ALBANY, NEW YORK

April 22, 1996

3:05 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.

Will everyone please rise and join me in the Pledge of Allegiance.

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

The invocation today will be given by the Reverend Jagow of the Concordia Lutheran Church in Lockport. Reverend Jagow is also chaplain of the Firemens' Association of New York State.

Reverend Jagow.

REVEREND JAGOW: Thank you for this privilege.

We pray, Almighty God, we give You thanks for our respective communities. Merge us into a common purpose of protecting them and providing for a higher quality of life in this great state of New York. In Your hands lie the destinies of all persons, and help us as fire service and legislators to feel our sacred unity as members of the human family. Make us

alert, vigilant and in concord as to our services to our community.

May the spirit of love and good will possess and control our hearts as we bring blessedness to needy humanity and especially to those who look to us for protection.

Bless the members of the Firemens' Association of the state of New York, fire service personnel, and especially on this day, give blessing to the members of this session of the Senate. May we all call it a blessing and honor and privilege to serve. In Your name. Amen.

Thank you.

THE PRESIDENT: Thank you, Reverend Jagow.

The reading of the Journal, please.

THE SECRETARY: In Senate, Sunday, April 21st. The Senate met pursuant to adjournment. Prayer by the Reverend Peter G. Young. The Journal of Saturday, April 20th, 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.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President. On behalf of Senator Cook, would you please place a sponsor's star on Calendar 544.

THE PRESIDENT: The bill is starred.

SENATOR FARLEY: On behalf of Senator Libous, Madam President, on page 40, I offer the following amendments to Calendar 191, Senate Print 5724A, and I ask that that bill

retain its place on the Third Reading Calendar.

THE PRESIDENT: Amendments received.

SENATOR FARLEY: And on behalf of Senator Goodman, Madam President, on page 23, I offer the following amendments to Calendar 430, Senate Print 4632B, and I ask that that bill retain its place.

THE PRESIDENT: Amendments received.

SENATOR FARLEY: On behalf of myself, on page 29, I offer the following amendments to Calendar 550, Senate Print 2084, and I ask that that bill retain its place on the Third Reading Calendar.

THE PRESIDENT: Amendments received.

SENATOR FARLEY: Thank you.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, I believe there is a privileged resolution at the desk by Senator Marcellino. I ask at this time the title be read and we move

its adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Marcellino, Legislative Resolution commemorating the 26th Anniversary of Earth Day, April 22nd, 1996.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Yes, Madam President. This particular resolution -- and Madam President, I would offer that this resolution be open to everyone in the chamber or everyone who wishes to be a co-sponsor in our usual way, that we put everybody on unless they otherwise indicate. So, without objection -

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Please.

THE PRESIDENT: Everyone will be placed as a co-sponsor.

SENATOR MARCELLINO: Thank you, Madam President. Thank you, Senator.

This is the 26th Anniversary of Earth Day and this is one of the key days in our history and, as environmental chair of the state Senate, I rise to commend all those who over the years have paid a lot of attention, expended a lot of time and a lot of effort and a lot of their resources to support our most cherished environment.

Years ago when this resolution -- before Earth Day -- when Earth Day was first formed, you could see the air in New York City that you were breathing and those of us who used to drive into the City on a routine basis used to joke about it, how tough we were because in New York we could see the air we breathe. This is not a positive.

It's a pleasure today not to be able to make that joke. It's a pleasure today to be able to say that the drinking water that we drink is clean, the air we breathe is clear, and the ground we walk on, the forest land and the parks are being well protected and there are many, many millions of people out there who

are very concerned and willing to spend a lot of time and effort to make sure that they stay protected.

This resolution is to honor them and to honor the leadership that has taken steps to make sure that environmental laws were passed and enforced that were needed and that there will always be in the state of New York a consensus that our environment is something that is precious, it's the only one we've got, and we must preserve and protect it to our utmost.

I thank you.

SENATOR OPPENHEIMER: Madam President.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: I thank Senator Marcellino for bringing this forth -- we haven't had this in some of our past years - this resolution which this year designates the 26th Anniversary of Earth Day.

And Earth Day really launched

the environmental movement and our conservation laws and there are many celebrations and speeches and rallies going on today and actually through the weekend, we had many clean-ups of our beaches and parks all around New York State, and I did want to note some things here in the New York State Senate today.

The laws and safeguards have done wonders for us. Our air is cleaner, as Senator Marcellino has mentioned, our lakes, our streams are purer, toxic waste dumps are being cleaned relatively slowly, but we are proceed ing, and our beautiful natural resources are less likely to be exploited.

Now, internationally, many nations are working together on environmental programs. One highly noted agreement will eliminate the use of CFCs -- that's chloro fluorocarbons -- in a few years, which we hope will reduce the damage which has occurred in our atmosphere's ozone level.

Nationally, here in America, USA Today reports that big steps have occurred

in cleaning our environment in our country. Ninety percent of us, which surprised me, ninety percent of us do recycle at home; 71 percent of us in America purchase biodegrad able products; 62 percent of us in America recycle at work, certainly we do that here in the Legislature; and 37 percent -- that's quite a large percent to my way of thinking - contribute money to environmental or wildlife conservation groups.

America's business is also responding. Many manufacturers are cutting down on packaging materials. Between 1980 and 1990, there was an 18 percent per capita decrease in grocery packaging discards alone.

Preservation of raw materials, our natural resources, is furthered by soft drink manufacturers, for example, using one example. They are using significantly less of the raw materials in producing their containers. Aluminum cans use 41 percent less material than they used to; glass bottles, 43 percent less; and the two-liter plastic bottle uses 21 percent

less raw materials than they did when they first came out.

Just downstairs in the Empire State Plaza at our Convention Center, today and tomorrow is the New York State Environmental Technology Conference and Fair. It's promoting development of environmental technologies that conserve energy, prevent pollution, and conserve resources that are needed for our future growth here in New York. I've often said that envir onmental protection and business development are not competing needs. Indeed, environmental needs can be an engine for economic development. New York State's environmental industries presently generate more than $10 billion in revenues.

If New York is looking for global markets, this is the route. The Organization of Economic Cooperation and Development in Paris estimates that the global market for environmental goods and services will reach $300 billion by the year 2000.

I hope that knowing about the scope of the green or environmental tide that's

sweeping our world will give each of us a sense of urgency about enforcing our environmental laws, protecting our wild lands and open spaces, refinancing our state superfund program, enacting a citizens' suit law, and also Senator Tully's pesticides reporting bill.

Concerning this last bill, citizens have a right to know the type of pesticides being used on their street. This bill would establish an easily accessible, computerized data base. There's a growing body of scientific evidence linking breast cancer to the environment. The National Cancer Institute says one in eight women will contract breast cancer and, of that, one-third will die. Most Senators say they support Senator Tully's bill. I look forward to it being brought to the floor of the Senate.

Grass roots activism has moved the environmental movement. We must not permit a weakening of our environmental protections, nor a rollback of these programs. We must maintain them for our children and their

progeny. Young people today respect the earth and are committed to its care. We have one earth and one last chance to repair all the damage the preceding generations and our, my generation, did. I certainly hope we don't blow it.

Thank you.

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

The Chair recognizes Senator Leichter.

SENATOR LEICHTER: Mr. President, I commend Senator Marcellino in bringing this resolution before us and opening it up for the house. I think it certainly expresses the sentiments that all of us have, a commitment to a clean environment and to a healthy and prosperous nation. But let me just say, Mr. President, that it's easy to pass a resolution but, of course, what is important is to pass laws that will assure people clean water, clean air, that there aren't toxic dumps

that may be poisoning their children and creating illness and death among our people.

If you would read, and I urge all of you, a New York Times editorial today which shows how environmental protections that we have taken for granted are very much under attack in the House of Representatives. We cannot take satisfaction in what we've achieved so far; and Senator Oppenheimer very rightly pointed out how the American people and certainly here the people of New York State have committed themselves to a clean environment, but I think that none of us should take an attitude that we have achieved what we wanted. Maybe about the environment one could say what one says about freedom and liberty, that it requires eternal vigilance.

Thank you, Mr. President.

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

(There was no response.)

Hearing none, the question is on the resolution. All those in favor of the

resolution, signify by saying aye.

(Response of aye.)

Opposed, nay.

The resolution is unanimously adopted.

Senator Bruno, that brings us to the calendar.

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

ACTING PRESIDENT KUHL: The Secretary will read the noncontroversial calendar beginning with Calendar Number 507.

Senator Leichter, why do you rise?

SENATOR LEICHTER: Yes, Mr. President. With the consent of the Majority Leader, it's my very distinct privilege and pleasure to introduce to the house a very distinguished foreign visitor.

We have with us today the Consul General of the Republic of Austria, my birthplace, Dr. Walter Greinert, a very

distinguished member of the diplomatic corps and a very fine representative of his country. He's visiting Albany today, and, Mr. President, I hope you'll extend to him the greetings of the membership of the house. Dr. Greinert.

ACTING PRESIDENT KUHL: Yes, Mr. Consul General. On behalf of Senator Bruno, Senator Leichter, and all the members of the house, we welcome you to our chamber, and hope you have a most enjoyable, informative day in the New York State Senate. Thank you for joining us.

(Applause.)

Secretary will read the non controversial calendar.

THE SECRETARY: On page 26, Calendar Number 507, by Senator Volker, Senate Print 6219, an act to amend the Vehicle and Traffic Law, in relation to additional traffic regulations in cities with a population in excess of 250,000.

SENATOR VOLKER: Mr. President, star that bill, please.

THE PRESIDENT: At the request of the sponsor, Calendar Number 507 is starred.

THE SECRETARY: Calendar Number 517, by Senator Saland, Senate Print 4039, an act to amend the Social Services Law in relation to the capacity of foster family boarding homes.

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 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 522, by Senator Padavan, Senate Print 668, and act to amend the General Municipal Law, in relation to reporting information to the United States Immigration and Naturalization Service.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 552, by Senator LaValle, Senate Print 6314, an act to amend the Public Health Law, in relation to schedules of controlled substances.

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 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 553, by Senator Farley, Senate Print 1446, an act to amend the Executive Law, in relation to the designation of August 7th as Family Day, a day of commemoration.

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 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 554, by Senator Kuhl, Senate Print 2404A, an act to amend the Public Officers Law, in relation to defense and indemnification of employees.

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 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

559, by Senator Levy, Senate Print 381, an act to amend the Railroad Law, in relation to requiring trains operating in this state to have operable electronic voice communication.

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

THE SECRETARY: Section 3. This act shall take effect on the 180th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 565, by Senator Levy, Senate Print 4147A, an act to amend the Transportation Law, in relation to authorization of transportation to approve funding for improvements to certain airports.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 571, by Senator Lack, Senate Print 1622A, an act to amend the Real Property Tax Law, in relation to assessments resulting from a small claims proceeding.

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 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar 578, by Senator Kuhl, Senate Print 4117, an act to

amend the General -

SENATOR PATERSON: Lay it aside.

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

THE SECRETARY: Calendar Number 586, by Senator Maziarz, Senate Print 6151, an act to amend the Education Law, in relation to the officers of boards of education in union free school districts.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 610, by Senator Holland, Senate Print 474, an

act -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

Senator Skelos, that completes the noncontroversial calendar.

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

ACTING PRESIDENT KUHL: The Secretary will read the controversial calendar beginning with Calendar Number 522.

THE SECRETARY: On page 27, Calendar Number 522, by Senator Padavan, Senate Print 668, an act to amend the General Municipal Law, in relation to reporting information to the United States Immigration and Naturalization Service.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Padavan, an explanation of Calendar Number 522 has been asked for by Senator Paterson.

SENATOR PADAVAN: Thank you, Mr. President.

This is a very simple bill terms of its intent. It effectively would prohibit local governments from preventing employees of those governments who would seek to cooperate with immigration and naturalization agencies when they suspect an applicant of being engaged in criminal activity.

That, in essence, is the bill, Senator Paterson.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If Senator Padavan would yield for a question.

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator, as you know, in 1989, Mayor Koch issued Executive Order 124 in which it was his belief at that time that any law-abiding individual interacting

with an agency of New York City government should not be investigated based on status of immigration, even though there should be cooperation between the New York City Police Department and anyone from any criminal justice service with anyone who is breaking the law with respect to immigration.

The reason that Mayor Koch and then inevitably Mayor Dinkins held these positions is simply that there could be a great harm, for instance, if an individual wanted to come forward as a witness and interact with the police or perhaps if an individual needed medical attention, that there would first be a determination, rather, a determination as to their immigration status.

In your legislation, you assert the reasonable test to determine whether or not a person is here legally, as a legal permanent resident or as a citizen or whether or not as an illegal alien.

The problem with that, as I see it, is that the reasonable test is one that

opens the door for what could be the bias of the observer or perhaps any kind of discrepancy that would lead one to feel that an individual is reasonably not a citizen of the United States.

So my question to you is, how do you establish a reasonable test for this discerning of whether or not a person is a citizen?

SENATOR PADAVAN: Well, Senator, that would depend on the agency and the degree of involvement of that individual in a given responsibility.

Let me give you some real examples. In the course of a hearing, one of five that we held two years ago, we had an opportunity to hear from the Welfare Inspector General of the State of New York, who indicated to us very directly and I would be glad to provide the transcript of his testimony, that there was widespread fraud by illegal aliens within our social service system, fraud that came about in a variety of ways, sometimes forged documents, whatever the machinations

were, they do exist, in his view, based upon a number of years, many years of experience and investigations he had conducted.

Now, after he presented a considerable amount of input, he was followed by a team of representatives from the New York City Department of Human Resources, and I asked them if they had heard the comments of the preceding contributor and they said they had -- are you with me?

SENATOR PATERSON: Yes.

SENATOR PADAVAN: Okay. They said they had. My question to them was, "Well, if someone is seeking to obtain social service benefits, what process would you follow if you felt that person was not entitled to them by virtue of illegal status in terms of immigration?"

The individuals went on to explain what they would do and what they wouldn't do, and so on, and pointed out Executive Order 124.

My next question is, "Well, how

many people in the last two years have you identified, particularly in view of the Inspector General's comments about widespread fraud within the social services network by illegal immigrants, particularly in New York City," and the answer was none, zero.

It became very clear to me, and I think it should be clear to anyone, that Executive Order 124 has had such a chilling effect on any intake line officer or line worker within the social services agencies that they make no referrals to anybody, at any time.

Senator, I would be happy to give your counsel time to brief you, but I'm trying to answer your question.

So, to continue, and I hope you heard part of what I was saying because I know you were distracted, what we have was an executive order in the city of New York that was initiated by Mayor Koch, and you accurately described it, that precludes a person at the social service intake level when they suspect someone of not being entitled to social services

because of illegal immigration status from doing nothing. They are precluded from doing nothing, anything.

Now, let me give you one other example. One of the groups, one of the individuals with a number of others from his department from the New York City Police Department, and as you recall, because I'm sure you've read the executive order, it says that no agency shall make a referral of an illegal immigrant who has been a victim.

Now, it just so happened that the day before, there had been a shootout in the Bronx involving seven -- seven identified illegal immigrants, a drug matter. Several were killed, three or four were wounded. I asked the inspector whether or not they had referred those who had not been killed to INS. Obviously, they were illegal immigrants based on police department determination. His answer was they were precluded from doing so by virtue of Executive Order 124, and again I offer you his testimony from the transcript.

Another incident that occurred that you may recall reading about was a young man who was arrested for selling drugs, I think it was in the Bronx, who was brought into a court having been arrested, indicted. The police officers and the District Attorney apparently were aware of his illegal status but they did nothing about that. They didn't even share that information with the court, and that young man was let out on $1,500 bail and within a week, two weeks later, shot a police officer and killed him, by the name of Sean McDonald.

And the response we get back again is Executive Order 124 and Local Law 52, which you may also be familiar with. Both of these apply only in the city of New York. If those very circumstances had occurred here in Albany or any other part of the state, a different course of action would have been followed.

Now, the bill, as I said when I described it, is very simple. We're saying that no one who has a responsibility within any

agency shall be precluded from making a referral to INS when they believe the individual in question has, one, committed a crime, or, number two, is in violation of immigration laws. To me, that's very prudent, it's reasonable, because if they are in violation of immigration laws, in this country illegally, and we have over half a million in New York City alone, why anyone would feel that a police officer of whatever rank or social services line officer who deals with applicants or any other agency should be precluded from making that kind of referral is beyond my ability to comprehend.

ACTING PRESIDENT KUHL: Senator Padavan, excuse me just a minute.

Senator Mendez, why do you rise?

SENATOR MENDEZ: Thank you, Mr. President. I wonder if Senator Paterson would be so kind to allow me to ask Senator Padavan a couple of questions.

ACTING PRESIDENT KUHL: Senator Paterson, do you yield the floor to Senator Mendez?

SENATOR PATERSON: Yes, Mr. President.

SENATOR MENDEZ: Thank you.

ACTING PRESIDENT KUHL: Senator Mendez, Senator Paterson yields the floor to you.

Senator Padavan, do you now yield to a question from Senator Mendez?

SENATOR PADAVAN: Yes.

SENATOR MENDEZ: Two questions.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR MENDEZ: Thank you. Thank you. Much obliged.

Senator Padavan, I am sure that you are aware that immigration is a function of the federal government, is it not?

SENATOR PADAVAN: Senator, I understand your question and I want to answer it fully. Obviously, deportation of illegal immigrants, the determination of whether someone should be given asylum, a whole host of activities fall under INS. But, we have an

obligation as well, and that obligation is to ensure that those benefits we provide to the citizens and legal immigrants of this state are not abused by those who are in this country illegally and who are involved in criminal activity.

Therefore, we are not ethically, morally or otherwise in a position to justify a blind eye to such activity.

SENATOR MENDEZ: Senator Padavan -

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR MENDEZ: Thank you, Mr. President.

Senator Padavan, we are all very much aware of the fact that you try very hard to ensure that the taxpayers' money is used well, and I think behind the motivation of this bill

that we shouldn't, in my view, be discussing here today, is that commitment that you have to see that taxpayers dollars are well used. So, you already agree with me that immigration is a function of the federal government, you agree with me on that.

My second question is, are you aware that the law enforcement officials of the city of New York are very, very happy about Executive Order 124 because it allows them to use some of those illegal aliens to provide them with information to indict and, therefore, deport a criminal that has been convicted and is an illegal alien, so that this population there has been providing a service to the law enforcement authorities; are you aware of that?

SENATOR PADAVAN: Senator, I'm not only aware of it but nothing in this bill would preclude that. If NYPD, in the course of an investigation, wishes to utilize an illegal alien for an investigation, say, drug smuggling as an example, there's nothing to stop them and, as a matter of fact, it goes on, to develop

a cooperative effort with INS, with the Treasury Department and other agencies to pursue that avenue of investigation.

Nothing in my bill precludes them from doing it; but, keep in mind the input I got from one inspector who wasn't happy about the fact that he had three or four illegal immigrants who had been wounded in a shootout in your borough whom he could not refer to INS because of Executive Order 124.

SENATOR MENDEZ: One swallow makes a summer?

SENATOR PADAVAN: Senator -

SENATOR MENDEZ: Mr. President, my last question.

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

SENATOR PADAVAN: Are you on swallows or summers or what?

SENATOR MENDEZ: No, no.

SENATOR PADAVAN: Go ahead, go ahead.

ACTING PRESIDENT KUHL: He's

swallowing hard, Senator, but he'll continue to yield.

SENATOR MENDEZ: One swallow doesn't make a summer.

Anyhow, my last question is, do you realize that through state law, you will be giving additional duties to employees of the city of New York to -- there could be the situa tion in which they could be even interrupted in doing their own job because somebody comes in trying to find information about an illegal alien, so don't you think that that would be very disruptive, as well?

SENATOR PADAVAN: Not at all, Senator.

One of our biggest problems in terms of social services, one we're wrestling with with this budget, as we've done a number of years recently, is a limitation of resources that is available to the people of the state who are desperately in need. The prudent use of those funds, I think, is our responsibility.

Now, if someone comes into a

social service office and makes application, the line officer who reviews that application has an obligation to determine whether or not that person's entitled to it, that's what we want, that's why we have finger imaging, that's why we have a new computer system, so we can determine if that person is on social services in another state. That's a responsibility we have given these individuals.

It's totally consistent for one illegality to be viewed in the same context as another. A person who is in this country illegally is not entitled to social services, as is a person who is receiving social services from another jurisdiction.

SENATOR MENDEZ: I have to thank you for being so wonderful.

On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Mendez, on the bill.

SENATOR MENDEZ: Mr. President, on the bill.

Senator Padavan is really an

extra good Senator; the bill is not.

Three chief executives of the city of New York, in analyzing this situation, they have concluded that Executive Order 124 helps the police department of the city of New York, that they have concluded in their wisdom that this is a very necessary thing to have. So, I don't think that we should go over the judgment already expressed by three previous mayors of the city of New York and start producing chaos in some of the neighborhoods where we reside.

So, Mr. President, I'll be voting in the negative. Thank you.

ACTING PRESIDENT KUHL: Chair recognizes Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If Senator Padavan would yield for a question, and this time I get to respond to it.

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: Senator Paterson, Senator Padavan yields. But it's

pretty noisy in here. Can we -- the members, if they have a conversation that they feel they need to have with their neighbor, would they take it out of the chamber, please?

SENATOR PATERSON: Thank you, Mr. President.

Senator, Senator Mendez was referring to the mayor's position on this particular bill. What is the position that Mayor Giuliani has on the bill?

SENATOR PADAVAN: Pardon me? What is the position that Mayor Giuliani had?

SENATOR PATERSON: Yes.

SENATOR PADAVAN: He reissued Executive Order 124. I think that speaks for itself. If that had not been the case, then we wouldn't need the bill today.

SENATOR PATERSON: No, Senator. We've been having trouble communicating with the mayor's office to find out exactly what feeling is or whether or not they want to continue.

SENATOR PADAVAN: That executive order is still in effect as determined

by -- as directed by the mayor.

SENATOR PATERSON: Thank you.

Senator, I recognize the issue that you're trying to address in terms of the widespread fraud that may exist in the welfare system. My objection is to how you're going to address it in this bill. What would be the system of verification in which it would be determined whether or not a person is a legal resident or a citizen?

SENATOR PADAVAN: Senator, when someone applies for services -- I've used social services as an example because it's one we're all familiar with -- obviously, a certain amount of documentation must be given. If that docu mentation is reviewed -- it must be evaluated - is viewed to be suspect in terms of its credibility, then obviously that's one reason the person would suspect that the individual is not qualified to receive those services.

However, as varying as the circumstances might be, what we are allowing, which is the case everywhere but the city of New

York, is for an intake officer in any agency to use judgment in making a referral or, at a minimum, to issue certain, or to ask certain questions that should be answered. Under this executive order, that is virtually prohibited.

ACTING PRESIDENT KUHL: Senator Paterson?

SENATOR PATERSON: So at a point that a determination is made that the individual in question may not be a citizen and may not be a legal permanent resident or is in this country for a valid reason, what is the method of determining that from the Immigration and Naturalization Service? In other words, how would that work?

SENATOR PADAVAN: I'm not sure I understand your question.

SENATOR PATERSON: Senator, question is, at a point that an employee of an agency has determined that some individual to which they are interfacing has an immigration problem, what is the next step at that point?

SENATOR PADAVAN: The next step

should be and is in most jurisdictions in this state and in this country a referral to INS to verify the person's legal status in terms of either a lawful immigrant or citizen or someone who has obtained asylum. There are about 18 or more different categories of where a person could be in this country legally and thereby be entitled to services of one sort or the other.

SENATOR PATERSON: If the Senator would continue to yield.

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: So then there is a fiscal impact, I would imagine, if it takes this amount of time to determine this information, and it also would take a lot of time, even though the situation that might cause the relationship to exist between the individual and the agency could be what might be termed an emergency situation, is that not correct,

Senator?

SENATOR PADAVAN: Senator, I'm not quite sure I understand your question. You say there's a fiscal impact? Did you say is there a fiscal impact?

SENATOR PATERSON: Yes.

SENATOR PADAVAN: Yes, there is a great deal of fiscal impact. If we accept the judgment and the input from the Welfare Inspector General, the fiscal impact, quote, again, widespread fraud in our social services service system, must cause us a great deal of money. In terms of fiscal impact, it must be considerable. Now, I'm not in a position to quantify that, but I accept his judgment. When he says considerable, extensive, widespread, then that means something to me.

Now, the minimal effort that would have to be expended by a social service official in verifying legal status, in those instances where it is expected not to be in existence would be more than offset by the savings from keeping such individuals out of our

network.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you. If the Senator would continue to yield.

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: Senator, I am not disputing, I am relying on the fact that you held five hearings and you have determined that officials from different agencies have reported, based on research, that there is a significant fiscal impact to the City and to the state that is being caused by illegal aliens. That's not the issue I'm asking you about. I'm asking you about the method in which you would like to go about trying to diminish that number and trying to make sure these individuals are -

SENATOR PADAVAN: Let me try and answer this way. The same method that's

followed today in every county outside the city of New York -- Nassau, Suffolk, Westchester and on and here in Albany -- the same methodology they use. I can't be specific with you because it depends on the agency, depends on the circumstances; but the simple fact that this state encourages, as a matter of state policy, cooperation with INS and that has been precluded in the city of New York by virtue of an executive order speaks for itself.

Now, if you have questions as to how the social services offices in Nassau County or here in Albany go about dealing with this issue, I suggest you ask them; but what I do know is that they deal with it and I think New York City should be dealing with it.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Padavan would continue to yield.

SENATOR PADAVAN: Mr. President, I would yield to one more question.

ACTING PRESIDENT KUHL: Senator yields to one more question, Senator Paterson.

SENATOR PATERSON: Senator, let me, since I wouldn't know which of the myriad questions would be the one you would want to answer, let me suggest to you a way in which I think the goal that you're trying to accomplish could be achieved but would have a different effect on the citizenry, the people who are not illegal aliens in the City.

What if we address this issue as a public policy matter and we addressed it in a fashion in which we had the Immigration and Naturalization Service interface with these particular agencies and actually come into the agencies for purposes of investigating so that rather than having people who are relying on a test that you call reasonable but are actually not trained in the field are, in a sense, being turned into immigration officers when that's not what they came to these agencies to do, they're police officers, they are case workers for social services, they are health care workers.

Why don't we just bring the Immigration and Naturalization Service in and try and address the problem by having a public policy interfacing of the actual agencies than to have people who live in the city of New York, who pay taxes, who are citizens and are legal permanent residents or are in some way living in the City but are not illegal aliens subjected to what may be a standard that has been demonstrated by other research, some by the Governor of this state, that shows that in these types of situations where subjective determinations are made that we are actually having bias creeping into the actual issue. If a person has an accent, if a person looks as though they were born on foreign soil, I don't know that anyone should be jumping to the conclusion that they are an illegal alien.

So why don't we bring the people who know better, why aren't we deferring to the professionals in this field rather than getting everybody who works for the city of New York and turning them into an immigration officer.

SENATOR PADAVAN: Senator, your question has a number of premises to it that I find -

SENATOR PATERSON: Well, I only had one question, so I had to put a lot of premises in it to get an answer.

SENATOR PADAVAN: It has a number of -- there is a certain texture to it that makes it somewhat difficult to answer.

In the first place, we are not turning every City official into an Immigration and Naturalization officer, that is not our intent, nor could it be. What we're saying, very directly and I'm repeating myself, I know, but apparently my earlier responses didn't get through, what we're saying is that an illegality is an illegality. If someone is seeking services and is guilty of having committed a crime, whether that crime is having come into our city or state, our country, illegally, or any other crime, we should not ignore it.

Now, in regard to your specific question, in our dialogue with the regional

director of the Immigration and Naturalization Services covering the New York area, there was every indication on his part of a willingness to cooperate with all City agencies -- Corrections, Social Services, NYPD, prosecutors -- and indeed, in many instances that does occur.

Now, the placement, however, of an INS individual in every City office where these problems might occur would be an impractical matter, but the offer and the desire for cooperation already exists as they, themselves, have stated; but it's a two-way street. If there is going to be cooperation, then City agencies or at least those individuals within those agencies that have a particular responsibility are going to have to seek that cooperation. INS cannot be in a position of knowing what's going on in various agencies throughout the city of New York, and several examples I gave you.

So to answer your question, I think it would be impractical for us to expect INS to place an individual at every social

services office in this state; but certainly they're there and willing and able and anxious to cooperate in every way possible.

SENATOR PATERSON: Thank you, Senator Padavan.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Sir.

SENATOR PATERSON: Senator Padavan illustrated to us what he considers, through a number of pieces of legislation that he's offered, to be a very serious problem. We tried to offer him an alternative and he feels that the alternative isn't practical; in fact, he interprets the alternative to mean that we should place employees of the Immigration and Naturalization Service in the offices of each agency. This is not what we're proposing and, as a matter of fact, by Senator Padavan's own words, he demonstrates that we wouldn't even really be doing that with the employees right

now when he amplified on his remarks to say that he didn't want to turn every employee of the city of New York into an Immigration and Naturalization officer.

What we're saying is that there has to be a way that the heads of the agencies can interact without having personnel who do not specialize in this field making a review that could jeopardize citizens and legal permanent residents who happen to hail from a foreign soil or happen to have an accent or some affectation that would be similar but not indicative that they are an illegal alien and that kind of situation happens to people, it causes people who have information not to come forward, it causes individuals who would be witnesses to a crime and help our police department, to be unwilling to. It is a serious situation in the health care industry when people who need service don't require it, who, when their family members who may be citizens need service, they don't come forward because they're afraid that they are going to be investigated.

Senator Padavan continues to recite the bill of particulars of the problems that are caused by illegal aliens and that is certainly something that needs to be addressed.

However, when it comes to the actual application of how to change the problem, he only sees this piece of legislation as the answer, he only sees getting a great number of people who do not specialize in this field to make a subjective determination under a fairness doctrine tha isn't even described. What would the fairness be? It would be that certain documentation doesn't seem to be in compliance? Well, that wouldn't change the fact that there are people who have fraudulent documents. There's got to be some definition of how the interpretation is being made, and I don't think that Senator Padavan's explanation of what it would be is complete.

And so on the bill, we recommend that the bill not pass the house, primarily because it seems to me, Mr. President, that there are other solutions that could be sought

to address something that Senator Padavan has illustrated is a serious problem, but there are a number of ways in which our agencies can interact without changing the spirit of what some of our agencies' mission is.

ACTING PRESIDENT KUHL: Chair recognizes Senator Espada.

SENATOR ESPADA: Thank you, Mr. President. It was Congresswoman, the late and great former Congresswoman, Barbara Jordan, who said that if California was foolish enough to pass resolution or Proposition 187, it would set its own house on fire. And again, through a series of bills here, Senator Padavan seeks to turn New York City and New York State on fire.

I won't look into the regulatory aspects of it, the impracticalities of it, the fiscal irresponsibility of it, but just to ask a couple of questions on the human side of the issue, if you permit me, Senator Padavan.

SENATOR PADAVAN: Senator, your characterization at the outset I find offensive, to say the least. However, I'll yield to one

question.

ACTING PRESIDENT KUHL: Senator yields for one question, Senator Espada

SENATOR ESPADA: Well, your limiting debate on this is offensive to me.

SENATOR PADAVAN: I'll answer one question.

SENATOR ESPADA: And that's your prerogative to insult this body in that fashion by limiting debate on such a matter, but we all take personal, political and emotional pride in the bills that we sponsor; we should also have the backbone to defend them on the floor as long as it takes to do that. Some of us have a limitation on that.

Now, you would praise the bill for what it would do to the taxpayers; I ask you one simple question about what it would do to a child who has the misfortune of having an illegal parent who has to go to the hospital for immunization or for another emergent matter. I would ask you to explain and to justify what it would do to someone that would feel harassed

under this law because, in fact, Executive Order 124 was not set up to protect illegal immigrants but, in fact, was set up to protect American citizens and permanent residents.

Violation of civil rights has been a natural outcome of some of these measures, so in all of these very human ways, from children that would not be able to be vaccinated, from people that would be harassed and their civil rights violated, why don't we deal as a responsible legislature with some of those outcomes and not make believe they don't exist because, in fact, they do exist. They are natural outcomes of laws and bills like the ones that you have initiated and debated on this floor, without limitation, I would recall.

SENATOR PADAVAN: Mr. President, I'm not sure what the question was.

SENATOR ESPADA: The question is, if your bill passed, children would be denied the public health benefits of being immunized because if I'm an illegal parent or if I'm a legal permanent resident or if I look the

way I look, I don't want to get harassed I don't want to be interviewed by the social service agent, I want my child to get care; and if I'm aware of that, I may decide not to go to the public health institution. I may be sitting at my desk and somebody says, "Today you look like an illegal Mexican," and so I would have to respond by showing papers and having to deal with that reality.

The public servants and the hospitals and social service agencies don't want the job that you want to assign to them. In fact, in California, they have a pledge of resistance against these kinds of initiatives because it's against and runs contrary to their professional ethics.

So the question I ask you is one that's based on real people's feelings and on the people that have to execute this kind of a law is how do you deal with me as a person that doesn't want to be interviewed at the hospital? I'm a Puerto Rican, I'm an American citizen before maybe you or some of your family members

were, and now I have to go in there and I have to be treated like a second class citizen to prove my citizenship. I decide to stay home and Johnny two-year old, three-year old does not get immunized.

On and on it goes with this kind of trilogy or series of bills that you've introduced. I'm saying focus in on the outcomes as any responsible legislator should. Deal with some of that for us, please.

SENATOR PADAVAN: Well, Senator, let me answer your question directly. As someone yourself, I know you are involved in public health, you know that a person arrives at a clinic or a hospital, irrespective, is interviewed when they arrive there, if for no other reason to get their name and address. They are asked certain basic questions: "Do you have insurance," is usually the first one. So, the question of being interviewed is not unique to this particular subject area, it's standard procedure, no matter who you have.

Now, in regard to an illegal

alien, the child that you mentioned who comes to a city hospital seeking care and treatment, you're well aware of the fact that under federal law, such treatment must be provided, irrespective of the immigration status. Whether you're here illegally or otherwise, such health care cannot be denied. That's why in the state of New York we have one of the largest bad debt and charity pool allocations of any state on a per capita basis in the nation because they all fall in that category, they don't have insurance, they don't qualify for Medicaid, because they're there and they are cared for.

So, therefore, the scenario that you outlined is simply not applicable, they would be entitled to and would receive, as is the case today, health care.

ACTING PRESIDENT KUHL: Senator Espada.

SENATOR ESPADA: If I may, on the bill.

ACTING PRESIDENT KUHL: Senator Espada, on the bill.

SENATOR ESPADA: Clearly, we have attempted to have a de facto system of immigration verification, detection. We make - every responsible professional out there, whether you're a teacher, you're in SUNY, you're in CUNY, you're in a public hospital facility, we make them an INS agent, if we go the full Padavan route.

His reality on this issue could never be my reality on this issue, it is not the reality of the mayor of the city of New York, it is not the reality, as far as I know, of the Governor of the state of New York, all of whom refused to embark and campaign on this immigration bashing kind of scenario that we find ourselves all too often involved in in these chambers.

So, for all of those reasons, never even considering the fact that the great Constitution of this state would prohibit such a law from actually going into practice, I ask my colleagues to please vote this down. Thank you so much.

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 Paterson.

SENATOR PATERSON: Mr. President, we'd like a slow roll call on this bill.

ACTING PRESIDENT KUHL: Hang on. Let me get to that stage.

The Secretary will call the roll.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

Senator Paterson, you're asking a slow roll. If the five members in the chamber who are requesting that would stand, please. One, two, three, four -- there are five.

The 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.

(Affirmative indication.)

THE SECRETARY: Senator Connor.

(Negative indication.)

THE SECRETARY: Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.

(There was no response.)

Senator Dollinger.

SENATOR DOLLINGER: Yes.

THE SECRETARY: Senator Espada.
SENATOR ESPADA: No.
THE SECRETARY: Senator Farley.
SENATOR FARLEY: Aye.
THE SECRETARY: Senator Gold.
(There was no response.)
Senator Gonzalez.
SENATOR GONZALEZ: No.
THE SECRETARY: Senator Goodman.
(There was no response.)
Senator Hannon.
(There was no response.)
Senator Hoblock.
SENATOR HOBLOCK: Yes.
THE SECRETARY: Senator Hoffmann.
(There was no response.)
Senator Holland.
SENATOR HOLLAND: Yes.
THE SECRETARY: Senator Johnson.
SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Kruger.

SENATOR KRUGER: No.

THE SECRETARY: Senator Kuhl.

ACTING PRESIDENT KUHL: Aye.

THE SECRETARY: Senator Lachman.

SENATOR LACHMAN: No.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

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.

SENATOR LIBOUS: Aye.

THE SECRETARY: 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.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: No.

THE SECRETARY: 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: Yes.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Santiago.

(There was no response.)

Senator Seabrook.

SENATOR SEABROOK: No.

THE SECRETARY: Senator Sears.

SENATOR SEARS: Aye.

THE SECRETARY: Senator Seward.

(There was no response.)

Senator Skelos.

SENATOR SKELOS: Aye.

THE SECRETARY: Senator Smith.

SENATOR SMITH: No.

THE SECRETARY: Senator Spano.

(There was no response.)

Senator Stachowski.

SENATOR STACHOWSKI: Yes.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

(There was no response.)

Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.
SENATOR TULLY: Aye.
THE SECRETARY: Senator Velella.
(There was no response.)
Senator Volker.
(There was no response.)
Senator Waldon.
SENATOR WALDON: No.
THE SECRETARY: Senator Wright.
(There was no response.)
ACTING PRESIDENT KUHL: Call the absentees.
THE SECRETARY: Senator Babbush.
(There was no response.)
Senator DiCarlo.
SENATOR DiCARLO: Aye.
THE SECRETARY: Senator Gold.
(Affirmative indication.)
THE SECRETARY: Senator Gold in the affirmative.
Senator Goodman.

SENATOR GOODMAN: Yes.
THE SECRETARY: Senator Hannon.
SENATOR HANNON: Aye.
THE SECRETARY: Senator Hoffmann.
(There was no response.)
Senator Larkin.
(There was no response.)
Senator Santiago.
(There was no response.)
Senator Seward.
SENATOR SEWARD: Yes.
THE SECRETARY: Senator Spano.
(There was no response.)
Senator Stavisky.
SENATOR STAVISKY: No.
THE SECRETARY: Senator Volker.
(There was no response.)
Senator Wright.
SENATOR WRIGHT: Aye.
THE SECRETARY: Senator Volker.
SENATOR VOLKER: Yes.
ACTING PRESIDENT KUHL:

Announce the results.

THE SECRETARY: Ayes 40, nays 16.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 610, by Senator Holland, Senate Print 474, an act to amend the Penal Law, in relation to the possession of noxious materials by members of auxiliary police forces.

ACTING PRESIDENT KUHL: Senator Holland, an explanation of Calendar Number 610 has been asked for by the Acting Minority Leader, Senator Paterson.

SENATOR HOLLAND: Yes, Mr. President. We debated this bill for a number of years, it may go back into the 1970s, but the bill would allow auxiliary police, upon local authorization and appropriate instructions, to possess mace for use as a defensive weapon only after authorization of the police commissioner

or chief executive officer of a county, city, town or village.

ACTING PRESIDENT KUHL: 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 Holland, we've had a lot of peace officers bills that have come through the chamber that the Senate has passed on; and obviously the county or the entity would indemnify the police officer for any executive action, but there is no definition that I can find of an auxiliary police officer in the statute and, therefore, don't you think that we need to pass a law to delineate what the roll of the auxiliary police officer is before we could pass this

legislation?

SENATOR HOLLAND: You asked that question last year, Senator, and there are a number of sections in law, one is section (ii) of Section 22 and 23 of the New York State Defense Emergency Act, and that gives three different definitions of what an auxiliary police officer does. Also, in the unconsoli dated laws, section 9185 gives a definition of what an auxiliary police officer does. I don't know what else you're looking for.

I think there's also -- one last thing, Senator. I think the city of New York also has a definition which I had FAXed me but I can hardly read.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: I'm glad to see that the followup is as good as it is, Senator Holland and Senator Volker. Most of those situations you describe, actually, Senator Holland, relate more to emergencies, so this is why I raise the issue because if we had a

situation, if I would present the scenario where deadly force was used by an auxiliary police officer in a situation where it was not authorized and we then had some lawsuit that was brought by the victim of this type of action, would there not be a problem that would exist based on the liability of the county or the city where the action took place because of the fact that it's not exactly clear what the relationship is between the entity and the auxiliary police officer.

SENATOR HOLLAND: Well, there could be a suit, Senator, if that's your point, that's why the bill says it must be authorized by the municipality. If it was authorized, then they would be -- would pick up the suit cost, is my understanding.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you.

Mr. President, on the bill. I don't know what we would do if the force was not authorized, in other words, if it was out of the

scope of what the county proscribes; but actually, other than that, Senator Holland has answered the questions well and Senator Volker is just doing a great job, that's all I can tell 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.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar 4774 are Senators Abate, Connor, Dollinger, Espada, Goodman, Kruger, Markowitz, Mendez, Nanula, Oppenheimer, Seabrook, Smith, also Senator Montgomery. Ayes 46, nays 13 -- also Senator Lachman. Ayes 45, nays 14.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

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

ACTING PRESIDENT KUHL: I have just one item, if we can return to motions and resolutions, Senator Skelos.

The Chair would recognize Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

Initially I would request unanimous consent to be recorded in the negative on Calendar Number 559, Senate 381.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Wright will be recorded in the negative on Calendar Number 559.

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

I move the following bills, on behalf of Senator Rath, be discharged from their respective committees and be recommitted with

instructions to strike the enacting clause: Senate 6613.

ACTING PRESIDENT KUHL: Without objection, the enacting clause is stricken, the bill is recommitted.

Senator Skelos.

SENATOR SKELOS: Mr. President, there being no further business, I move we adjourn until Tuesday, April 23rd, 1996 at 3:00 p.m. sharp.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, Tuesday, April 23rd, at 3:00 p.m. sharp.

(Whereupon, at 4:20 p.m., the Senate adjourned.)