ALBANY, NEW YORK

March 20, 1996

11:03 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the members to find their places, the staff to find their places. Ask everybody in the chamber to rise and join with me in saying the Pledge of Allegiance to the Flag.

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

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

(A moment of silence was observed.)

Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, March 19th. The Senate met pursuant to adjournment, prayer by the Reverend Father Peter G. Young, Blessed Sacrament Church, Bolton Landing. The Journal of Monday, March 18th, was read and approved. On motion, the Senate adjourned.

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

read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

The Chair recognizes Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Saland, on page 18, I offer the following amendments to Calendar Number 432, Senate Print 1436, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 432 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, on page 19, I offer the following amendments to Calendar Number 442, my Senate Bill Print Number 4686, and ask that the bill retain its place on third reading.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 442 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Connor.

SENATOR CONNOR: Mr. President, there's a privileged resolution at the desk, and I'd ask that it be called up, its title be read and it be moved for adoption.

ACTING PRESIDENT KUHL: The privileged resolution is at the desk. I'll ask the Secretary to read the title.

THE SECRETARY: By Senator Connor, Legislative Resolution honoring Leonard Greher, Principal of P. S. 34, in recognition of his prompt and heroic efforts to save the life of a young student who was a victim of choking.

ACTING PRESIDENT KUHL: The

question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, I believe there is a resolution at the desk by Senator Cook. I would move at this time that it be read in its entirety and moved for adoption.

ACTING PRESIDENT KUHL: The Resolution Number 2578 is at the desk. I'll ask the Secretary to read the resolution in its entirety.

THE SECRETARY: By Senator Cook, Legislative Resolution Number 2578, commending the New York Association for Continuing/ Community Education and the 1996 Students of the Year.

WHEREAS, the Legislature of the state of New York is pleased to welcome the New York Association for Continuing/Community

Education and proud to commend the 1996 Students of the Year for their outstanding work as adult learners; and

WHEREAS, these students, all honored recipients of the Student of the Year Award, have been selected to receive this esteemed distinction because of their demonstrated outstanding perseverance and dedication.

The 1996 Students of the Year worked hard and overcame a myriad of challenges and in doing so, developed within themselves a strong sense of independence, self-reliance and self-sufficiency which can never be taken away.

The 1996 Students of the Year have confirmed, through their earnest commitment and will to succeed, that they should be looked upon as positive role models, not only to other adult learners but to their community as well.

The Legislature of the state of New York also pays tribute to the teachers, coordinators, administrators and trainers of these students for their selfless dedication to

the students and whose work has brought hope into the lives of many, an accomplishment that cannot be measured; and

WHEREAS, the Legislature of the state of New York also honors the board members for their guidance of the New York Association for Continuing/Community Education and for their continued dedication to education in New York and to all the individuals on the Awards Day Committee who worked diligently in order to ensure these students receive their recognition that they deserve; now, therefore, be it;

RESOLVED, that this legislative body pause in its deliberation to commend the New York Association for Continuing/Community Education and the 1996 Students of the Year for their tenacity and remarkable accomplishments; and be it further

RESOLVED, that copies of this resolution, suitably engrossed, be transmitted to each of the Students of the Year, Board President Amy Peritsky and the Awards Day Chairperson, Lin Wishchhusen.

ACTING PRESIDENT KUHL: Senator Cook, on the resolution.

SENATOR COOK: Mr. President, I won't be redundant by repeating all of the details that were in the resolution, except to say that we are, indeed, very proud and privileged to have with us today these outstanding students. I think most of them are here with us. A number of them are teachers, leaders.

This is a program which recog nizes individuals who not only have accomplished but have accomplished in spite of some real hardships, and I think we should be somewhat in awe that they have accomplished what they have under some rather telling circumstances.

So I would appreciate it, Mr. President, if you would welcome them here today. I think perhaps some of the other members have some -- some special greetings they want to add as well.

ACTING PRESIDENT KUHL: The Chair recognizes Senator DeFrancisco on the

resolution.

SENATOR DeFRANCISCO: Yes, Mr. President. I'm honored to have a constituent, Melonise Felton, who's in the front row in the gallery here as one of the honored students.

I wish I could share with you on the floor what she overcame in order to get to the point she is in her life right now. It's truly -- it was truly a heroic effort that she made to overcome some circumstances that I don't believe many here could have overcome, and now she is now well on her way to bigger and better things. She set goals that probably were not even thought about a few years ago in her life and goals that I know from meeting her today that she's going to achieve, and the same is true for all the other honorees today.

She lives very close to me, less than a half a mile from where I live, and she has demonstrated through all of her efforts that she probably will be a registered nurse very soon. That's her goal, and I expressed to her that anything that I could do to try to help her

reach that goal, we will continue to do so and I'm sure she will have some items for all of us to consider about how we could help other people similarly situated as she is.

So I'm pleased and I'm really proud that a member of my district living so close to home that has achieved what she has achieved in such a short time, and I wish her the best of luck and success in all of her future goals.

ACTING PRESIDENT KUHL: Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

I too want to join my colleagues in congratulating all of the student honorees who are with us today. I particularly want to recognize James Mills of Gasport, New York, who lives in my district and Jim is with us here this morning, and Jim overcame some -- some great obstacles at a later age and with the help of a lot of good instructors and of literacy volunteers, overcame some really, really great

obstacles and it was a big challenge for Jim to do at this stage of his life, and I just want to publicly congratulate him and his instructors for their time and effort that they put into Jim's goal and just to add to that, our congratulations.

Thank you, Mr. President.

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

(There was no response.)

The resolution was previously adopted on March 5th, so there's no need to proceed in that line, but on behalf of Senator Cook, Senator DeFrancisco, Senator Maziarz, Senator Bruno and all of the members of the Senate, we're just absolutely pleased that you chose today to come join us. We wish you good luck in your future endeavors and congratulate you on what you've done in the past. Keep up the good work. Make us proud as you have already.

Thank you for being here.

(Applause)

Senator Skelos, that brings us to the calendar.

SENATOR SKELOS: If we could take up the non-controversial calendar.

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

THE SECRETARY: On page 13, Calendar Number 379, by Senator Holland -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 399, by Senator Nozzolio, Senate Print 4923.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 415, by Senator Cook, Senate Print 3603, an act to amend the General Business Law, in relation to the licensing of barbers.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 44, nays 1, Senator Tully recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 419, by Senator Cook, Senate Print 5760, an act to amend the General Business Law, in relation to requiring certain notification to callers of contests.

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

THE SECRETARY: Section 2. This act shall take effect 180 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 427, by Senator Johnson, Senate Print 5764, an act authorizing the Commissioner of Transportation to acquire in fee certain lands in the county of Suffolk.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 433, by Senator DeFrancisco, Senate Print 1972.

SENATOR CONNOR: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 438, by the Assembly Committee on Rules, Assembly Print Number 7535, an act to amend the Civil Practice Law and Rules, in relation to the recording of judicial rulings and orders.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 439, by the Assembly Committee on Rules, Assembly Print Number 7539, an act to amend the Civil Practice Law and Rules, in relation to non-joinder and misjoinder of parties.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 440, by Senator Libous, Senate Print 4439, an act to amend the Criminal Procedure Law, in relation to venue for an application for an order of retention.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 463, by Assemblyman Feldman, Assembly Print Number 8882, an act to amend Chapter 887 of the Laws of 1983, amending the Correction Law.

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 500, by the Assembly Committee on Rules.

SENATOR VOLKER: Mr. President, can we lay this bill aside for the day?

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

Senator Skelos, that completes the non-controversial calendar.

SENATOR SKELOS: Could we please have the controversial calendar read.

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

THE SECRETARY: Calendar Number 379, by Senator Holland, Senate Print 2046-B, an act to amend the Social Services Law and the Workers' Compensation Law, in relation to liens for public assistance and care.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT KUHL: Senator Holland, an explanation of Calendar Number 379 has been asked for by the Minority Leader.

SENATOR HOLLAND: Yes, Mr. President. This bill allows the Department of Social Services to place a lien on Workers' Compensation benefits to recoup public assistance payments made while someone was awaiting a retroactive payment of compensation benefits.

SENATOR STACHOWSKI: Mr. President.

ACTING PRESIDENT KUHL: Senator

Stachowski.

SENATOR STACHOWSKI: Would Senator Holland yield for a question?

ACTING PRESIDENT KUHL: Senator Holland, do you yield to a question from Senator Stachowski?

SENATOR HOLLAND: Yes, sir.

ACTING PRESIDENT KUHL: The answer is yes, Senator Stachowski. The Senator yields.

SENATOR STACHOWSKI: Senator, in proposing this bill, I take it then you feel that these people that are awaiting a pending Workers' Compensation decision that are put into terrible financial straits because they have no income coming in, that they have to go on public assistance, that that is an undeserved benefit and that they should put a lien on this when the judgment comes through so that that's paid back, and these workers aren't entitled to collecting public assistance even though for all their life they worked or however long they worked and paid into the system through taxes, et cetera, that

they shouldn't be allowed to collect when they haven't chosen to be there but they were put there because they were hurt and because of whatever reason this case is pending and they're not getting a decision most likely because the insurance company is fighting it and choking them off and now they're forced because of no income to collect public assistance; you think this is an unfair accrued benefit and it should be paid back?

SENATOR HOLLAND: No, sir, I do not think it's an unearned benefit. I think that's what we're here for. When people are injured and need assistance, that's what social services is here for. They come to the social services. We help them with payments and medical, but then when the insurance company finally decides how the case is going to be decided -- or the judge finally decides how the case is going to be decided and if there is a payment due to that individual, then I believe the individual should pay back the loan that was made.

I think this is double dipping, Senator. That's what I think it is, and I have no problem with paying them and helping them when they need the assistance, but then when the court and the insurance company decides that they should get the payment, I believe that they should pay that back to the Department.

SENATOR STACHOWSKI: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Stachowski on the bill.

SENATOR STACHOWSKI: We have no trouble with the part of the bill that says that the medical Medicaid section for any kind of medical payments should be paid back when that judgment is finally rendered. We have a terrible problem with the idea that somebody that is forced because they're hurt and they aren't collecting any kind of money and they have rent bills or they have mortgage payments. They have car payments. They have food and clothing bills to pay. They might have kids in school. They have all these bills of just

everyday living and we're going to tell them now that we think this -- you getting public assistance -- which most workers don't want to take in the first place, but they have no choice because they're put out there, hurt, no family income or possibly even if they live by themselves, no source of income, they're put out there. They have all these bills. They're finally forced to go on social services, something that most working men and women never want to be on, so they're forced to be a recipient of social services and because of the nature of this bill, we now consider that a loan to these particular individuals that have worked all their life and through no fault of their own, they're hurt, and when they receive this benefit, unlike anybody else receiving this benefit, because they have a case pending that some insurance company doesn't want to pay off on and it makes them go on social services because they're hurt and they don't want to pay off, now they do pay off, we're considering that they receive this loan from the state of New

York. We think that's something that they worked all their lives and they're entitled to those benefits and that they get an award from an insurance company because of an injury, that doesn't make up for the loss of whatever physical problem they now have the rest of their life, or it doesn't make up -- that award doesn't make up for the fact that they can never work again the rest of their lives in most cases, and then we're telling them on top that, You are in this bad situation, even though you're one of the hard-working men and women of the state of New York in whatever field you were in before you got hurt, so you don't deserve the right to have been on social services and in your case, because you win this insurance award out of a compensation injury which you are injured still -- you know, when you get the award, you're not suddenly whole and you're not suddenly rich, and it will never pay you back for the loss you have in both dignity and the fact that you can't work again when you want to work and probably never attain the life style

that you previously had, but because of that and because you got this award, in your case, you should pay back the state for social services.

I'm sorry. I find that callous. I find that terribly unthoughtful. I find it terrible unfair, and I just find it extremely mean-spirited and a slap in the face to the working men and women in the state of New York, and I hope that people in the chamber will vote no on this bill.

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

The Chair recognizes Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

If Senator Holland would yield for a question.

ACTING PRESIDENT KUHL: Senator Holland, do you yield?

SENATOR HOLLAND: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, I was wondering -- and thank you for yielding. I was wondering what had changed in the law that brings us to this position today where we would want to deny these benefits when the Legislature, in its wisdom years ago, specifically in Section 104(b) of the Social Services Law, excluded Workers' Compensation benefits and - for volunteer police and social services and volunteer police and firefighters.

Now, I see that you have left volunteer police and firefighters in and have taken individuals who, I think both you and I would admit, were not seeking to be on social services, were often driven into the program because the employer didn't pay the benefit. The employer fights the benefit, puts these people in a terrible position for long periods of time, sometimes up to a year, restricting the reward to two-thirds of their salary with a cap of $400 a week. I mean, these are some severe circumstances that these individuals are going through, so to use the term "double dipping", I

think is a little unfair, Senator, because I associate the term "double dipping" with a person who is deriving a benefit; in other words, someone's who's, you know, to use the street vernacular, getting over. These people are never even getting back to where they started, and it didn't become this way because of any action they took. It became this way because of an accident and then the fact that the employer fought the claim. So they're in a real bad position to start out with.

These are not the people that you hear being stigmatized quite often when we talk about welfare cheats and that kind of thing. There are very few individuals who are in this kind of position and, you know, to change this law after the Legislature looked at it some years ago and determined that this was one of the cases we would exclude from having to reimburse, my -- you know, I guess my question to you after all of this is what has changed? Why would we want to do that now?

SENATOR HOLLAND: I missed the

end of it, Senator. I'm sorry. I listened to all of it except the end of it.

SENATOR PATERSON: I'm sorry, Senator. My question is what has changed today from the laws that we enacted years ago that makes us have to do this to these individuals who I think you would admit were taxpayers; they were hard-working. I can't explain it any better than Senator Stachowski did. What's changed that we want to do this to them?

SENATOR HOLLAND: Nothing has - you know, the law was done years ago, as you say, and I think it was a mistake. That's why I brought it to the floor. I really believe it is double dipping, Senator.

Let's talk to you and Senator Stachowski's question about the workers and what they deserve. How about the other workers who are injured on the job and receive assistance - or do not receive assistance, rather, but accumulate bills and maybe their mortgage is three months in arrears or their rent is three months in arrears and they have to borrow from

their family and friends and the bank until they get the award from the courts, then what do they do? They pay off those loans. They pay off the mortgage. They take that from the courts and pay off those things. I'm only trying to make it fair for everybody.

I have no problem, nor do I think anybody in this room does, in taking care of the people that need to be taken care of. However, when the insurance company is required to make the payment, I feel at that point that these people should pay back the loans that they got just like anybody else who wasn't forced to go on social services.

SENATOR PATERSON: Senator.

SENATOR HOLLAND: Yes, sir.

SENATOR PATERSON: First of all, I think we're disagreeing on what the social services award is. I don't see it as a loan. If they lose the Workers' Comp' claim, it's certainly not a loan; they stay on social services. So I'm saying that I don't understand us classifying that as a loan.

Now, because it's not a loan - and maybe if we can agree on this point, perhaps we'll reach an understanding and, what do you know, maybe we'll lay this bill aside -- because it's not a loan, it's not in the mind of the individual who receives the money that they're going to wind up paying other monies back so they would do what anybody else would do at a point that they had been working. They're now injured on the job. They're receiving social services. They're going to take what meager awards they get from social services and they're going to try to pay their bills. They're going to try to do anything they can do to survive.

As for the other workers you're referring to, they have a right to apply for social services too. Some of them don't because they get their Workers' Compensation money up front because the employer doesn't fight it. So I'm saying, these are the specific cases where the individuals were driven onto social services because the employer fought the claim but the employer turned out to be maybe not wrong but

we'll just say that the employee won. So now the employee is -- has an award and we're considering it a loan, but you can never consider it a loan at the time they first got it. Would you agree with that?

SENATOR HOLLAND: No, not exactly, Senator. I -- I feel that we should take care of the workers, as I said, but if there is a payment by the courts, then it is a loan.

Let's go back to the other workers who don't have to go on Social Security -- social services. They have to pay back all the loans they take, whether it's from their family or the bank or mortgage payments or lease payments. I don't see the difference, Senator, and if they do, as you say, have to stay on social services, I don't have a problem with that either. I would rather not have them there. I'd like them to work their way off, but if they can't repay the loan and there is no settlement from the insurance companies, I do not have a problem with that. If there is a

settlement from the companies, then I believe that they are double dipping and they should repay the money that the taxpayers of this state have loaned them during that period of time.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you very much, Senator.

Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: I think that I've loaned a little money in my time and I may have borrowed some, and I sure knew when I loaned the money out that it was a loan, and when I didn't know when I borrowed it, I sure got reminded that it was a loan.

This is a contingent award that, if Senator Holland believes should be so described, I would suggest that we might need to change the Social Services Law, because at the time the person applies for social services, no one tells them, "By the way, if you win your

Workers' Comp' claim, we're going to take the money and then apply it to whatever money you receive for social services." I think that in the technical sense of what Senator Holland is proposing, that it is not illogical. I think it does make sense, but there are two distinguishing issues.

The former would be that the social services award itself, at the time that it's awarded, is not a loan. It's like anyone else going to social services, and when we look at it later on, we're talking about people who have lost often two-thirds of their salary. They've lost everything, and they didn't lose everything because they were unwilling to work. They didn't lose anything because they didn't care about working. They were injured. They were injured on the job.

It's one of those situations that I think would be understood better by the sponsors if it actually happened to somebody that they knew. I think then they would start to understand why the Legislature years ago

specifically deleted these types of situations from the regular recovery, not because technically they may have gotten an award from social services and went on to get an award from Workers' Compensation, but that collectively, those two awards probably didn't even help them. They were still seriously in debt and would relish the opportunity to go back to work. This is not in any way fostering or enhancing or encouraging individuals who are on social services to stay there. These are specific individuals who probably have some of the same contempt for the system that they have to seek because they have no other choice. They were driven there by their employers. Later on they win their recovery, and the first thing that happens is we come by and pick up part of the check as part of the social services award. If it was a benefit they were receiving, then I would agree with Senator Holland, but there's no benefit. They're often very much in debt.

And finally, Mr. President, I would just really want to point out that we're

hurting workers. We're hurting taxpayers through this. We're hurting individuals who have fought and suffered and paid for it, and they don't have the money to meet some of their most essential needs, and this, as I agree with Senator Stachowski, is not the way to treat individuals who have been such contributors to our society as they have.

And as for the other workers who either have a right to apply and don't apply or didn't apply because they got paid their Workers' Compensation, I don't think that it's apt to make a comparison between the other workers because if they're put in the same situation, they also have the right to apply for social services.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Smith.

SENATOR SMITH: Thank you, Mr. President.

I would just like to reiterate and thank my colleague, Senator Paterson, for bringing out the fact that at no time can you

receive more than $400 under an award, and the maximum award is two-thirds of your income for -- on a weekly basis. Therefore, anyone receiving an award would be indebted and could not possibly be double dipping, as my colleague would like to think of it.

The amounts are so menial that anyone that is maimed or hurt would be put in a situation where they could no longer take care of their home or their family with such a menial amount of money and, therefore, I encourage all of my colleagues to vote against this bill.

ACTING PRESIDENT KUHL: Senator Waldon.

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

Actually, Senator Smith just covered the points that I wanted to make, but I would like to ask the learned Senator from Orange County, Senator Holland, to yield to just perhaps one or two questions.

ACTING PRESIDENT KUHL: Senator Holland, do you yield?

SENATOR HOLLAND: Yes, sir.

ACTING PRESIDENT KUHL: The Senator yields.

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

Senator Holland, have you ever been unemployed?

SENATOR HOLLAND: Oh, yes.

SENATOR WALDON: Were you while unemployed in need of unemployment insurance?

SENATOR HOLLAND: I'm sorry. I can't hear you, Senator.

SENATOR WALDON: While you were unemployed, did you have a need for and did you apply for unemployment insurance?

SENATOR HOLLAND: No, sir.

SENATOR WALDON: You have never -- let me retract that. Have you ever had a need in your life, as a result of "missed meal" cramps or any other kind of condition, to apply for assistance of any form outside of perhaps your family?

SENATOR HOLLAND: Yes.

SENATOR WALDON: If I may, Mr. President, one last question.

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

SENATOR HOLLAND: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR WALDON: Senator Holland, being that you are the sponsor of this proposal, I have to assume that you understand very well the points that Senator Smith and Senator Paterson made and Senator Stachowski in more of a philosophical approach made in regard to the money that you can receive from social services while -- retract that -- from compensation never equals what you were actually earning -- maybe "never" is not a correct term -- so you're always in the hole. Do you understand that concept, that you can only receive two-thirds or whatever the amount of money is for the particular situation?

SENATOR HOLLAND: I do. I understand what you're trying -- what you're

saying, yes. I would hope that many times it would cover the repayment and/or be a little extra, depending upon what they were making when they were working.

SENATOR WALDON: But if the assumption is that you can never receive what you were, in fact, earning in this hypothetical sense, would one not always be in the hole; if you're unemployed due to this injury for four months, five months, six months, wouldn't your best guesstimate say that you're going to be in the hole once the settlement actually happens?

SENATOR HOLLAND: To tell you the truth, I do not know, Senator, but if the settlement does not cover everything that they owe DSS, they would not be required to pay anything additional. If it was excess, then they would keep the excess.

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

Thank you very much, Senator Holland.

ACTING PRESIDENT KUHL: Is there

any other Senator wishing to speak on the bill?

(There was no response.)

Hearing none, the Secretary will read the last section.

SENATOR STACHOWSKI: Slow roll call, please.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Call the roll slowly. There are five Senators requesting. Ring the bells.

THE SECRETARY: Senator Abate.

SENATOR ABATE: No.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Bruno.

(Affirmative indication.)

Senator Connor.

(Negative indication.)

Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.

(There was no response.)

Senator Dollinger.

SENATOR DOLLINGER: Explain my vote, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger to explain his vote.

SENATOR DOLLINGER: Mr. President, I couldn't agree more with Senator Stachowski who quite eloquently summed up my view about this bill.

I guess the other thing that I'm astounded at is that for some reason in this state, we don't ask major corporations that get grants for job development; we don't ask people who get enormous tax cuts, rich and wealthy people who get enormous tax cuts, we don't

consider that public benefit alone, but yet when someone has the misfortune of being hurt on the job and needs money to survive, what we do is we treat their welfare recipience or their transitional benefit as a loan. It just seems to me -- I agree with Senator Stachowski. It's mean-spirited. It's hard-hearted, and why do we do this to the working people of this state? We don't do it to anybody else. It's nonsensical.

I'm voting no.

ACTING PRESIDENT KUHL: Senator Dollinger will be recorded in the negative. Announce the results. I tried. I tried. Continue to call the roll.

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, with the permission from the Majority, would we allow Senator Montgomery to vote right now? She has an important issue that she has to -

ACTING PRESIDENT KUHL: Senator Skelos, do you have no -- no objection.

The Secretary will call -

Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: No.

ACTING PRESIDENT KUHL: Senator Montgomery will be recorded in the negative. The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Espada.

SENATOR ESPADA: No.

THE SECRETARY: Senator Farley. Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Gold.

SENATOR GOLD: Senator Farley was in the affirmative? In the negative.

THE SECRETARY: Senator Gonzalez.

SENATOR GONZALEZ: No.

THE SECRETARY: Senator Goodman.

SENATOR GOODMAN: Yes.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoblock.

SENATOR HOBLOCK: Yes.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: No.
THE SECRETARY: Senator Holland.
SENATOR HOLLAND: Yes.
THE SECRETARY: Senator Johnson.
SENATOR JOHNSON: Aye.
THE SECRETARY: Senator Kruger.
SENATOR KRUGER: No.
THE SECRETARY: Senator Kuhl.
SENATOR KUHL: Aye.
THE SECRETARY: Senator Lachman.
SENATOR LACHMAN: No.
THE SECRETARY: Senator Lack.
SENATOR LACK: Yes.
THE SECRETARY: Senator Larkin.
(There was no response.)
Senator LaValle.
SENATOR LAVALLE: Aye.
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.
(There was no response.)
Senator Marcellino.
SENATOR MARCELLINO: Yes.
THE SECRETARY: Senator Marchi.
SENATOR MARCHI: No.
THE SECRETARY: Senator Markowitz.
SENATOR MARKOWITZ: No.
THE SECRETARY: Senator Maziarz.
SENATOR MAZIARZ: Aye.
THE SECRETARY: Senator Mendez.
SENATOR MENDEZ: No.
THE SECRETARY: Senator Nanula.
SENATOR NANULA: No.
THE SECRETARY: Senator Nozzolio.
SENATOR NOZZOLIO: Aye.
THE SECRETARY: Senator Onorato.
SENATOR ONORATO: No.
THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: No.
THE SECRETARY: Senator Padavan.
SENATOR PADAVAN: Yes.
THE SECRETARY: Senator Paterson.
SENATOR PATERSON: No.
THE SECRETARY: Senator Present.
SENATOR PRESENT: Aye.
THE SECRETARY: Senator Rath.
SENATOR RATH: Aye.
THE SECRETARY: Senator Saland.
SENATOR SALAND: Aye.
THE SECRETARY: Senator Santiago.
SENATOR SANTIAGO: No.
THE SECRETARY: Senator Seabrook.
SENATOR SEABROOK: No.
THE SECRETARY: 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: Nay.

THE SECRETARY: Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Explain my vote.

ACTING PRESIDENT KUHL: Senator Stachowski to explain his vote.

SENATOR STACHOWSKI: I made some points earlier. I would just like to read briefly in explaining my vote a section from the AFL-CIO opposition memo, and the points are that the real issue on this hardship associated with this controversial claim is "being forced into public assistance is demeaning to injured workers and their families. Demeaning workers is a technique used to encourage such injured workers not to pursue legitimate claims", and it's for that reason that the law was developed to shield Workers' Compensation claims from the lien process. That's why the law is like it is, to help injured workers to feel free to go after the claims that they have justly -- should

justly receive because of the fact they were injured. I just find it amazing that all of these people can put a bill up like this -- and I can understand -- the only part of this bill I could see that possibly could be considered double dipping would be if the medical expenses -- you were paid twice for those, but that's not the problem in this bill.

The problem is if you have to go on social services, people don't want to do that. People that work every day for a living don't want to do that. An iron worker that falls, other members of the building trades that get hurt on the job and get hurt seriously, they don't want to go on social services but they have to, and to tell them then that they got maybe $10,000 because they lost their right arm, that out of that $10,000 that their family is expected to live on from then on, they should pay whatever social services they got, that's a disgrace. I'm sorry. People may be happy with their vote, but I think this is a real sad day in the Senate.

I vote no.

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

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: No.

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

(Negative indication.)

Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT KUHL: The Secretary will call the absentees.

THE SECRETARY: Senator Babbush.
SENATOR BABBUSH: No.
THE SECRETARY: Senator DiCarlo.
SENATOR DiCARLO: Aye.
THE SECRETARY: Senator Larkin.
(There was no response.)
Senator Libous.
(There was no response.)
Senator Maltese.
SENATOR MALTESE: Aye.
ACTING PRESIDENT KUHL: Announce the results.
THE SECRETARY: Ayes 34, nays 25.
ACTING PRESIDENT KUHL: The bill is passed.
The Secretary will continue to call the controversial calendar.
Senator Santiago, why do you rise?
SENATOR SANTIAGO: Mr. President, I would like the record to show that if I had been in the chamber when Senate Bill 5395-A was voted on, I would have voted in the negative.

That's Calendar 182. That was yesterday.

ACTING PRESIDENT KUHL: Senator Santiago, the calendar will -- the record will reflect that had you been in the chamber yesterday, you would have voted in the negative on Calendar Number 182, as the record will so reflect.

The Secretary will continue to read the calendar.

THE SECRETARY: Calendar Number 399, by Senator Nozzolio, Senate Print 4923, an act to amend the Executive Law, in relation to appeals to the state Board of Parole.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT KUHL: Senator Nozzolio, an explanation of Calendar Number 399 has been asked for by the Acting Minority Leader, Senator Paterson.

SENATOR NOZZOLIO: Thank you, Mr. President.

This measure reinstates -- it closes an inequity in the law that unfairly has

the burden of representation of indigent parolees in the county of Cayuga, in terms of bearing the entire cost by the county.

When the indigent counsel program in Cayuga County was established, it was first requested to represent parolees in connection with their final revocation hearings and appeals. It was assured to the county of Cayuga that the state of New York would reimburse the program 100 percent because it was a state rather than local function. Although the requirement for representation was included in the Executive Law, reimbursement was not. This simply reimburses the county for that duty.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: If Senator Nozzolio would yield for a question.

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Thank you so

much, Senator Nozzolio.

As much as it reimburses the county of Cayuga, what it really does is it spreads the cost around to the other counties for which the individual is incarcerated, am I not correct?

SENATOR NOZZOLIO: Yes.

SENATOR PATERSON: Does this put a burden on all of the counties? In other words, are we taking a problem and just spreading it out among other counties that are now going to have to share the cost?

SENATOR NOZZOLIO: Senator Paterson, it makes those counties with parolees as their -- within that as responsible for the cost of their representation. Cayuga County is now bearing the entire cost of the region in an inordinate, unfair fashion. So rather than say it spreads the burden, frankly, it takes the unfairness away from the current policy and it presents it in a more fair, equitable and appropriate way.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: Thank you, Senator.

Mr. President, these appeals are now all held in Auburn -

SENATOR NOZZOLIO: Yes.

SENATOR PATERSON: -- in Cayuga County?

SENATOR NOZZOLIO: Yes.

SENATOR PATERSON: So there wouldn't be a desire to actually farm out where the actual appeals are being held, would there?

SENATOR NOZZOLIO: It actually is a cost savings to the state, David, if the -

SENATOR PATERSON: To have them all in one county.

SENATOR NOZZOLIO: To have them consolidate in the county, even though they may be from around -- inmates all scattered across the correctional facilities all across the region.

Also, I should add parenthet ically that when they're held in Cayuga County,

even though the site is -- of the hearing is in the county of Cayuga, the parolee may be located 30, 40, 50 miles away, necessitating counsel to drive out to visit the indigent and in order to represent them, that entails additional costs that is also borne by the county of Cayuga.

SENATOR PATERSON: So now -- if the Senator would continue to yield. So now -

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PATERSON: When the lawyer travels -- I'm sorry. When the lawyer travels to Cayuga County, the county from which the lawyer traveled will have to pay that expense.

SENATOR NOZZOLIO: I'm sorry, David.

SENATOR PATERSON: In other words, the county will have to pay for the

lawyer to travel to Cayuga to resolve this legal proceeding.

SENATOR NOZZOLIO: Either that or -- no, no, not at all, Senator Paterson. The attorney still would be from the Cayuga County indigent counsel program. They now would be reimbursed by the state rather than have the county bear the entire cost.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Finally - last question. Are there any lawyers that do travel from the other counties to come to Cayuga to handle these cases?

SENATOR NOZZOLIO: No, because it's -- the county was given the responsibility to represent the indigents, and as part of the Cayuga County indigent counsel program, they were told you must represent the indigent parolee when, in fact, the indigent parolee was from another county.

So, no, David, the Cayuga County lawyers in the indigent counsel program are

doing all the representation, all the work, all the travel and the county of Cayuga is bearing all the expense.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: I understand. Thank you very much, Senator.

SENATOR NOZZOLIO: Thank you.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Larkin, why do you rise?

SENATOR LARKIN: Mr. President, I was out of the chamber when Calendar Number 379, by Senator Holland, was called and had I been in the chamber, I would have voted yes.

ACTING PRESIDENT KUHL: Senator Larkin, the record will reflect that had you been in the chamber when the roll call was called on Calendar Number 379, that you would have voted in the affirmative.

The Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 433, by Senator DeFrancisco, Senate Print 1972, an act to amend the Criminal Procedure Law, in relation to access to sealed records.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator DeFrancisco, an explanation of Calendar Number 433 has been asked for by the Acting Minority Leader, Senator Paterson.

SENATOR DeFRANCISCO: This bill provides for the procedure whereby an individual agency or department that's charged with the regulation of certain professionals, including lawyers, teachers and the like that are listed in the bill, to apply to the court for access to sealed records upon notice to the individual

about whom they request the information, and the purpose of the bill is to provide disciplinary agencies and regulatory agencies that are concerned about maintaining the public trust - maintaining the quality of professionals who must have the public trust so that they have a vehicle to do that.

SENATOR PATERSON: Mr. President, with your permission and with -

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: -- Senator DeFrancisco's, I would like to clarify a couple of the definitions in the legislation.

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

SENATOR DeFRANCISCO: Yes, I do.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Thank you, Senator.

My reading of this legislation would -- since it amends the Criminal Procedure

Law, would lead me to conclude that this only applies to criminal cases.

SENATOR DeFRANCISCO: That's correct.

SENATOR PATERSON: Thank you.

If the Senator would continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PATERSON: Senator, can you describe for me an extraordinary circumstance whereby we would want to take a look at the sealed documents?

SENATOR DeFRANCISCO: Well, the -- I guess the key point in this whole issue is the fact that a criminal standard is to prove a case beyond a reasonable doubt, and it's conceivable that an attorney representing a client who -- and the attorney may have been charged with embezzlement from a client's trust fund or escrow account, and for some reason the jury doesn't believe that beyond a reasonable

doubt that the defendant is guilty. The fact that there was an allegation and the fact that there was some information that was generated in the course of that investigation or in the course of the lawsuit that may prove that the individual maybe by not beyond a reasonable doubt, but by a preponderance of the evidence, the weight of the evidence, did do something that was not in accordance with the fiduciary duty of the attorney, under those circumstances, I think the disciplinary agency should have the opportunity to at least review that information.

Now, the procedural safeguard is to provide -- to do it only by motion to a judge and by due notice to the attorney in that case who would have the opportunity to bring whatever arguments that he or she wanted to, to the presiding judge to deny the application to review the records that had been sealed.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Senator.

I want to give you, if you'll continue to yield -

SENATOR DeFRANCISCO: Sure.

SENATOR PATERSON: -- my interpretation of what sealed records are and ask you to comment. You see, I think that's exactly why the record -- the criminal records are sealed, because perhaps there was a preponderance of the evidence, perhaps the attorney should have been sued more than tried in a criminal court, but because of the fact that the attorney is not convicted under our criminal standard, in the criminal records, we seal them.

What I'm saying is my fear about the legislation -- while I understand what you're trying to accomplish is that we're actually taking the civil standard and applying it to a criminal case so, in other words, we're almost creating a presumption criminally that may have actually existed civilly but we're now opening the records up so people can find it out, contravening, in my opinion, what -- the

whole idea of sealing records, the public policy that formed it.

I just wanted you to give me your idea of why the sealed records should be opened.

SENATOR DeFRANCISCO: Well, whenever you do any legislation, you're balancing competing interests, and it seems to me that the state has a genuine and legitimate interest in making sure that professionals - and that's all this deals with -- certain professions that are regulated by the state, that professionals are truly professionals and they don't practice, whether it's law or some other profession, in a manner that's unethical and that's -- that could harm clients.

So in balancing that interest, all that we're saying is that a court should have the opportunity to review an application by, say the state Education Department, to determine -- concerning an attorney that they may be investigating and to determine what the circumstances were around that criminal

prosecution and -- but a court would have to review that, and I think balancing the competing interest that we have a group of people that we have to protect against unscrupulous professionals that deserve some protection and an agency that's got to investigate that, balancing those interests, I think in this situation, it is appropriate to allow for a review, provided the proper procedural safeguards are provided.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Senator DeFrancisco.

Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: Senator DeFrancisco was very scrupulous in his definitions and took a lot of care in the description of what I think is the key issue which is the balancing test that must be used here. He clearly recognizes what the anxieties

might be about abuse of this type of procedure, and it is clear that he's trying to balance them.

My fear is that the individuals who will apply this legislation as it's passed will not be as clear and will not exercise the same kind of sensitivity to the freedoms that are retained by sealing records, such as in a case where an individual is adjudged on a misdemeanor, for instance, to be unable to stand trial, and so what we're really saying is the person may have done it like a trespass, but it may be that way because the person isn't fit to go to trial, so we dismiss the charges. We seal the record, and so years later now, the person who is a professional has to have this part of their life brought up when the court sealed the records to try to shield it.

I think if Senator DeFrancisco himself was the one making the decisions, we would be all right, but I think that there are times that there is a notion on the part of agencies that we should know everything that was

in a court record when our -- when we have determined in the past that we want to seal these records.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, that completes the controversial calendar.

SENATOR SKELOS: Mr. President, on behalf of Senator Bruno, I hand up the following resolution amending the Senate rules and ask that it be read and move for its immediate adoption.

ACTING PRESIDENT KUHL: We'll return to motions and resolutions. I'll ask the Secretary to read.

THE SECRETARY: Senator Bruno, Senate resolution amending Section 1 of Rule VII of the Senate rules, in relation to the membership of certain standing committees.

RESOLVED, that Section 1 of Rule VII of the Senate rules is amended to read as follows:

Section 1, there shall be the following standing committees which shall serve and shall continue throughout the year:

To consist of 28 Senators:

Finance;

To consist of 18 Senators:

Banks, Codes, Judiciary and Rules;

To consist of 16 Senators:

Education;

To consist of 15 Senators:

Insurance, Racing, Gaming and Wagering and Transportation;

To consist of 14 Senators: Crime Victims, Crime and Correction and Environmental Conservation;

To consist of 13 Senators:

Commerce, Economic Development and Small Business, Energy and Telecommunications, Health, Higher Education, Housing and Community Development, Labor and Tourism, Recreation and Sports Development;

To consist of 12 Senators: Aging, Alcoholism and Drug Abuse, Civil Service and Pensions, Consumer Protection, Elections, Investigations, Taxation and Government Operations, Mental Health and Developmental Disabilities and Veterans and Military Affairs;

To consist of ten Senators: Agriculture, Children and Families and Cities;

To consist of nine Senators: Corporations, Authorities and Commissions, Local Government and Water Resources;

To consist of eight Senators: Ethics and Social Services.

The Temporary President, the Vice-president Pro Tempore, the Temporary Majority Leader for Legislative Operations and the Minority Leader and Deputy Minority Leader shall be non-voting ex-officio members of all

standing committees of the Senate of which they are not actual members.

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

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, on behalf of Senator Bruno, I hand up the following committee changes for filing.

ACTING PRESIDENT KUHL: The committee changes are received and will be filed in the record.

Senator Skelos, we have a report of standing committees here. Also we have a motion from Senator Marcellino, if you would like to take that at the current time.

SENATOR SKELOS: Would you please recognize Senator Marcellino.

ACTING PRESIDENT KUHL: The Chair

recognizes Senator Marcellino.

SENATOR MARCELLINO: Mr. President, on behalf of Senator Padavan, on page number 14, I offer the following amendments to Calendar Number 385, Senate Print Number 4507 and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 385 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: We have a report from standing committees. If we could turn to reports of standing committees then.

ACTING PRESIDENT KUHL: We'll return to reports of standing committees. I'll ask the Secretary to read.

THE SECRETARY: Senator Maltese, from the Committee on Elections, reports the following bills: Senate Print 1861, by Senator Farley, an act to amend the Election Law and the State Finance Law, in relation to requiring

proposition authorizing the creation of a state debt;

4470, by Senator Johnson, an act to amend the Election Law, in relation to distributing the names of inactive voters to the polling places in the county of Suffolk. All bills ordered directly for third reading.

ACTING PRESIDENT KUHL: The bills are ordered directly to third reading.

The Chair recognizes Senator Skelos.

SENATOR SKELOS: Would you please recognize Senator Marchi.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Marchi.

SENATOR MARCHI: Mr. President, our procedures, our protocol and rules do not permit us to advance resolutions that call on Congress or bodies that are outside of our own jurisdiction and beyond our own control, direct control, in an attempt to keep the focus properly in place on those things that we have jurisdiction. However, it does not provide

either -

ACTING PRESIDENT KUHL: Senator Marchi.

SENATOR MARCHI: -- and it does allow -

ACTING PRESIDENT KUHL: Senator Marchi, excuse me. Are you asking permission to make a statement, a unanimous statement, at this time? Does anybody have an objection?

SENATOR MARCHI: Well, yes, the formulation would be that Senator Bruno was going to start, but I'll make that motion, yes.

ACTING PRESIDENT KUHL: All right. Does anybody have an objection to Senator Marchi making a statement at this time?

(There was no response.)

No objection being heard, Senator -- the Chair recognizes Senator Marchi for the position -

SENATOR MARCHI: Thank you again, Mr. President.

ACTING PRESIDENT KUHL: -- for making a statement.

SENATOR MARCHI: We don't -- we still have feelings and we are not insensitive to events that take place outside our immediate province, and there is nothing that exists in our rules that would suffuse the expression - that expression -- and that's my purpose in getting up.

Senator Bruno would have spoken to this subject very briefly before yielding to me, and I'm not going to be long because the - I believe the subject matter is well-known to everyone in this chamber and is troublesome to every member of this chamber and those who are our guests, and that has to do with the conduct of free elections in Taiwan.

It is a matter of common feeling that the franchise -- the ballot -- is the keystone that sustains the whole structure of a free society. Without it, it deprives a society of those elements which allow for change, which allow for consultation and which recognizes the inherent power of the people to have a significant and decisive voice on the conduct of

the affairs of that society.

The people of Taiwan have been subjected to unconscionable pressures by the massive presence of flotillas, aircraft and other means of intimidation within visual sight of the island of For... I was going to say Formosa. I'm a little dated -- Taiwan, in the Straits of Taiwan, and the President, to his credit and to the American people and to the Congress, giving full support, has dispatched a carrier force to discourage any adventures in that sector of the world that would frustrate the conduct of free and open elections which are scheduled to take place on March 23rd.

In saying the things that I've said, that we are very, very displeased that - without ritually repeating it, that any American I've met, any individual that I've met is very sympathetic to the effort of the People's Republic -- the Republic of China to conduct their elections free of intimidation, free of coercion, and that this process be allowed to go forward.

When it does take place, I believe the factor that we are present and in the area -- not in the straits but in the area immediately adjacent to the island of Taiwan will have a sobering effect on many people and certainly gives great credit to the people of Taiwan that they are now engaged in very honest colloquy and discussion about the conduct of the public affairs of the island of Taiwan in the future, and it will also have a very sobering effect on the mainland, and it's to be sincerely hoped that this example that is being furnished and is enjoying a kind of auspices and certainly discouragement to any adventurous spirit that might prompt the mainland.

There are elements in the mainland who had expressed themselves so freely at T'ien An Men Square, a great personal sacrifice and some of them are still paying the penalty, but this is a spirit that is growing in dimensions within the mainland itself, and the fact that they are making these maneuvers, firing missiles and doing everything that's

offensive in a brutalitarian way to discourage the exercise of the franchise shows that they are very nervous about it because they know that it has a very direct impact -- this example does have a very direct impact on the people of the People's Republic of China. So that I am just satisfied to express this sentiment because I believe it reflects the sentiment of everyone within the range of my voice and certainly outside.

We prayerfully hope that this spirit and this ability to conduct this election and all of the colloquy and discussions that precede it take place in an orderly manner and that they will make their judgment according to their own likes as to what is in the best interests of that island, and it is my prayerful hope, and I think it is the prayerful hope of Americans generally, because even in a fractious year such as this where we have political confrontation, we have a unanimity of view on the value of that ballot and of the franchise and of the people exercising it, that it have a

salutary effect and encourage those forces that are within China itself that are aspiring to the same experience and that will accelerate and speed up the process by which freedom and a free ballot will be entertained on the mainland and that China perhaps will be united once the circumstances or the pre-conditions are established, the foundations laid for the joinder of a society that can function freely and openly in the spirit that is being exemplified in the island of Taiwan.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Skelos.

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

ACTING PRESIDENT KUHL: There is none.

SENATOR SKELOS: There being no further business, I move we adjourn until Monday, March 25th, 1996, at 3:00 p.m. sharp, intervening days to be legislative days.

ACTING PRESIDENT KUHL: Without

objection, the Senate will stand adjourned until Monday, March 25th, at 3:00 p.m..

(Whereupon, at 12:16 p.m., the Senate adjourned.)