, an act to amend the State Administrative Procedure Act, in relation to requiring that state rules not -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 319, by Senator Goodman, Senate Print 1618A, an act to amend the Penal Law, in relation to consecutive terms of imprisonment under certain circumstances.

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

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 328, by Senator DeFrancisco, Senate Print 3521, an act to amend the Criminal Procedure Law, in relation to attendance of defendants confined in institutions.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 330, by Senator Volker, Senate Print 4297, an act to amend the Civil Rights Law, in relation

to access to personnel files of parole officers.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 338, by Senator Libous, Senate Print 5833, an act to amend the Mental Hygiene Law, in relation to authorizing the Commissioner of Mental Health to fingerprint certain patients.

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 341, by Senator DeFrancisco, Senate Print 4643,

an act to amend the Insurance Law, in relation to the premium or compensation for giving bail bond or depositing money or property as bail.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 343, by Senator Leibell, Senate Print 6004, an act to amend the Insurance Law, in relation to expanding provisions relating to insurable interest.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 344, by Senator Velella, Senate Print 6125, an

act to amend the Insurance Law, in relation to continuing authorization for certain prepaid legal services plans.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 349, by Senator Maziarz, Senate Print 4805, an act to amend the Public Health Law, in relation to notification of patients upon sale, closing or disposal of a practitioner's practice.

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

THE SECRETARY: Section 2. This act shall take effect in 120 days.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 53 -- ayes 50, nays 4. Senators Connor, Leichter, Paterson and Stavisky recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 356, by Senator Spano, Senate Print 3974, an act to amend the Labor Law, in relation to licenses to possess, sell, manufacture and store explosives.

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

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the

bill aside.

SENATOR SPANO: Lay it aside for the day, please.

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

Senator Skelos, that completes the noncontroversial calendar.

SENATOR GOLD: Mr. President.

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

SENATOR LACHMAN: Yes, Mr. President. I would like to ask permission, unanimous consent, from this distinguished body to be recorded in the negative on the following calendar items: 263, 311, 312, 313 and 349, five items.

ACTING PRESIDENT KUHL: Senator Lachman, Calendar Number 263, 311 and 313 have not passed the house at this point. They are on the lay aside controversial calendar, but without objection, and hearing no objection, Senator Lachman will be recorded in the negative

on Calendar Number 349.

Senator Skelos, that brings us to the controversial calendar.

SENATOR SKELOS: Senator Libous would like to have Calendar Number 338 laid aside for the day.

ACTING PRESIDENT KUHL: Calendar Number 338 will be laid aside for the day at the request of the sponsor.

SENATOR SKELOS: Could we go to the controversial calendar now.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar beginning with Calendar Number 263.

THE SECRETARY: On page 10, Calendar Number 263, by Senator Padavan, Senate Print 3089B, an act to amend the Education Law, in relation to the exclusion of illegal aliens from attending public post-secondary educational institutions.

ACTING PRESIDENT KUHL: Senator Padavan, an explanation of Calendar Number 263 has been asked for by the Acting Minority

Leader, Senator Paterson.

SENATOR PADAVAN: Yes, Mr. President. This bill would preclude illegal aliens from attending State University and City University.

ACTING PRESIDENT KUHL: Secretary will read the last section.

Senator Paterson.

SENATOR PATERSON: Mr. President. If Senator Padavan would yield to a question?

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Could you explain this bill in a little more detail, Senator Padavan?

SENATOR PADAVAN: Well, Senator, I don't know how to do that, except to tell you very directly if you are an illegal alien, you

cannot under the provisions of this bill, if it were to become law, attend City University and State University.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: If Senator Padavan would continue to yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: Senator, right now, federal law does in many ways restrict the reporting of certain information deemed to be private by school authorities, and would it not be correct to assume that this statute may be in violation of the federal law? Not the reporting of illegal aliens, because that's something that's against the law. So I assume between the two values that the one that would exclude illegality would be the favorable one, but that because this system that we're setting up would force, at times, entities to report that individuals are not illegal aliens, that in and

of itself would be a violation of the law.

SENATOR PADAVAN: There are two parts to my answer to that question.

First, if you had occasion to look at an application for State University or City University, and I have one in front of me which you can certainly look at on your own, but let me just, for the general information of those in attendance here -- one section of it asks, "Are you a U.S. Citizen? Yes__ No__. If no, please state country of birth. Country of citizenship. Immigration status: U.S. permanent resident? Alien registration card?" et cetera, et cetera. So right on the City University and State University application for admission, the information that you are referring to is asked for.

Secondly, the federal statute or federal law that I think you were referring to indicates, and I quote, education records as not including records maintained -- this is the quote, "records maintained by a law enforcement unit of the educational agency or institution

that were created by that law enforcement unit for the purpose of law enforcement." So, in other words, if we pass this law, the federal statute would not preclude this information.

But in any event, I repeat, it's already asked for today but ignored. We have some 4,000 by best estimates that are available to us, and a recent report from City University seems to confirm that, students in State and City University who are in this country illegally and in City University, they are allowing them to pay resident rates, not out-of-state rates. The total subsidy from the taxpayers of this state is approximately, at minimum, 35 million. It could be as high as 40 million.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If Senator Padavan would continue to yield.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: Senator, I understand your answer, but I'm still a little confused about the reporting that would exist when the school answers where an outside agency is seeking the information and it is later determined that the individual is a legal permanent resident or is a resident or a citizen or is, in some way, not an illegal alien.

So what I'm saying to you is that while you would be correct with respect to illegal aliens, what I am concerned about is the stigma that would occur for individuals who would not fit within that classification. As you are aware, it is really the spirit of our law that we are trying not always to find the guilty as much as to preserve the rights and privacy of the innocent. That's why we have the federal Rights and Privacy Act. And so, what I'm saying to you is, it would seem to me that what your legislation would do would be to go right in the face of that.

Now, we had this discussion last year, and since that time, in November, November

20th in fact, a Federal District Court in California overthrew the elements of Proposition 187, which I think speak to what you are addressing here, and at that time, a judge by the name of Failzer, commenting on this, pretty much in his dicta states what I'm trying to tell you right now, which is, that it would be important to identify and remove from our tax rolls the support of illegal aliens. However, to use the educational system as a policing agency and to use health care workers, in other types of legislation, for this purpose is exactly the kind of action that seems to be held to be unconstitutional by a number of courts around this country.

So what I'm asking you again is not the part about how much we're spending on illegal aliens but the issue of jeopardizing those individuals who have a legal right to be here because they are permanent residents or because they are citizens who by virtue of some stigma can be affected under your legislation.

SENATOR PADAVAN: Senator, with

all due respect, what is your question?

SENATOR PATERSON: My question is don't you think that this legislation impinges upon the rights of those who have a right to be here by, in a sense, creating a situation where the revealing of that information may not be in conformity with our Constitution?

SENATOR PADAVAN: No, I don't believe that. And as I indicated to you earlier, we already -- when I say "we," the State and City Universities already require that information to be provided. However, policies that they have adopted, particularly City University, are such that when someone does not provide information as to their immigration status, visa, green card, temporary visa and any other category that the federal government provides, are still allowing thousands to attend the university, even charging them resident rates.

Now, if there's anybody suffering here, it's the students in City University who, as you know, today are laboring under

circumstances that are not ideal, not enough courses being provided, many, many shortcomings that we are attempting to deal with in this budget, as in the past, and it seems to me that we should be doing everything we can to see that those monies are being spent wisely and, in my view, they are not being spent wisely when they are used to provide tuition subsidy to people who are in this country illegally.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. Thank Senator Padavan for his answer.

On the bill, Mr. President.

What I still feel is that Senator Padavan is not incorrect in what he is trying to address. He is not incorrect in identifying a problem. What I feel is incorrect is the manner in which we're trying to reach a solution. If we are experiencing the devastating budget cuts and the other obstacles to a realized education that Senator Padavan referred to, I think we may

be unnecessarily burdening the already dilapidated economic base by expending greater amounts of money investigating to determine who is and who is not an illegal alien.

We have an immigration and naturalization service that provides that; and to whatever extent they need to come on the scene and conduct investigations there, I don't have an objection to that. But what we are now doing is we are passing this information along to other institutions, denying rights, denying privileges and denying certain protections that have been set forth in our law to such an extent that I think we're bordering on tampering with the rights granted in our Constitution.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Yes, Mr. President. Just briefly.

I appreciate Senator Padavan's patience in explaining the bill again since we have been through it before. But I adopt everything that Senator Paterson says, and I

just think that in some areas we're going in a very, very difficult direction.

We had a bill earlier today in one of the committees which was talking about breaking the confidentiality, the relationship between a patient and his or her doctor. We've had too many bills, I think, which put people into jobs that they didn't bargain for and things which are not their jobs, and this is perhaps another one, and there is a memo I have from the State University of New York where they say they are opposed to this. They do not know where they would get the money to do it and, basically, in effect, they say it is just not their job.

I think that as much as I can understand the motivation of Senator Padavan and I understand that there are some people who resent money being spent in certain ways, I think that we, as the Legislature, in some of the bills that we pass set broad principles, and we're getting into areas which, I think, are very muddy and very dangerous waters when we

take people and try to give them jobs which are outside the scope of what their job is.

Let the universities teach children, and let the INS and others do their job, and let them keep it separate.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Would Senator Padavan yield to a question?

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Senator, as I recall this bill from last year, one of the complaints of SUNY and CUNY was this would create a huge administrative burden for the state and city universities, and you and I discussed this bill. I agree with the notion that illegal aliens shouldn't be permitted to go and enjoy the benefits of a publicly-funded

college education.

My question is, how does this bill achieve that goal? And that is one of the things I believe they raised in their memo last year -- I don't have it in front of me this year -- is that the cost in the administrative burden of actually doing this would be very substantial. I would be interested in your view on it.

SENATOR PADAVAN: That administrative burden disturbs me, when I keep hearing it, for two reasons.

Excuse me. I'm getting advice from my counsel here.

I will spare you a reciting. But if you look at the State University application on page 32, items 43 through 49 deal entirely with the issue at hand. It says you must fill this out if you are not a U.S. citizen. That's already the case.

Similarly, on the City University application, which I also have here, there are a number of questions which must be answered by

every applicant. Now, what is happening is students are not providing that information and being enrolled, by the thousands.

So when you talk about an administrative burden, I don't quite follow you, in that the current applications provide administratively for a student identifying his status in this country if he does not check off the block, "Are you a U.S. citizen?" If he says no, the current application requires that he indicate his visa, his expiration date, et cetera. So that's the issue here, Senator.

SENATOR DOLLINGER: Fine. Mr. President, will Senator Padavan yield to just a couple more questions?

SENATOR PADAVAN: Yes.

SENATOR DOLLINGER: This statute, this bill uses the phrase "verify," and my question is -- the question is asked on the application. Is this going to require the student to bring additional information, be it birth certificate, citizenship paper, passport, whatever it is, in order to verify for the

public institution -- to verify the accuracy of the disclosures made in that application?

SENATOR PADAVAN: Well, you say verify. If there is any question about the appropriateness of the information, that would be required in any case. A student must bring his transcript from high school. He must prove many other things, his SAT scores. A whole host of information must be provided with every college application. Having gone through that with both my children, I can vouch for that.

So if there is any question about his status, how much more difficult is it to provide the visa or green card application, a copy of it, or whatever, or the information or the number, along with all the other information that is required for a college application, particularly in view of the fact that there is a section in the applications of SUNY and CUNY that facilitate this currently.

SENATOR DOLLINGER: Again, through you, Mr. President.

ACTING PRESIDENT KUHL: Senator

Padavan, do you continue to yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: The bill on page 2 and line 13 says that the institution has the obligation if it learns that the person is not a legal alien in this country. In other words, if there is evidence or -- and this is the critical question, "A person who is under the reasonable suspicion of being..." Could you tell me what's intended by that phrase and what circumstances in which an educational institution would have a reasonable suspicion of a person being an illegal alien, which I presume if this bill took effect would require them to produce information to show that they weren't?

SENATOR PADAVAN: The phrase "reasonable", of course, is subjective. The institution would make that determination. If reasonable in their mind, just to use a hypothetical case, a student who filed an application indicated they were not a U.S.

citizen and did not provide the information that's currently required. They refused to do so. It might be reasonable, then, to assume that person is here illegally.

However, that would be a judgment they would make. We're not trying to tell them how to act in that fashion. But we do think it's appropriate for a state-funded entity, whatever it may be, that if they are made aware of an illegal alien situation to report it to the appropriate authority. They are violating our laws. They are law breakers.

On top of that, they are trying to get a subsidized education at our expense when they have no right even to be in the country.

SENATOR DOLLINGER: Again through you, Mr. President, if Senator Padavan would continue to yield just to one more -- two more.

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: Senator

continues to yield.

SENATOR DOLLINGER: Two other very quick questions.

First of all, what is the penalty if the educational institution does not perform the obligations contained in paragraph 3 of the bill?

SENATOR PADAVAN: There is no penalty.

SENATOR DOLLINGER: There is no penalty on the educational institution?

SENATOR PADAVAN: No.

SENATOR DOLLINGER: They just disregard it.

SENATOR PADAVAN: No, there's no penalty.

SENATOR DOLLINGER: In addition, Senator, why would -- it says here that they will tell the Commissioner. What authority does the Commissioner have over this? Why is that? Is that just for statistical gathering purposes or is that in there for some other reason, that the Commissioner of Education would need to know

whether the student was.

SENATOR PADAVAN: I don't know if he needs to know. I think it would be desirable for us to have an idea for future actions or reference or whatever. However, I don't believe there is a need if that's your question.

SENATOR DOLLINGER: Through you, Mr. President, one final question?

ACTING PRESIDENT KUHL: Senator Padavan?

SENATOR DOLLINGER: How does the B print differ from the A print, Senator, if you know how that amendment was made or what amendment was made?

SENATOR PADAVAN: Well, we had to change the dates.

SENATOR DOLLINGER: Okay.

Just briefly on the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

SENATOR DOLLINGER: Thank you, Senator Padavan. I have voted for a number of

these measures which have come out in the last year to deal with the concept of illegal aliens. I share Senator Padavan's concern that those who come to this country illegally at a time when we still allow, I believe, abundant legal immigration to this country and when there are many avenues to come to this country, those who come here illegally we do not have an obligation to, and they can become legal. There are many options for that.

And, at least from my perspective, I think we can draw a line between access to the CUNY system and the SUNY system for legal aliens and those who are illegal; but, nonetheless, I think this bill is still flawed because it shifts to the administration of SUNY and CUNY the notion of being the tattletale; that they are going to be involved in the detection and enforcement of the Immigration and Naturalization Law.

I do think and I agree with SUNY that it will create a very significant unfunded mandate. I think for that reason and the fact

that without a penalty attached, there is no real reason why, at least in my judgment, SUNY and CUNY would even abide by the statute, unless there's some way that it could be enforced.

So I think there are a whole host of technical problems that, at least in my mind, would militate for a vote against it.

ACTING PRESIDENT KUHL: The chair recognizes Senator Espada.

SENATOR ESPADA: Thank you, Mr. President. I certainly do not rise to debate this bill. Quite honestly, I don't think it's worthy of debate. We did that last year. We've done it a couple of times before that.

It's not just this bill. There has been a campaign. This is a package of bills, much like Proposition 187 in California, much of it struck down. Many of these propositions deny health care, education. Turning institutions that ought to help people into immigration check points has been determined to be unconstitutional.

This is no debate here. It is

ugly, it's evil, it's hurtful. It reminds one of the Buchanan campaign that made a brief stop here in New York State. It was rejected by New York State. It has no role in our public policy debates. It would risk federal funding; would turn teachers, social workers, and others into enforcers for a federal function that needs to be addressed. Most definitely needs to be addressed, needs to be funded, needs to be enforced.

Again, this is not our role here. This will never become law. If it becomes law, the courts will deal with it. I really wish that we would see the end of these kinds of bills because really, again, they are ugly and serve no good public purpose, Mr. President.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT KUHL: Call the roll.

SENATOR GOLD: Slow roll call.

ACTING PRESIDENT KUHL: Slow roll call has been requested. Are there five members in the chamber wishing to do that? Will they stand up?

Okay. There are five members requesting a slow roll call.

Secretary will call the roll slowly.

THE SECRETARY: Senator Abate.

SENATOR ABATE: No.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Bruno.

(Indicating "Aye.")

Senator Connor.

(Indicating "Nay.")

THE SECRETARY: Senator Cook.

(There was no response.)

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.
SENATOR DiCARLO: Aye.
THE SECRETARY: Senator Dollinger.
SENATOR DOLLINGER: No.
THE SECRETARY: Senator Espada.
SENATOR ESPADA: No.
THE SECRETARY: Senator Farley.
(There was no response.)
Senator Gold.
SENATOR GOLD: No.
THE SECRETARY: Senator Gonzalez.
SENATOR GONZALEZ: No.
THE SECRETARY: Senator Goodman.
(There was no response.)
Senator Hannon.
(There was no response.)
Senator Hoblock.
SENATOR HOBLOCK: Yes.
THE SECRETARY: Senator Hoffmann, excused. Senator Holland.
SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.
SENATOR JOHNSON: Aye.
THE SECRETARY: Senator Kruger.
SENATOR KRUGER: Yes.
THE SECRETARY: Senator Kuhl.
SENATOR KUHL: Aye.
THE SECRETARY: Senator Lachman.
(There was no response.)
Senator Lack.
SENATOR LACK: Aye.
THE SECRETARY: Senator Larkin.
SENATOR LARKIN: Aye.
THE SECRETARY: Senator LaValle.
SENATOR LAVALLE: Yes.
THE SECRETARY: Senator Leibell.
SENATOR LEIBELL: Aye.
THE SECRETARY: Senator Leichter.
SENATOR LEICHTER: No.
THE SECRETARY: Senator Levy.
SENATOR LEVY: Aye.
THE SECRETARY: Senator Libous.
(There was no response.)
Senator Maltese.

SENATOR MALTESE: Aye.
THE SECRETARY: Senator Marcellino.
SENATOR MARCELLINO: Aye.
THE SECRETARY: Senator Marchi.
SENATOR MARCHI: Aye.
THE SECRETARY: Senator Markowitz.
SENATOR MARKOWITZ: No.
THE SECRETARY: Senator Maziarz.
(There was no response.)
Senator Mendez.
(There was no response.)
Senator Montgomery.
SENATOR MONTGOMERY: No.
THE SECRETARY: Senator Nanula.
SENATOR NANULA: No.
THE SECRETARY: Senator Nozzolio.
SENATOR NOZZOLIO: Aye.
THE SECRETARY: Senator Onorato.
SENATOR ONORATO: Aye.
THE SECRETARY: Senator

Oppenheimer.

SENATOR OPPENHEIMER: Aye.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

SENATOR GOLD: Mr. President.

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

SENATOR GOLD: Senator Weinstein is having trouble hearing.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

SENATOR RATH: Yes.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: No.

THE SECRETARY: Senator Seabrook.

(There was no response.)

Senator Sears.

SENATOR SEARS: Aye.
THE SECRETARY: Senator Seward.
SENATOR SEWARD: Yes.
THE SECRETARY: Senator Skelos.
SENATOR SKELOS: Yes.
THE SECRETARY: Senator Smith.
SENATOR SMITH: No.
THE SECRETARY: Senator Spano.
SENATOR SPANO: Aye.
THE SECRETARY: Senator Stachowski.
SENATOR STACHOWSKI: Yes.
THE SECRETARY: Senator Stafford.
(There was no response.)
Senator Stavisky.
SENATOR STAVISKY: No.
THE SECRETARY: Senator Trunzo.
SENATOR TRUNZO: Yes.
THE SECRETARY: Senator Tully.
SENATOR TULLY: Aye.
THE SECRETARY: Senator Velella.
SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.
SENATOR VOLKER: Yes.
THE SECRETARY: Senator Waldon.
SENATOR WALDON: No.
THE SECRETARY: Senator Wright.
SENATOR WRIGHT: Aye.
ACTING PRESIDENT KUHL: Secretary will call the absentees.
THE SECRETARY: Senator Babbush, excused. Senator Cook.
SENATOR COOK: Yes.
THE SECRETARY: Senator Farley.
(There was no response.)
Senator Goodman.
(There was no response.)
Senator Hannon.
SENATOR HANNON: Yes.
THE SECRETARY: Senator Lachman.
(There was no response.)
Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Maziarz.
SENATOR MAZIARZ: Aye.

THE SECRETARY: Senator Mendez.
SENATOR MENDEZ: No.
THE SECRETARY: Senator Seabrook.
(There was no response.)
Senator Stafford.
(There was no response.)
ACTING PRESIDENT KUHL: Announce the results.
THE SECRETARY: Ayes 38, nays 16.
ACTING PRESIDENT KUHL: The bill is passed.
Senator Stafford, why do you rise?
SENATOR STAFFORD: Mr. President. I was in a meeting outside the chamber and came back to vote on the last bill. It should be pointed out, please, that if I had been in the chamber, I would have voted aye.
ACTING PRESIDENT KUHL: Senator Stafford, the record will reflect that had you been in the chamber when the roll call was completed -

SENATOR STAFFORD: Aye. Thank you.

ACTING PRESIDENT KUHL: Secretary will announce the results.

THE SECRETARY: Ayes 39, nays 16.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call -- before we do that, Senator Abate, why do you rise?

SENATOR ABATE: Mr. President, I ask for unanimous consent to be recorded in the negative on Calendar Number 349.

ACTING PRESIDENT KUHL: Without objection, and hearing no objection, Senator Abate will be recorded in the negative on Calendar Number 349.

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, I'm just a little unclear about procedure. Did we just add an affirmative vote after the slow roll call?

ACTING PRESIDENT KUHL: Senator Paterson, the determination of the chair was that Senator Stafford was in the chamber. He was walking through the door before the roll call was announced, and so we gave him the opportunity to register his vote, which we have done for a number of members on both sides of the aisle in the past, and the courtesy was extended to Senator Stafford.

SENATOR PATERSON: We could have done it for no member as distinguished as Senator Stafford.

ACTING PRESIDENT KUHL: Appreciate your bringing that to the Chamber's attention, Senator Paterson. It's always enlightening to have you participate.

I would note for the record that we are a little noisy this afternoon so, so that we can proceed with the business in an orderly way, could we quiet it down, please.

Thank you.

Ask the Secretary to continue to call the controversial calendar.

THE SECRETARY: Calendar Number 308, by Senator Lack, Senate Print 6038, an act to amend the Railroad Law, in relation to police officers of a commuter railroad police force.

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 311, by Senator Present, Senate Print 1931A, an act to amend the State Administrative Procedure Act, in relation to regulatory relief.

ACTING PRESIDENT KUHL: Senator Present, an explanation of Calendar Number 311 has been asked for by Senator Gold.

SENATOR PRESENT: Senator Gold?

SENATOR GOLD: Everybody.

SENATOR PRESENT: Everybody.

Mr. President, we have addressed this bill before in the chamber, passed it, I think, several years.

This bill would require state agencies who promulgate rules and regulations to

submit a regulatory impact statement for those new rules that contain specific costs to the regulated parties. I think it's about time that we require agencies who promulgate rules and regulations to analyze their proposed rules to determine what the cost will be on those whom they are attempting to regulate.

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

Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. I think we debated this bill fully last year, and I just wish to point out that a number of members decided that the bill did not deserve an affirmative vote, and those members included Senators Abate, Connor, Dollinger, Espada, Galiber, Gold, Kruger, Leichter, Markowitz, Mendez, Montgomery, Onorato, Oppenheimer, Paterson, Smith, Solomon, Stachowski, Waldon, Goodman, Levy, and Tully.

So both sides of the aisle thought, Senator Present, that as well intentioned as the bill was it needed a little

more work, and I gather this year's version still needs a little more work, so -

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT KUHL: Senator Present on the bill.

SENATOR PRESENT: The good Senator named off those who voted against it, and I won't attempt to name off all those who voted for it. Apparently, it was a majority of the necessary votes.

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

THE SECRETARY: Section 8. This act shall take effect on the first of October.

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 311 are Senators Connor, Dollinger, Espada, Gold, Kruger, Lachman, Leibell, Leichter, Marcellino,

Markowitz, Montgomery, Onorato, Paterson, Santiago, Seabrook, Stachowski, Stavisky, Tully, Velella and Waldon, also Senator Abate, also Senator LaValle. Ayes 37, nays 22.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 312, by Senator Wright, Senate Print 3073, an act to amend the State Administrative Procedure Act, in relation to requiring that agencies conduct and include a formal cost/benefit analysis.

ACTING PRESIDENT KUHL: Senator Wright, an explanation of Calendar Number 312 has been asked for by the Acting Minority Leader.

SENATOR WRIGHT: Thank you, Mr. President. The act provides for amendments to the Administrative Procedure Act and formalizes the requirement that a cost/benefit analysis will be prepared as part of the regulatory

impact statement that's currently provided. All too often the current regulatory impact statements are exceedingly brief. This will provide greater detail, a formal comparison and evaluations of cost/benefits and, more importantly, require that methodology is made available for those questioning the regulatory impact to have the opportunity to challenge that. This bill has been before the house before and, in fact, successfully passed the Senate last year 60 to nothing.

ACTING PRESIDENT KUHL: Chair recognizes Senator Paterson.

SENATOR PATERSON: Thank you very much, Senator Wright. I just wanted to advise the members that the Environmental Protection Lobby, who did not oppose this legislation last year, opposes it very strongly this year, since it's a change -- there were three chimney stacks, and this was an issue that has changed in terms of the advocacy. As it is similar to the last bill, I thought I would bring that to the body's attention.

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

THE SECRETARY: Section 2. 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: Announce the results when tabulated.

Chair recognizes Senator Wright to explain his vote.

SENATOR WRIGHT: Thank you, Mr. President.

I would like to explain my vote. Since the memo of opposition from the EPL certainly has had a compelling argument among some of my colleagues, I would like to point out that the National Federation of Independent Businesses, the small business organization in this state, is very supportive of the bill, as is the New York State Conference of Mayors and Municipal Officials.

Just so the record notes, my vote is being influenced by those two organizations.

Thank you, Mr. President. I vote aye.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 312 are Senators Abate, Connor, Dollinger, Espada, Gonzalez, Kruger, Lachman, Leibell, Leichter, Levy, Marcellino, Markowitz, Nanula, Onorato, Paterson, Santiago, Smith, Stavisky, also Senator Seabrook, also Senator LaValle, also Senator Gold, also Senator Stachowski.

Ayes 37, nays 22.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 313, by Senator Wright, Senate Print 3137, an act to amend the State Administrative Procedure

Act, in relation to requiring that state rules not impose standards higher than those of federal law.

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

SENATOR LEICHTER: Mr. President. I would like to just make a brief comment on the bill and then maybe ask Senator Wright to yield to a question.

ACTING PRESIDENT KUHL: Senator Leichter on the bill.

SENATOR LEICHTER: This is another bill that received a good airing last year and some 18 members voted against it. I think the main focus of the discussion was its impact on environmental regulations and regulations that might be necessary to protect the health and the welfare of New Yorkers.

What this bill does, as you can readily see, is to limit state regulatory agencies from enacting regulations that are considered stricter than federal regulations unless specifically authorized by the

Legislature and we pointed out, first of all, it's a difficult test of what is specifically authorized.

We may pass a law that says that we want our air and our water protected. Now, the federal government, as we know, has water and air standards. Have we specifically authorized actions by DEC to protect air and water in a way that might be appropriate for New York but it might be considered stricter or different than the federal standard? So I think it raises a lot of problems.

But the thing that occurred to me, Senator Wright, is that this doesn't just apply to DEC or the environment. This would apply to the Health Department. It would apply, as I read it, to the Banking Department, a number of state agencies that act in areas where there is, if you will, concurrent jurisdiction with the federal government, and I wanted to ask you some questions on that, because I think this may raise some additional problems that this body may want to consider.

Would you be so good as to yield, Senator?

SENATOR WRIGHT: Certainly I will yield to the question.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: Senator, am I correct that this bill applies to any state agency so that it will also apply to the Department of Health; it would apply to the Department of Banking?

SENATOR WRIGHT: Yes, it does, Senator.

SENATOR LEICHTER: It just occurred to me, Senator, and I wanted to ask you. As you know, we have a dual system of banking. We have action that's taken by the Federal Reserve or action that's taken by the Comptroller of the Currency, action taken by the Superintendent of Banking of the State of New York. Do you mean by this bill to restrict the authority of the Superintendent of Banking to conduct banking examinations, to take actions

that he feels are necessary and appropriate to protect New Yorkers who may deposit monies in banks or credit unions? Is that the intent of this bill?

SENATOR WRIGHT: No, Senator. The intent is not to restrict the Banking Department from pursuing those issues, if those issues are authorized by federal statute and New York State conforms or, in turn, if it does not, then we specifically authorize the Superintend ent of Banks or any other commissioner to achieve federal compliance or to exceed federal compliance.

It was not too long ago in this very chambers that we were adopting banking legislation, in fact, conforming New York State statutes to existing federal banking require ments, and that was a very conscious decision on our part and, in fact, that's the underlying theme to this legislation, that the Legislature, the duly-elected people elected to represent this state make those decisions in terms of exceeding national or federal standards. So

nothing precludes us from doing that.

SENATOR LEICHTER: Well, Senator Wright, if you would be so good as to continue to yield.

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

SENATOR WRIGHT: Yes, I will, Mr. President.

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

SENATOR LEICHTER: Senator, the example you gave, in fact, was forced by federal legislation, but I'm concerned about a situation that we had some years ago where the federal government's regulation and its supervision of thrift institutions was so careless and negligent that we ended up with one of the biggest losses that the federal treasury ever had, whether it was 300 billion or $500 billion, it was enormous.

Now, in this state, in large measure to -- due to, I think much closer monitoring by the Department of Banking, we

didn't have that thrift crisis. I'm just concerned that your bill will, in some respects, limit New York agencies that all of us are very satisfied with, whether it's the Department of Banking or Health Department, in the way that it regulates clinics which may be stricter than federal action.

Now, to require the Legislature now suddenly to authorize actions that these regulatory bodies have taken that all of us are very satisfied and happy with and are needed for the protection of New Yorkers, whether their health through their Health Department or their financial health through the Department of Banking, I think that could result from this bill.

Now, I want to say in fairness, the example I gave about the thrift crisis, of course, those were federal institutions and you could make the argument, "Well, those regula tions wouldn't apply to New York thrifts anyhow", but under this bill, somebody may well say, "Well, wait a second. There are federal

rules as to how thrifts are to be regulated, and you can't have the Department of Banking act to impose stricter requirements absent some specific action of the Legislature."

So that while I know that you aim this at the environment, I just want you to think of the consequences that this could have for state agencies that, as I said, are totally non-controversial and that all of us agree are really very necessary for the welfare and the protection of New Yorkers.

SENATOR WRIGHT: Senator, I do not aim this at the environment. Those are examples that in prior debates you've chosen to elucidate but, in fact, I aim it at all regulations that diminish New York State's elected officials from making the decisions in deciding the appropriate standards that New York State will require. Nothing in this bill diminishes our ability to exceed the federal standard, to have requirements in excess of the federal government's requirements, regardless of whether it's in the field of health, banking,

environment or any other area that is authorized to implement regulations.

What this bill says in its essence is as an appointed bureaucrat, you do not have the authority to unilaterally exceed the federal standard. If you believe that to be in the best interests of New York State based on your professional knowledge, your scientific background, your experience, et cetera, you recommend that to the commissioner who, in turn, recommends that to the Governor or convinces the Legislature that there is a compelling need for New York State to exceed those federal minimums, that that is in New York State's best interests and you convince the majority of the state Legislature of that.

If, in fact, those circumstances are appropriate and warrant that kind of action, I don't anticipate that there would be any difficulty achieving that within the state Legislature, but the distinction would be that rather than that appointed bureaucrat, elected officials would be making the policy for the

state of New York.

SENATOR LEICHTER: Mr. President -

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: -- on the bill.

ACTING PRESIDENT KUHL: Senator Leichter on the bill.

ACTING PRESIDENT KUHL: Senator Wright, I just really don't think that this bill is in the real world, and I'll tell you why.

First of all, I'm somewhat amused that you take the federal standard as being one that is sufficient and should be the guide for the state of New York because, as I understand the viewpoint of your party or certainly a lot of people in your party, Washington is not the one to make the standards. Standards are to be made in the state. Now, I understand your answer is "Well, I want the state to make it, but I want the elected representatives to make it", but initially, whether or not the elected

representatives must act depends upon what the federal standards are. I reject that. I think that standard ought to be established here in New York based on our circumstances and not on laws that are enacted or federal standards that are enacted with an entire country in mind. We have different needs, whether it comes to acid rain, whether it comes to protection of our waterways, which is different than waterways on the West Coast. We ought to be able to do it ourselves.

Now, to meet your argument, Well, if it requires action in New York State, let the Legislature do it instead of the regulators, Senator, we would be in session 365 days a year and probably 20 hours a day if we had to pass the myriad of regulations where there is a variation between the state and the federal. There are thousands and thousands of regulations because, indeed, regulations have to be very precise. They have to be very extensive. They certainly ought to be done under broad guidelines that are laid out by the Legislature,

but your bill would require specific action by the Legislature, and why I say to you -- and I say it respectfully -- it's not the real world. You know, in day -- in a society now where just in the environment alone, or take the area of health, or take the area of banking, or take the area of insurance where, if you ever take a look at the regulations, there are books and books and books. Well, this reflects the fact that there's many more people. They interact in different ways. It's a different world. We can't as a Legislature enact all of those regulations where they happen to be more strenuous or stricter than the federal standards.

So I respectfully submit to you that this bill would not work, would impose an impossible burden on the Legislature. We don't have the time. We don't have the expertise, and it's based in large measure -- or in the first instance on the fed's telling us, in effect, "Yes, you can't act in this area." I mean, the fed's aren't saying that, but the fed's have set

forth what you have accepted as the standard which determines whether or not the Legislature has to authorize our regulatory bodies to act. I respectfully submit this is just not workable.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Dollinger.

SENATOR DOLLINGER: Would Senator Wright yield to a question?

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

SENATOR WRIGHT: I yield, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Senator, are there any emergency provisions contained in this bill that would allow the state, on an emergency basis, to have stricter regulatory requirements than the federal government?

SENATOR WRIGHT: There are no specific emergency provisions in this

legislation, Senator. The emergency provisions for emergency rulemaking are contained in the State Administrative Procedures Act, and we are not amending any provision of that relative to the emergency rulemaking. Therefore, they would supersede this particular legislation.

SENATOR DOLLINGER: Well, again through you, Mr. President, I guess I posit the following emergencies. Suppose up in Watertown or Alexandria Bay in a part of the world where you and I have both spent a part of our time - you more so than I, but suppose we ran into a Lyme Disease infestation or rabies outbreak or an explosion of the population of zebra mussels or for that matter, the goby and the ruff which are the two predatory fish that are coming into Lake Ontario attacking our forage base and attacking our sports fishing industry, and suppose it was, I don't know, the 15th of August and the state Legislature wasn't going to be in session until January 1st, and the State Department of Environmental Conservation said we have to come up with emergency regulations to

control the infestation of all of these predators or these diseases, and yet there were federal regulations adopted for the entire nation that did not have the same kind of effectiveness that DEC wanted. What happens to those regulations in this -- if this bill becomes law?

SENATOR WRIGHT: Well, first of all, you proceed with a review of whether or not there is a federal minimum that warrants being exceeded, and in this instance, I'm not sure that the scenario, albeit rather extreme for purposes of debate -- I don't believe that that scenario would be into an emergency category that would warrant the kind of early, quick response that you're implying.

Secondly, then the procedures within the emergency -- the emergency procedures within the State Administrative Procedures Act would be applied and you could move ahead, and if it specifically required exceeding the federal standard -- which I don't believe would be warranted in this situation -- then, yes, you

would require specific authorization from the state Legislature to exceed that standard, and if you truly had that kind of emergency need, I'm sure that then there would be a legislative response.

SENATOR DOLLINGER: Okay. On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

SENATOR DOLLINGER: I think what I tried to highlight through my question was the fact that we could have a rabies outbreak; we could have a Lyme Disease outbreak up in the North Country, up in Senator Stafford's area, Senator Wright's area, where the State Department of Environmental Conservation could reasonably sit down and say, "Wait a second. We can't wait for the state Legislature. We can't wait a week for the state Legislature much less five months, and we've already scanned all the federal regulations and we've decided -- we found that the federal regulations would prohibit us from aggressively seeking to treat

or attack the causes of Lyme Disease or rabies or fish infestation. Name the problem." It seems to me one of the things that we give the State Department of Environmental Conservation is the ability to intervene in those instances to protect the public good.

This bill says -- and I agree with Senator Leichter. For some reason this bill seems to move in what I believe is the absolute contrary direction from everything I've heard from the Republican Party for the last decade. All I've heard is "Give it back to the states. The states know best. Give it back to the local communities. The local communities know best. Give it back to the lowest possible level of government."

This bill suggests somehow that Washington knows best and frankly, I guess, as a befuddled Democrat, I can't quite figure it out. Does Washington know best or does Washington know least? It seems to me all the rhetoric I've heard suggests that the further you get away from the people, the least -- or

the less confidence you should have in their decision-making. This bill works -- almost turns the phrase of block grant on its head. It's almost like a block-headed grant because what it suggests is that Washington somehow knows better.

I can just see this: I think what we're doing is playing hot potato with the issue of regulatory environment. No one likes intrusive regulations. I don't like them. No one in this room likes them, but there are certain instances in which we as a state empower the people in our administrative agencies to make decisions in the public interest. They are close to the people. They're going to go out to Watertown. They're going to come into Rochester, size up the situation, issue emergency regulations, figure out how to protect the public good. This bill says that somehow, someone, somewhere in the bowels of an agency in Washington should make that decision instead.

With all due respect, Senator, I can't understand how this pushes the role of

states' rights any further. This seems to take away states' rights, and it seems to me that moves in the opposite direction of your party, many people have talked in the last decade and frankly, I'm just confused, and I'm going to vote no in my confusion.

ACTING PRESIDENT KUHL: Senator Johnson.

SENATOR JOHNSON: Will Senator Wright stand for a question?

ACTING PRESIDENT KUHL: Senator Wright, do you yield to Senator Johnson?

SENATOR WRIGHT: Yes, I will.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR JOHNSON: Senator Wright, have you heard about the tripartite structure of government, Legislative, Executive and Judicial?

SENATOR WRIGHT: Yes, Senator, I vaguely recall that in civics class at one point in time.

SENATOR JOHNSON: And have you

heard the arguments today for the Executive Branch making law from the other side of the aisle?

SENATOR WRIGHT: I believe that's the interpretation one could make.

SENATOR JOHNSON: Do you agree that the Legislature or the Executive should make law in the state?

SENATOR WRIGHT: I believe that the Executive proposes and the Legislature disposes.

SENATOR JOHNSON: And the bureaucrats make regulations in accordance with the laws we pass, is that correct?

SENATOR WRIGHT: Bureaucrats are appointed to carry out the wishes of elected officials.

SENATOR JOHNSON: Not to make law.

SENATOR WRIGHT: That is correct, Senator.

SENATOR JOHNSON: Do you perceive the other side desires the Legislature -

rather, the Executive Branch, the bureaucrats to make law in instances where it's not authorized by this Legislature and by law?

SENATOR WRIGHT: That is correct. That is exactly how I perceive it.

SENATOR JOHNSON: You think that's proper?

SENATOR WRIGHT: I don't believe that's the real world either.

SENATOR JOHNSON: Thank you, Senator.

SENATOR WRIGHT: Thank you, Senator.

ACTING PRESIDENT KUHL: Is there any other Senator wishing -- Senator Dollinger.

SENATOR DOLLINGER: After cross-examination by Senator Johnson, may I ask Senator Wright one other question?

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

SENATOR WRIGHT: I will be glad to yield to Senator Dollinger, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Is it also true, Senator Wright, that any regulation created by a bureaucrat that is not consistent with legislation passed by this Legislature and signed by the Governor is not proper as a matter of law because it's outside the scope of the authority delegated to the bureaucrat?

SENATOR WRIGHT: Well, Senator, that's certainly an issue we've had much more extensive debate on as we've tried to curb just that issue because we've had several examples in this state where there are a number of us, and specifically the Majority of the Legislature that took a particular direction and established what they felt was a very clear policy statement as to the direction of the state of New York only to have previous commissioners of Environmental Conservation proceed in a direction on their own, thereby necessitating the Legislature to take that commissioner to court to carry out the will of the Legislature

as articulated in law.

So, unfortunately, there are circumstances just as you presume they will not occur that have occurred in the past and, in fact, we've had to rely on the courts to clarify the role that the Legislature has just the authority to state that.

SENATOR DOLLINGER: Again through you, Mr. President, are you referring to Commissioner Zagata who was taken to court because he overstepped his bounds in the -

SENATOR WRIGHT: No, sir. I was referring to Commissioner Jorling in the air quality standards.

SENATOR DOLLINGER: Okay. So maybe we've had that problem both in the prior administration and in the current one. Wouldn't that be a fair statement?

SENATOR WRIGHT: No. I wouldn't draw that conclusion at all, Senator.

SENATOR DOLLINGER: Thank you.

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

THE SECRETARY: Section 2. 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 Wright to explain his vote.

SENATOR WRIGHT: Thank you, Mr. President.

To clarify the perspective of the Republican philosophy, if I may since I've had it articulated several times.

First of all, we, of course, believe in states' rights, and that's exactly what this bill does. It articulates the right of the state to specifically decide whether or not the state will increase the standards as established by the federal government. Further, consistent with that philosophy of state rights, we happen to believe that if the federal government passes no standard, that would be beneficial and the state of New York could, in

turn, meet its obligations and requirements quite well.

However, in those instances where the federal government does decide to establish a standard to create a level playing field in the nation, then that and only then do we establish that as the minimum in New York because New York is interested in being competitive, and then we, again, would exercise our state rights as to whether or not we would exceed that standard.

So I think it's very consistent with what we're trying to do here and in Washington and most importantly, it's very consistent with our belief that we need to create a competitive environment for New York State because the real world in New York State, as pointed out by the health care providers and others, is overly excessive in its regulatory environment and, unfortunately, the scenarios articulated where the Legislature could be in session 365 days passing regulations, in fact, has been part of the problem we've had in this

state, that many regulations and many people, including the business community and the health care providers, are rejecting that and saying the Legislature should intercede and extend its legislative prerogatives.

And on the issue of emergency, I would point out to my colleague who visits the Thousands Islands, we, in fact, do have a rabies emergency and we are not waiting on the state of New York for regulations. We're waiting for adequate funding, and I'm sure you will support that initiative in the future.

Thank you.

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

Senator Leichter to explain his vote.

SENATOR LEICHTER: Yes. Mr. President, if Senator Johnson had asked Senator Wright who vaguely remembered that there are three branches of government, and had asked him, "Is there a federal and a state role", I don't know what the answer would have been, because I

still have difficulty understanding the logic of why, if your concern is about having so-called unelected bureaucrats make the decision, it's a right for unelected federal bureaucrats to decide for New York State. If you were consistent, you would say that any action would re... regulatory or otherwise, must be specifically authorized by the Legislature, and I must say that it's rare to find both Senator Johnson and Senator Wright had this faith in Washington bureaucrats. You trust Washington bureaucrats but you don't trust New York bureaucrats.

Of course, the fact of the matter is that you must give direction to the bureaucrats but the details, the dotting of the i's and the crossing of the t's cannot conceivably be done by the Legislature. It doesn't work in the environmental field. It doesn't work in the health care field. It doesn't work in the banking field, and the effect of this bill really is to take away needed protections of New Yorkers in the

environment, in the health field, in the finance field. We need these regulators. We have specific circumstances in New York. We're also proud of the fact that New York is not Montana or Dakota or West Virginia, and so on. We want to govern our own affairs, and you can only do that if you're free to have under rules or guiding principles laid out by the Legislatures, have your regulators function. You would cripple the regulators, Senator Wright, and you would place every New Yorker's health and welfare and well-being at risk.

I vote in the negative.

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

Senator Gold to explain his vote.

SENATOR GOLD: Thank you, Mr. President.

I feel obligated to stand here and defend the honor of a former colleague, who is somebody that I like very much, a compassionate man who has been abused all

afternoon by the Republican Party, and George Pataki doesn't deserve that. He doesn't deserve that.

Why you want in an election year to prove to every one of your constituents that the Clinton administration has more sense than the Pataki administration, I don't know, but it's been an interesting year because I remember when New York was the leader, and we would pass laws -- and I was very proud of some of them. The "Son of Sam" Law was one which I did. I know we saw former Senator Weinstein here. His father passed, I think, the first crime victims bill in the nation. New York led.

Now in the budget debates that we have had this year, all I've heard from the Republican Party is, Well, gee, New York is - is here and these other states are there, and we've got to adjust what we do for education to lower it because everybody else is spending less, and we've got to give our poor people less because other states -- and we are finding the worst areas, I think, to follow what other

states do.

I think that this bill gives away too much initiative and, Senator Wright, when you say the bill gives us a right, it's giving us the right to say, "I'm going to do whatever I want to do as long as I'm following you", and that's a strange way of acknowledging a leadership role.

I vote in the negative.

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

The Chair recognizes Senator Marchi to explain his vote.

SENATOR MARCHI: I understand the Senator's concern and it's genuine, and I believe that he does make a point, but I'm not fully convinced.

The first term I was here, we had a Democratic governor and two houses Republican. Later on we had a Republican governor with two houses Democratic. Then we -- then we've had splits, and I'm not always sure that the Legislature, for noble reasons or less than

noble reasons, are ever ready to make corrections that are enlightened. So I'm a little concerned.

I see here in the memos that we have the Healthcare Association of New York in support. I'm not -- I don't think I know too much about the Healthcare Association and the National Federation of Independent Businesses. The Trial Lawyers are against it. Again, the reasons -- this is what -- escape me, but all these variations and combinations also suggest that the Legislature may not be in a position to respond for noble or less than noble reasons, and for that reason, I -- I'm constrained not to support this bill. I should have realized this earlier, but this is the way I feel, and I can't support this bill under these circumstances.

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

THE SECRETARY: Those recorded in the negative on Calendar Number 313 are Senators Abate, Connor, Dollinger, Espada, Gold, Goodman,

Kruger, Lachman, LaValle, Leibell, Leichter, Levy, Marcellino, Marchi, Markowitz, Mendez, Montgomery, Nanula, Onorato, Oppenheimer, Paterson, Santiago, Seabrook, Smith, Stachowski and Stavisky. Ayes 33, nays 26.

ACTING PRESIDENT KUHL: The bill is passed.

The Chair recognizes Senator Goodman.

SENATOR GOODMAN: Mr. President, may I ask to be recorded in the negative on Calendars 311, -12 and -13, please.

ACTING PRESIDENT KUHL: Without objection.

(There was no response.)

Hearing no objection, Senator Goodman will be recorded in the negative on Calendar Number 311, 312 -- 313 you are recorded in the last vote, Senator Goodman, in the negative, yes.

SENATOR GOODMAN: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator

Montgomery, why do you rise?

SENATOR MONTGOMERY: Yes, Mr. President. I would like unanimous consent to be recorded in the negative on Calendar 312.

ACTING PRESIDENT KUHL: Without objection.

(There was no response.)

Hearing no objection, Senator Montgomery will be recorded in the negative on Calendar Number 312.

Senator Oppenheimer.

SENATOR OPPENHEIMER: I would like to follow that great leader, Senator Goodman, and also be recorded in the negative on the three that he mentioned, -11, -12 and -13.

ACTING PRESIDENT KUHL: Senator Oppenheimer, you are currently recorded in the negative on Calendar Number 313 which just passed this house.

Without objection.

(There was no response.)

Hearing no objection, you will be recorded in the negative on Calendar Number 311

and 312.

The Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 341, by Senator DeFrancisco, Senate Print 4643, an act to amend the Insurance Law, in relation to the premium or compensation for giving bail bond.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT KUHL: Senator DeFrancisco, an explanation has been asked for by the Acting Minority Leader, Senator Stachowski.

SENATOR DeFRANCISCO: What this bill does is increase the cost of a bail bond from the current five percent for bonds up to $1,000 to ten percent for bonds up to $3,000 and then increasing the increments thereafter, basically providing a higher cost to individuals using bail bonds than presently exist.

Right now, if one is incarcerated under -- and the bond that must be posted is $1,000, a bail bondsman's fee is $50. I think

these fees that were set in the '70s aren't even substantial enough to do the paperwork that has to be prepared in order to get the individual released from jail, and all I'm doing is basically conforming our laws with what more than 40 states have done since 1970 and place the bail bonds at a reasonable figure so that we will still have a bail bonds business in the state of New York available for defendants.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Abate.

SENATOR ABATE: Yes, Mr. President. Would Senator DeFrancisco yield to a question?

ACTING PRESIDENT KUHL: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR ABATE: Senator, I understand your good intentions in terms of requiring that bail bondsmen get a good wage for their work, but has your office -- or are you

aware of any study, what would be the impact of raising the premiums in terms of the numbers of people who could not afford to make bond and, therefore, would have to remain in our local jails? What would be the impact?

SENATOR DeFRANCISCO: Well, in most cases -- I didn't do any studies, nor do I know of any studies to answer your question directly, but usually when bail is set, it's set in either a $1,000 bond or cash, for example. Obviously, it's easier for an individual to come up with a bond premium, in most cases, if you're indigent or poor, than it is to come up with $1,000 cash, but on the other hand, we're find ing increasingly, at least in my jurisdiction, that $50 isn't enough to compensate a bondsman for the risk that they're taking in posting a bond for an individual. So I think the system that we have right now is ultimately headed for a system where there are no bondsmen at these lower bonds that are being required of defendants, and it's going to be an impediment to those in lower income situations and they'll

have to find cash sources as opposed to a bond.

Secondly, there are other means to get released from jail, including release on your own recognizance or released through what we have in Onondaga County, a probation program where there's supervision by the Probation Department for individuals who do not have funds and are a good risk. So there are other options and secondly, it's easier to post a bond cash wise than it is to put the entire amount of cash forward. So I think it will help someone in the category you're concerned about.

SENATOR ABATE: Would the Senator yield to another question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR ABATE: I can only speak of the New York City jails, but I don't know whether you're aware that there are huge numbers of people in jail because they cannot make $500 bail or less, and that means they cannot come up with the 500 or $250 cash, nor do they have

sufficient dollars to pay the premium and get a bond, and so these are situations where the judge has felt these aren't individuals at serious danger, the risk level is limited and they've set a very low cash alternative or low bond. Would you -- if you learned that there would be -- that number would be even more increased by this, would you take another look in this legislation?

SENATOR DeFRANCISCO: Sure, I would take another look, but if we're not making bonds available to those people who can't raise 500 or $1,000 cash, I think we're providing them a disservice. If -

SENATOR ABATE: But wouldn't this exacerbate that situation or make it more expensive for indigent defendants, people accused of crimes -- we're still talking about people in detention. If you increase that premium, you may now have some people who can make that $500 bond and now -- but under this legislation would have to stay in jail, and what I'm suggesting is -- this is a good intentioned

bill. I might be able to support it, but I would need to know the answer to the question: What would the impact of this change in legislation have on sheriffs and local jails throughout the state?

SENATOR DeFRANCISCO: I really can't answer that question other than to say that my experience is with my jurisdiction and we're finding bondsmen that don't want to go through the bother of $1,000 bond, $2,000 bond for a $500 fee, take a risk, plus do the paper work, and I'm more concerned about the bonds system drying up so more people have to raise cash bail, and if I found that you were correct, if you have some empirical data, I would be more than happy to revisit the bill, but I think the bill will do the thing you're most concerned about.

Secondly, I would recommend to your jurisdiction, I would be more than happy to get our Probation Department in contact with yours. We do have an excellent probation pretrial release program for individuals in

those situations, because it seems senseless for a $500 cash bail to put somebody in jail and not be able to be released, and that's how we deal with it in our county.

SENATOR ABATE: Yes. On the bill.

ACTING PRESIDENT KUHL: Senator Abate on the bill.

SENATOR ABATE: The -- and I thank the Senator for the offer. I'm sure the Probation Department in New York City would like to hear from the Syracuse Probation Department and, yes, they've had programs such as that, but they deal with defendants on the margins. There's still a huge number of indigent defendants in jail because they cannot make low level bonds or cash alternatives.

I cannot support this bill at this time until I understand what the impact of this legislation would have on the local jails. This is a complaint that I have over and over again about legislation that we pass around criminal justice. It sounds good. It certainly

makes sense that we want to pay bail bondsmen an adequate wage. We want to keep them in business. We want to be able to make bonds available to more people when it's appropriate. My concern is that the intent of this legislation will not necessarily have that effect and that the reverse effect may be fewer people will be able to utilize bail bondsmen.

My understanding is because there are increasing numbers of people being arrested while the bail bonds person isn't making a lot of money when they negotiate every bond, they have a greater population. We're seeing more and greater numbers of people in our jails. So over the years while their wage hasn't increased, they have a larger population upon which to draw from. So I would like to look at those statistics to see if, in fact, this is the way to ensure that they stay in business and get an adequate wage. I believe without this independent study, without this independent documentation, we may be doing more harm than good. So I hope if this does rear its head

another year in the interim, Senator, we could get some more data and see if this is the right solution.

In the meantime, I have to vote no.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Gold.

SENATOR GOLD: First of all, I would like to thank Senator Abate for asking some questions because I really didn't focus on this, but if Senator DeFrancisco would yield to a question -

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

SENATOR GOLD: Senator, I have been reading the -- the sponsor's memo, but I was wondering, are there any other memos from the industry or anything?

SENATOR DeFRANCISCO: No. I haven't received any memos.

SENATOR GOLD: And I'll tell you why, Senator, if you would yield for a question. I think that the concern of the bill

is an important concern, and while I don't do so much of it anymore, there was a time when I was doing a lot of criminal work and I was in the criminal courts, and I know that there were many changes over the years, and in the federal courts, for example, they have done a lot of things which have probably hurt the bail bond business more than the cost of bail bonds, having people sign themselves out, having spouses sign over houses as security, and they do all kinds of things like that -- God bless you -- and I'm wondering -- I don't want to hurt any business. I think the bail bonds people are -- it's a legitimate business, but perhaps as Senator Abate has suggested, we could maybe even lay over the bill a day. I don't know what your scheduling is, and I respect whatever answer you give, but I would feel a lot more comfortable if we had some more information on it, because if there is a problem -- I'm not adverse to helping people. We've had bills in the past, for example, helping pawn brokers and people said, "Oh, pawn brokers, you don't want to go near

those people", and we found out that there was some legitimate concern to keep them in business so that they would be helping poor people, and I and others did vote for those bills, and I have no problem voting for a bail bond bill, if that's what's really necessary, but I would like to see it in a bigger and a broader picture, and it's only a suggestion, Senator. If you're comfortable and you move it, I would respect you, but I would personally like to see some more.

SENATOR DeFRANCISCO: I understand. Last year this bill passed 57 to 0 with no bill memos in the last 12 months. You know, if there was a ground swell of activity shortly before this bill hit the floor, I would say there would be a reason to go forward and hold it for awhile, but I really don't see the reason since it's been out there for so long and there's been no memos to date; I don't see why there would be some that would all of a sudden pop up. So I would prefer not to hold it at this time.

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 Number 341 are Senators Abate, Espada, Gold and Leichter. Ayes 55, nays 4.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, that completes the controversial calendar.

SENATOR SKELOS: Mr. President, could we please return to reports of standing committees. I believe there's a report of the Finance Committee at the desk.

ACTING PRESIDENT KUHL: There is, Senator Skelos. We'll return to reports of

standing committees.

I'll ask the Secretary to read the report of the Finance Committee.

THE SECRETARY: Senator Stafford, from the Committee on Finance, offers the following nomination: Banking member of the State Banking Board: Charles J. Hamm of Bronxville.

SENATOR SKELOS: Mr. President, move the nomination.

ACTING PRESIDENT KUHL: The question is on the nomination of Charles J. Hamm to become a member of the New York State Banking Board. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is confirmed.

Senator Levy, why do you rise?

SENATOR LEVY: Mr. President, I would like unanimous consent to be recorded in the negative on Calendar Number 311.

ACTING PRESIDENT KUHL: Without objection.

(There was no response.)

Hearing no objection, Senator Levy will be recorded in the negative on Calendar Number 311.

We're still on reports of standing committees, the report of the Finance Committee. The Secretary will continue to read.

THE SECRETARY: Member of the State Athletic Commission: Melville Southard, Esq. of Manhasset.

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

SENATOR TULLY: Thank you, Mr. President.

My colleagues, I rise to ask your support of the nomination of Melville Southard as a member of the State Athletic Commission.

Mr. Southard is a constituent of mine. He's married with three children. He's a practicing attorney and a community activist.

He has been vice-president and general counsel to the New York Yankees and is head of the sports law department of several prominent law firms, has also represented the Houston Astros and the Cincinnati Reds. He's affiliated with the Nassau County Sports Commission, and he's a director of the New York City Sports Development Corporation.

I applaud the Governor's nomination of this extremely qualified nominee and urge my colleagues to join me in confirming him, and he is up in the gallery, Mr. President.

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 Melville Southard, Esq., to become a member of the State Athletic Commission. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee, Melville Southard, Esq., is confirmed. Mr. Southard, we appreciate your being here. Congratulations on your new job. We appreciate the effort that you're going to put forth on behalf of all of us here. Thank you for being here.

(Applause)

ACTING PRESIDENT KUHL: The Secretary will continue to read.

THE SECRETARY: Member of the Allegany State Park, Recreation and Historic Preservation Committee: Dalton J. Burgett of Bemus Point.

SENATOR SKELOS: Move the nomination.

ACTING PRESIDENT KUHL: The question is on the nomination of Dalton Burgett to become a member of the Allegany State Park, Recreation and Historic Preservation Committee. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is confirmed.

The Secretary will continue to read.

THE SECRETARY: Member of the Port of Oswego Authority, Robert L. Raby of Oswego.

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

SENATOR WRIGHT: Thank you, Mr. President.

I would move this nomination and request adoption by my colleagues. Mr. Raby is a leader in the business community in the Oswego area and, in turn, will be a valuable addition to the Port of Oswego Authority as to continue to move ahead with economic development initiatives in the community contingent upon the Port. I encourage all my members to seek their support.

Thank you.

ACTING PRESIDENT KUHL: The

question is on the nomination of Robert L. Raby to become a member of the Oswego Authority. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is confirmed.

The Secretary will continue to read the nominations.

THE SECRETARY: Member of the Empire State Plaza Art Commission: Amy Solomon of Delmar.

SENATOR SKELOS: Move the nomination.

ACTING PRESIDENT KUHL: The question is on the nomination of Amy Solomon to become a member of the Empire State Plaza Art Commission. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is confirmed.

The Secretary will continue to read.

THE SECRETARY: Member of the Small Business Advisory Board: Harold H. Connor of East Aurora.

ACTING PRESIDENT KUHL: The Chair -- Senate -- Senator Volker.

SENATOR VOLKER: That's me. Mr. President, I would like to move the nomination of Harold H. Connor who is a constituent of mine and a friend who has been on the -- a member of the Small Business Advisory Board. This is a reappointment. I would like to ask for his reconfirmation.

Thank you.

ACTING PRESIDENT KUHL: The question is on the nomination of Harold H. Connor to become a member of the Small Business Advisory Board. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is confirmed.

The Secretary will continue to read.

THE SECRETARY: Member of the Small Business Advisory Board: Craig H. Van Cott of Norwich.

ACTING PRESIDENT KUHL: The question is on the nomination of Craig H. Van Cott to become a member of the Small Business Advisory Board. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is confirmed.

SENATOR SKELOS: Mr. President, at this time if we could take up Calendar Number 426, Senate 5756-A, which was reported from the Finance Committee.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 426, by Senator Hannon, Senate Print 5756-A, an

act to amend the Social Services Law, in relation to services of emergency physicians under the Medical Assistance Program.

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 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

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

ACTING PRESIDENT KUHL: Senator Skelos, we have three committee reports we would like to have read in.

SENATOR SKELOS: Please have them read.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Senator Rath, from the Committee on Local Government, reports:

Senate Print 509, by Senator Cook, an act to amend the Real Property Tax Law, in relation to the imposition of charges;

1372, by Senator LaValle, an act to amend the Town Law, in relation to exemption from the spending limits of fire districts;

1465-B, by Senator Lack, an act in relation to the real property tax assessed by the town of Smithtown;

1893-A, by Senator Volker, an act to amend the County Law, in relation to the financial responsibility of the defendant;

3160, by Senator Cook, an act to amend the County Law, the Highway Law and the Town Law, in relation to the alternative classification;

3553, by the Senate Committee on Rules, an act in relation to permitting the establishment of the town of Champlain sewer benefit;

3735, by Senator LaValle, an act to amend the General Municipal Law, in relation to creating the town of Southampton Industrial Development Agency;

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

5224, by Senator Seward, an act to amend of General Municipal Law, in relation to authorizing municipal corporations;

5822, by Senator Farley, an act to legalize, validate, ratify and confirm certain proceedings;

5845, by Senator Stafford, an act to amend the Town Law, in relation to publicly fund in the town of Wilmington;

5900, by Senator Leibell, an act to amend the Real Property Tax Law, in relation to allowing municipalities;

5903-A, by Senator Johnson, an act to amend the Local Finance Law, in relation to temporary alternative methods;

5966, by Senator Cook, an act to legalize, validate, ratify and confirm the acts of the village of the board of trustees;

6057, by Senator Larkin, an act to amend the Real Property Tax Law, in relation to school districts;

6145, by Senator Saland, an act to amend the Real Property Tax Law, in relation to authorizing mortgage investing institutions.

Senator Levy, from the Committee on Transportation reports:

Senate Print 359, by Senator Levy, an act to amend the Vehicle and Traffic Law, in relation to criminal history checks;

911, Senator Goodman, an act to amend the Vehicle and Traffic Law, in relation to allowing parking violation bureaus;

2083, by Senator Farley, an act to amend the Canal Law and the Public Authorities Law, in relation to the definition of the New York State Canal System;

4344, by Senator Maltese, an act to amend the Vehicle and Traffic Law, the

Criminal Procedure Law and the Tax Law, in relation to penalties;

4957, by Senator Padavan, an act to amend the Public Authorities Law, in relation to collection of tolls;

5342-B, by Senator Levy, an act to amend the Vehicle and Traffic Law, in relation to establishing an advisory committee.

Senator Nozzolio, from the Committee on Crime Victims, Crime and Correction reports:

Senate Print 5965-B, by Senator Nozzolio, an act to amend the Correction Law, in relation to the custody and supervision of persons;

6067, by Senator Maziarz, an act to amend the Correction Law, in relation to the definition of county;

And 6174, by Senator Nozzolio, an act to amend Chapter 887 of the Laws of 1983.

All bills ordered directly for third reading.

ACTING PRESIDENT KUHL: Without

objection, all bills are ordered directly to third reading.

The Chair recognizes Senator Skelos.

SENATOR SKELOS: Is there any other housekeeping?

ACTING PRESIDENT KUHL: No. Our housekeeping has been taken care of, Senator.

SENATOR SKELOS: Before we adjourn, I just wanted to congratulate Senator Gold's new counsel, Judy, for keeping him under control today and the fact that we'll be able to leave at 5:00 and have a reasonable dinner rather than 7:00 or 8:00, which is the normal situation. We thank you, Judy.

Would you please recognize Senator Mendez.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Mendez.

SENATOR MENDEZ: Thank you, Mr. President.

There is going to be an immediate meeting of the Minority Conference in Room 314.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Minority Conference in the Minority Conference Room, Room 314. Immediate meeting of the Minority in the Minority Conference Room, Room 314.

Senator Skelos.

SENATOR SKELOS: Mr. President, there being no further business, I move we adjourn until Wednesday, March 13th, 1996 at 11:00 a.m. sharp.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, March 13th at 11:00 a.m.

(Whereupon, at 4:59 p.m., the Senate adjourned.)