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ALBANY, NEW YORK

May 7, 1996

3:05 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

## 1 P R O C E E D I N G S

2 ACTING PRESIDENT KUHL: The  
3 Senate will come to order. Ask the members to  
4 find their places, the staff to find their  
5 places. Ask all of you, including the members  
6 in the gallery, to rise with me and join in the  
7 Pledge of Allegiance to the Flag and to remain  
8 standing for the invocation.

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

11 We're very pleased to have Bishop  
12 Muriel Grant of Mt. Olivet Discipleship of  
13 Brooklyn, New York with us to deliver the  
14 invocation.

15 Bishop Grant.

16 BISHOP MURIEL GRANT: Let us  
17 pray. O Lord, God, Who hast given unto us this  
18 good land for our heritage, we humbly beseech  
19 Thee to grant us grace, that we may prove a  
20 people mindful of Your favor towards us and glad  
21 to do Thy will.

22 Bless our land without unraveling  
23 industry, sound learning, pure manners. Bless

1 the President of these United States. Defend  
2 our liberties and fashion into one united people  
3 the multitudes brought hither out of many  
4 kindreds and towns.

5 O Almighty God, the Supreme  
6 Governor of all things, yet merciful and  
7 compassionate Who art ever ready to hear the  
8 prayers of those who put their trust in Thee,  
9 graciously hearken to my call.

10 I do so humbly beseech Thee for  
11 the people of these United States in general but  
12 so especially for their Senate, Republicans and  
13 Democrats here assembled.

14 I remember, O God, Solomon as he  
15 was known for his wisdom, and his son who for  
16 lack of wisdom lost his empire. Give unto  
17 these, our Senators, Your spirit of wisdom and  
18 understanding that they may discern the truth  
19 and partially -- impartially approve the bills  
20 necessary for sound law making so that in so  
21 doing we will then truly stand indivisible under  
22 you.

23 Bless and protect them. Direct

1 and prosper all their Senate counseling  
2 sessions, O God, through the advancement of our  
3 glory to the good of Thy church, the safety,  
4 honor and welfare of Thy people, that all things  
5 may be so ordered and settled by their endeavors  
6 upon the best and surest foundation, that peace  
7 and happiness, truth in justice, religion and  
8 patience may be established amongst us for all  
9 generations. This and all other necessities for  
10 our advancement, for them, for us, the whole  
11 church, I beg in the name of Jesus Christ, my  
12 Savior, my Lord. Amen.

13 ACTING PRESIDENT KUHL: Amen.

14 Thank you, Bishop Grant.

15 Reading of the Journal.

16 THE SECRETARY: In Senate,  
17 Monday, May 6th. The Senate met pursuant to  
18 adjournment, Senator Kuhl in the Chair upon  
19 designation of the Temporary President. The  
20 Journal of Sunday, May 5th, was read and  
21 approved. On motion, the Senate adjourned.

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

1 read.

2 Presentation of petitions.

3 Messages from the Assembly.

4 Messages from the Governor.

5 Reports of standing committees.

6 Reports of select committees.

7 Communications and reports from  
8 state officers.

9 Motions and resolutions.

10 Senator Tully.

11 SENATOR TULLY: Yes, Mr.

12 President. On behalf of Senator LaValle, please  
13 place a sponsor's star on Calendar Number 946.

14 ACTING PRESIDENT KUHL: Calendar  
15 Number 946 is starred at the request of the  
16 sponsor.

17 Senator Tully.

18 SENATOR TULLY: Mr. President, on  
19 behalf of Senator Maltese, on page 30, I offer  
20 the following amendments to Calendar Number 609,  
21 Senate Print Number 447, and ask that said bill  
22 retain its place on the Third Reading Calendar.

23 ACTING PRESIDENT KUHL: The

1 amendments to Calendar Number 609 are received  
2 and adopted. The bill will retain its place on  
3 the Third Reading Calendar.

4 Senator Tully.

5 SENATOR TULLY: Yes, Mr.  
6 President. Of behalf of Senator Skelos, on page  
7 64, I offer the following amendments to Calendar  
8 Number 347, Senate Print Number 653, and ask  
9 that said bill retain its place on the Third  
10 Reading Calendar.

11 ACTING PRESIDENT KUHL: The  
12 amendments to Calendar Number 347 are received  
13 and adopted. The bill will retain its place on  
14 the Third Reading Calendar.

15 Senator Tully.

16 SENATOR TULLY: Finally, Mr.  
17 President, on behalf of Senator Nozzolio, I wish  
18 to call up his bill, Senate Print Number 5951-A,  
19 recalled from the Assembly which is now at the  
20 desk.

21 ACTING PRESIDENT KUHL: The  
22 Secretary will read.

23 SENATOR TULLY: Mr. President, I

1 now move to reconsider the vote -

2 ACTING PRESIDENT KUHL: Hold on,  
3 Senator Tully. Why don't we get the bill before  
4 the house.

5 The Secretary will read.

6 THE SECRETARY: By the Assembly  
7 Committee on Rules, Assembly Print 8389-B, an  
8 act to amend the Penal Law.

9 ACTING PRESIDENT KUHL: Senator  
10 Tully.

11 SENATOR TULLY: I now move to  
12 reconsider the vote by which this bill was  
13 passed and ask that the bill be restored to the  
14 order of third reading.

15 ACTING PRESIDENT KUHL: The  
16 Secretary will call the roll on  
17 reconsideration.

18 (The Secretary called the roll on  
19 reconsideration.)

20 THE SECRETARY: Ayes 48.

21 ACTING PRESIDENT KUHL: Senator  
22 Tully.

23 SENATOR TULLY: Mr. President, I

1 now offer the following amendments.

2 ACTING PRESIDENT KUHL: The  
3 amendments are received and adopted.

4 Senator Tully.

5 SENATOR TULLY: Mr. President, I  
6 now move to discharge from the Committee on  
7 Crime Victims, Crime and Corrections, Assembly  
8 Print Number 8389-C and substitute it for my  
9 identical bill.

10 ACTING PRESIDENT KUHL: The  
11 substitution is ordered.

12 SENATOR TULLY: I now move that  
13 the substituted Assembly bill have its third  
14 reading at this time.

15 ACTING PRESIDENT KUHL: The  
16 Secretary will read.

17 THE SECRETARY: Section 5. This  
18 act shall take effect in 15 days.

19 ACTING PRESIDENT KUHL: Call the  
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes 48.

23 ACTING PRESIDENT KUHL: The bill

1 is passed.

2 Senator Saland.

3 SENATOR SALAND: Mr. President, I  
4 would like to place a sponsor's star on Calendar  
5 274, Senate 3502-B.

6 ACTING PRESIDENT KUHL: At the  
7 request of the sponsor, Calendar Number 274 is  
8 starred.

9 Senator Holland.

10 SENATOR HOLLAND: There will be  
11 an immediate meeting of the Social Services  
12 Committee in Room 124.

13 ACTING PRESIDENT KUHL: There  
14 will be on immediate meeting of the Social  
15 Services Committee in Room 124 of the Capitol.  
16 Room 124 of the Capitol, immediate Social  
17 Services Committee meeting.

18 Senator Bruno, we have a couple  
19 of substitutions while we're on motions and  
20 resolutions.

21 SENATOR BRUNO: Please make the  
22 substitutions, Mr. President.

23 ACTING PRESIDENT KUHL: The

1 Secretary will read the substitutions.

2 THE SECRETARY: On page 4,  
3 Senator Velella moves to discharge from the  
4 Committee on Insurance Assembly Bill 3875 and  
5 substitute it for the identical Senate Bill  
6 2410.

7 On page 26, Senator LaValle moves  
8 to discharge from the Committee on Environmental  
9 Conservation Assembly Bill Number 8846-A and  
10 substitute it for the identical Senate Bill  
11 6112-A.

12 On page 56, Senator Saland moves  
13 to discharge from the Committee on Children and  
14 Families Assembly Bill Number 2446-C and  
15 substitute it for the identical Senate Bill  
16 7403-B.

17 On page 66, Senator Libous moves  
18 to discharge from the Committee on Consumer  
19 Protection Assembly Bill 7827-A and substitute  
20 it for the identical Senate Bill 6945-A.

21 ACTING PRESIDENT KUHL: The  
22 substitutions are ordered.

23 SENATOR GOLD: Mr. President.

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

3                   SENATOR GOLD:  Mr. President,  
4                   yesterday when we had Senator -- consideration  
5                   of Senator Rath's bill, Senate 6661, Calendar  
6                   Number 656, I had business outside the chamber,  
7                   and if the record could note that had I been in  
8                   the chamber, I would have been recorded in the  
9                   negative.

10                  ACTING PRESIDENT KUHL:  Senator  
11                  Gold, the record will reflect that had you been  
12                  in the chamber yesterday when the vote was taken  
13                  on Calendar Number 656 that you would have been  
14                  recorded in the negative.

15                  Senator Bruno.

16                  SENATOR BRUNO:  Mr. President, I  
17                  believe I have a privileged resolution at the  
18                  desk.  I would ask that the title be read and  
19                  that we move for its immediate adoption.

20                  ACTING PRESIDENT KUHL:  The  
21                  Secretary will read the title to the privileged  
22                  resolution by Senator Bruno.

23                  THE SECRETARY:  By Senator Bruno,

1 Legislative Resolution commending Louis L.  
2 Friedman, the first and only executive director  
3 the Senate Club has ever had, distinguished  
4 former justice of the New York State Supreme  
5 Court and former New York State Assemblyman and  
6 Senator from Kings County and welcoming Lou and  
7 Beth back to Albany.

8 ACTING PRESIDENT KUHL: Senator  
9 Bruno, on the resolution.

10 SENATOR BRUNO: Mr. President,  
11 first, I would open the sponsorship of this  
12 resolution to everyone in the chamber, in that I  
13 think that they would like to be involved in  
14 honoring a great citizen of New York and  
15 certainly a great American.

16 He chairs the Senate Club, which  
17 is a membership of all past, present Senators  
18 that qualify, but he is a real inspiration to  
19 all of us that serve the public, having served  
20 as was read in the Assembly, in the Senate, in  
21 the judiciary with great, great distinction.  
22 He's a credit to himself, to his wife Beth who  
23 has been with him and by his side, and I'm sure

1 an inspiration to him in his work.

2 We are proud to have had an  
3 association with Judge Friedman and we're also  
4 congratulating him as he approaches his 90th  
5 birthday, 90 years very young, very able, very  
6 capable, still involved in a law practice, still  
7 involved as a citizen in his community doing all  
8 the kinds of things that many of us would only  
9 aspire to do. He has reached great success.

10 So it's my privilege to move this  
11 resolution with my colleagues here in the  
12 Senate.

13 ACTING PRESIDENT KUHL: Senator  
14 Bruno, as the prime sponsor, would it be  
15 permissible for you to accept the request of all  
16 of the members to go on the resolution? I'm  
17 seeing lots of nods of heads. So we'll put  
18 everybody on the resolution except for those who  
19 might not want to be on it. I find no one in  
20 the chamber who has indicated that at this  
21 point.

22 Senator Gold.

23 SENATOR GOLD: Yeah, Mr.

1       President. I can't top the words of my Leader,  
2       but the Senate Club has always been sort of  
3       non-partisan, bipartisan, and I wanted to keep  
4       it that way today.

5                   It's a delight to know Louis  
6       Friedman, and when you talk about age 90, you  
7       realize that he's here with his child bride.  
8       That's right, Beth. We're not putting any  
9       numbers on you.

10                   At any rate, Mr. President, the  
11       Senate Club has survived all of these years when  
12       so many other things have not, strictly and  
13       solely because of the work of Judge Friedman,  
14       and everybody here really realizes that, and as  
15       things go in life, you know, you hit highs and  
16       you hit lows, but the fact of the matter is  
17       survival is not always easy, and the dedication  
18       of this man to this organization is legend.

19                   When I first came here, we had a  
20       Senate Club. We also had Senate dinners every  
21       year. Those are gone by the wayside, but the  
22       camaraderie between us all has managed to  
23       survive because of the Senate Club, and Louis

1 Friedman does it for only one reason. He loves  
2 this place. He loves this chamber. He loves  
3 this body, each and every one of us, and the  
4 capacity that we have to do the right thing and  
5 to do good things.

6 So I'm delighted to hear that my  
7 Leader has brought this to the floor and open it  
8 for sponsorship. Tonight there's another dinner  
9 as we all know, and it is always a delight that  
10 this dinner brings this wonderful couple to  
11 Albany so that we may renew that old friendship.

12 ACTING PRESIDENT KUHL: The  
13 question is on the resolution.

14 Senator Marchi on the  
15 resolution. Senator Marchi.

16 SENATOR MARCHI: I'm probably the  
17 only person in the city of Albany that was here  
18 and attended meetings of the Senate when Senator  
19 Friedman at that time was a member. I was a  
20 staffer at that time, but I remember that -- I  
21 remember in the company of Senator Helman,  
22 Senator Greenberg. They were tremendous,  
23 tremendous role models for all of us in terms of

1 the incisiveness of their presentations. They  
2 were working from the Minority, but they were  
3 excellent and they made an impact and they made  
4 a significant difference and, as Senator Gold  
5 has pointed out, he has been the spirit of  
6 continuity all of these years. I don't know  
7 whether we would be meeting again ensemble, the  
8 members, former members that have served for a  
9 given number of years and continue to see each  
10 other, if it hadn't been for him. I don't think  
11 it would have survived.

12 I served one brief term as  
13 president, as so many others have, but it was  
14 Lou Friedman carrying the spirit and the vigor  
15 and the energy that he did as a member and  
16 keeping up that continuity that was priceless  
17 and serves us well to this day, that we will be  
18 meeting again here tonight.

19 So God bless you, Judge. I wish  
20 you all the best. God bless you, Senator. I  
21 can't think of a higher accolade that I could  
22 bestow on anyone, and you certainly deserve it.

23 ACTING PRESIDENT KUHL: The

1 question is on the resolution.

2 SENATOR GOODMAN: Mr. President.

3 ACTING PRESIDENT KUHL: Senator  
4 Goodman.

5 SENATOR GOODMAN: Just a brief  
6 supplemental word of salute to a friend of many  
7 of ours of long standing. He is a man of  
8 extraordinary vigor for his years. He's a man  
9 of extraordinary vigor for any number of years,  
10 in fact, who has always shown great dedication  
11 to the Senate as an institution and at the  
12 annual meetings of the Senate Club, he exudes  
13 good spirit and warm support for the unique,  
14 good fellowship which transcends political  
15 affiliation and which brings us together  
16 annually for this wonderful reunion.

17 It's very hard for me to imagine  
18 that chronology is what the resolution states.  
19 I ignore that completely and continue to regard  
20 him as a robust -- let's just say it's the 60th  
21 anniversary of his 30th birthday. We wish him  
22 well always and all the best.

23 ACTING PRESIDENT KUHL: The

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

3 (Response of "Aye".)

4 Opposed, nay.

5 (There was no response.)

6 The resolution is unanimously  
7 adopted.

8 Senator Friedman, on behalf of  
9 Senator Bruno and all the members of the house,  
10 we welcome you back to Albany. We wish you were  
11 here more often so that we could enjoy your high  
12 living spirits, and certainly your wife, welcome  
13 to the chamber once again, and thank you for all  
14 that you have done and all that you continue to  
15 do for New York.

16 (Applause)

17 Senator Skelos.

18 SENATOR SKELOS: Mr. President,  
19 there will be an immediate meeting of the Rules  
20 Committee in Room 332 of the Capitol.

21 ACTING PRESIDENT KUHL: There  
22 will be an immediate meeting of the Rules  
23 Committee in the Majority Conference Room, Room

1 332. An immediate meeting of the Rules  
2 Committee in the Majority Conference Room, Room  
3 332.

4 Senator Skelos.

5 SENATOR SKELOS: Mr. President, I  
6 move the adoption of the Resolution Calendar  
7 except for 3267 and 3268.

8 ACTING PRESIDENT KUHL: The  
9 motion is to adopt the Resolution Calendar with  
10 the exceptions of Resolution 3267 and 3268. All  
11 those in favor signify by saying aye.

12 (Response of "Aye".)

13 Opposed, nay.

14 (There was no response.)

15 The Resolution Calendar is  
16 adopted.

17 Senator Skelos.

18 SENATOR SKELOS: Mr. President,  
19 at this time if we could take up Resolution 3267  
20 and have it read in its entirety.

21 ACTING PRESIDENT KUHL: The  
22 Secretary will read the title to Resolution  
23 3267.

1 THE SECRETARY: By Senator  
2 DeFrancisco, Legislative Resolution  
3 congratulating the Westhill High School's Girls'  
4 Soccer Team and Coach Ann Riva on their  
5 outstanding season and capture of the New York  
6 State Class C Girls Soccer Championship.

7 ACTING PRESIDENT KUHL: The Chair  
8 recognizes Senator DeFrancisco on the  
9 resolution.

10 SENATOR DeFRANCISCO: I rise to  
11 congratulate and to honor the girls' soccer team  
12 from Westhill. The soccer team and the whole  
13 school of Westhill, as well as the school  
14 district is in the "District of Champions", the  
15 49th Senate District, because this is not a new  
16 thing for people in our district. We win  
17 championships quite frequently, but what's of  
18 special note in this particular case was that  
19 these are repeat champions and it has become a  
20 habit, and Coach Ann Riva should be very pleased  
21 and very honored with what has been accomplished  
22 in that school.

23 I want to recognize a couple of

1 people in particular: Co-captain Sarah  
2 Ungerer. She was an all-state senior middle  
3 fielder. She was named the Lady Warriors'  
4 outstanding player for the state tournament and  
5 selected for the All East Girls' Soccer First  
6 Team, the New York State Girls' Soccer First  
7 Team and the Central New York Girls' Soccer  
8 Team; and Sara Thornton was named the Class C  
9 tournament's outstanding goalkeeper and Jennifer  
10 Kirsch was named the All Section 3 Girls' Soccer  
11 Team and the Central New York Girls' Soccer  
12 First Team.

13 It's a school that has done  
14 wonderful things, not only in sports but has  
15 been named a couple years ago as a blue ribbon  
16 school which acknowledges the academic  
17 excellence of this school as well.

18 You're a group of champions. I'm  
19 honored to be the Senator from your district and  
20 I wish you many, many more championships  
21 throughout your life in whatever field of  
22 endeavor you choose.

23 ACTING PRESIDENT KUHL: The

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

3 (Response of "Aye".)

4 Opposed, nay.

5 (There was no response.)

6 The resolution is adopted.

7 Would the members of the Westhill  
8 Soccer Team please rise. Welcome to the  
9 chamber. Congratulations on your efforts.

10 (Applause)

11 Senator Marcellino.

12 SENATOR MARCELLINO: Yes, Mr.  
13 President. May we take up Resolution Number  
14 3268, have its title read and move for its  
15 adoption, please.

16 ACTING PRESIDENT KUHL: The  
17 Secretary will read the title to Resolution  
18 3268.

19 THE SECRETARY: By Senator  
20 DeFrancisco, Legislative Resolution  
21 congratulating the Westhill High School Girls'  
22 Basketball Team and Coach Sue Ludwig on their  
23 outstanding season and capture of the New York

1 State Class C Girls' Basketball Championship and  
2 Class C Federation Championship.

3 ACTING PRESIDENT KUHL: Senator  
4 DeFrancisco, on the resolution.

5 SENATOR DeFRANCISCO: Well,  
6 Westhill High School was not satisfied with one  
7 state championship this year, so they decided  
8 also to win the high school girls' New York  
9 State Basketball Championship under Coach Sue  
10 Ludwig, and this team is also here and I want to  
11 honor them for that feat. Not only did they win  
12 the state championship, but they went on to play  
13 in the federation tournament and capture that  
14 championship as well. To show the quality of  
15 the team, the final score in that game was 61 to  
16 34, an amazing accomplishment.

17 I'd also like to recognize a  
18 couple of key players who should be mentioned,  
19 one of which is Melissa Johnson who was named  
20 most valuable player of the Class C tournament,  
21 and it's truly an outstanding family.

22 Just a couple of weeks ago, Cadet  
23 Jennifer Johnson was here in the chambers, and

1 we honored her as being one of our finest that  
2 had been named and are attending the Military  
3 Academy. In addition, Lee Halsey was named to  
4 the all-tournament team.

5 So this is truly an outstanding  
6 school, truly outstanding young women who are  
7 going to do great things in the future, and I'm  
8 also honored to have them in my district and  
9 wish them the best of luck in the future.

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

13 (Response of "Aye".)

14 Opposed, nay.

15 (There was no response.)

16 The resolution is adopted.

17 Would the championship Westhill  
18 High School Girls' Basketball Team please rise.

19 Welcome to Albany.

20 (Applause)

21 Senator Marcellino.

22 SENATOR MARCELLINO: Mr.

23 President, may we take up the non-controversial

1 calendar, please.

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

5 THE SECRETARY: On page 17,  
6 Calendar Number 269, by Senator Wright, Senate  
7 Print 2259, an act to amend the Vehicle and  
8 Traffic Law, in relation to creating the crime  
9 of aggravated driving while intoxicated.

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

12 THE SECRETARY: Section 8. This  
13 act shall take effect on the first day of  
14 November.

15 ACTING PRESIDENT KUHL: Call the  
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 52.

19 ACTING PRESIDENT KUHL: The bill  
20 is passed.

21 THE SECRETARY: Calendar Number  
22 532, by Senator Nozzolio, Senate Print 6237-A -

23 SENATOR MARCELLINO: May we lay

1 this bill aside for the day at the request of  
2 the sponsor.

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

6 THE SECRETARY: Calendar Number  
7 633, by Senator Present, Senate Print 6595, an  
8 act to amend the Vehicle and Traffic Law, in  
9 relation to snowmobile dealer registrations.

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

12 THE SECRETARY: Section 4. This  
13 act shall take effect on the first day of  
14 October.

15 ACTING PRESIDENT KUHL: Call the  
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 52.

19 ACTING PRESIDENT KUHL: The bill  
20 is passed.

21 THE SECRETARY: Calendar Number  
22 660, by -

23 SENATOR MARCELLINO: Mr.

1 President.

2 ACTING PRESIDENT KUHL: Senator  
3 Marcellino, why do you rise?

4 SENATOR MARCELLINO: Mr.  
5 President, there will be an immediate meeting of  
6 the Crime Victims and Corrections Committee  
7 meeting in Room 332.

8 ACTING PRESIDENT KUHL: There  
9 will be an immediate meeting of the Crime  
10 Victims and Corrections Committee in the  
11 Majority Conference Room, Room 332. Immediate  
12 meeting of the Crime Victims and Corrections  
13 Committee in the Majority Conference Room, Room  
14 332.

15 The Secretary will continue to  
16 read the non-controversial calendar.

17 THE SECRETARY: Calendar Number  
18 660, by Senator Present, Senate Print 6605, an  
19 act authorizing payment of the transportation  
20 aid to the Dansville Central School District.

21 ACTING PRESIDENT KUHL: There's a  
22 local fiscal impact note at the desk. The  
23 Secretary will read the last section.

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

3 ACTING PRESIDENT KUHL: Call the  
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes 52.

7 ACTING PRESIDENT KUHL: The bill  
8 is passed.

9 THE SECRETARY: Calendar Number  
10 666, by Senator Lack, Senate Print 6747, an act  
11 to amend the Estates, Powers and Trusts Law, in  
12 relation to the disposition of trust remainders.

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

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

17 ACTING PRESIDENT KUHL: Call the  
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 52.

21 ACTING PRESIDENT KUHL: The bill  
22 is passed.

23 THE SECRETARY: Calendar Number

1           672, by Senator Farley, Senate Print 1631, an  
2           act to amend the Education Law, in relation to  
3           authorizing the State University trustees to  
4           make courses available for certain persons 60  
5           years of age or over.

6                           SENATOR ONORATO: Lay it aside.

7                           ACTING PRESIDENT KUHL: Lay the  
8           bill aside.

9                           THE SECRETARY: Calendar Number  
10          673, by Senator DiCarlo, Senate Print 4014-B, an  
11          act to amend the Executive Law, in relation to  
12          the elderly pharmaceutical insurance coverage  
13          program.

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

16                          THE SECRETARY: Section 2. This  
17          act shall take effect July 1st.

18                          ACTING PRESIDENT KUHL: Call the  
19          roll.

20                          (The Secretary called the roll.)

21                          THE SECRETARY: Ayes 52.

22                          ACTING PRESIDENT KUHL: The bill  
23          is passed.

1 THE SECRETARY: Calendar Number  
2 679, by Senator DeFrancisco, Senate Print 673,  
3 an act to amend the Vehicle and Traffic Law, in  
4 relation to speeding while being pursued by a  
5 police officer.

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

8 THE SECRETARY: Section 3. This  
9 act shall take effect on the 90th day.

10 ACTING PRESIDENT KUHL: Call the  
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 52.

14 ACTING PRESIDENT KUHL: The bill  
15 is passed.

16 THE SECRETARY: Calendar Number  
17 684, by Senator Levy, Senate Print 6554, an act  
18 to amend the Vehicle and Traffic Law, in  
19 relation to the application of seat belt  
20 provisions.

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

23 THE SECRETARY: Section 2. This

1 act shall take effect on the first day of  
2 November.

3 ACTING PRESIDENT KUHL: Call the  
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes 52.

7 ACTING PRESIDENT KUHL: The bill  
8 is passed.

9 THE SECRETARY: Calendar Number  
10 687, by Senator Stafford, Senate Print 609-A, an  
11 act to amend the Penal Law, in relation to the  
12 crime of unlawfully dealing with a child in the  
13 second degree.

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

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

19 ACTING PRESIDENT KUHL: Call the  
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes 52.

23 ACTING PRESIDENT KUHL: The bill

1 is passed.

2 THE SECRETARY: Calendar Number  
3 689, by Senator Volker, Senate Print 3944-C, an  
4 act to amend the Criminal Procedure Law, in  
5 relation to waiving the requirements for  
6 pre-sentence reports in certain cases.

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

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

11 ACTING PRESIDENT KUHL: Call the  
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes 52.

15 ACTING PRESIDENT KUHL: The bill  
16 is passed.

17 THE SECRETARY: Calendar Number  
18 696, by Senator LaValle, Senate Print 6013, an  
19 act to amend the Criminal Procedure Law, in  
20 relation to peace officer status.

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

23 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT KUHL: Call the  
3 roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT KUHL: Announce  
6 the results when tabulated.

7 THE SECRETARY: Ayes 52.

8 ACTING PRESIDENT KUHL: Announce  
9 the results when tabulated.

10 THE SECRETARY: On Calendar  
11 Number 696, ayes 51, nays 1, Senator Leichter  
12 recorded in the negative.

13 ACTING PRESIDENT KUHL: The bill  
14 is passed.

15 Senator Marcellino.

16 SENATOR MARCELLINO: May we call  
17 an immediate meeting of the Tourism, Recreation  
18 and Sports Committee in Room 123, please.

19 ACTING PRESIDENT KUHL: There  
20 will be an immediate meeting of the Tourism,  
21 Recreation and Sports Development Committee in  
22 the -- Room 123 of the Capitol. Immediate  
23 meeting of the Tourism, Recreation and Sports

1 Development Committee in Room 123 of the  
2 Capitol.

3 The Secretary will continue to  
4 call the non-controversial calendar.

5 THE SECRETARY: Calendar Number  
6 725, by Senator Volker, Senate Print 5777, an  
7 act to amend the Retirement and Social Security  
8 Law, in relation to membership in the New York  
9 State and Local Employees Retirement System.

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

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

14 ACTING PRESIDENT KUHL: Call the  
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 52.

18 ACTING PRESIDENT KUHL: The bill  
19 is passed.

20 THE SECRETARY: Calendar Number  
21 726, by Senator Hoblock, Senate Print 6278, an  
22 act to amend the General Municipal Law, in  
23 relation to establishing an employee benefit

1 accrued liability reserve fund.

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

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

6 ACTING PRESIDENT KUHL: Call the  
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes 52.

10 ACTING PRESIDENT KUHL: The bill  
11 is passed.

12 THE SECRETARY: Calendar Number  
13 764, by Senator Marchi, Senate Print 2379, an  
14 act to amend the Public Authorities Law, in  
15 relation to directing the Triborough Bridge and  
16 Tunnel Authority.

17 SENATOR PATERSON: Lay it aside.

18 ACTING PRESIDENT KUHL: Lay the  
19 bill aside.

20 THE SECRETARY: Calendar Number  
21 870, by Member of the Assembly Weinstein,  
22 substituted earlier today, Assembly Print  
23 2446-C, an act to amend the Domestic Relations

1 Law and the Family Court Act, in relation to  
2 child custody.

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

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

7 ACTING PRESIDENT KUHL: Call the  
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 52.

11 ACTING PRESIDENT KUHL: The bill  
12 is passed.

13 Senator Marcellino. Senator  
14 Marcellino.

15 SENATOR MARCELLINO: Mr. Chairman  
16 -- Mr. President, excuse me. May we have the  
17 non-controversial -- the controversial calendar,  
18 please. We're a little confused here. We  
19 apologize.

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

22 THE SECRETARY: On page 34,  
23 Calendar Number 672, by Senator Farley, Senate

1           Print 1631, an act to amend the Education Law,  
2           in relation to authorizing the State University  
3           trustees to make courses available for certain  
4           persons 60 years of age or over.

5                           ACTING PRESIDENT KUHL:   Senator  
6           Onorato.

7                           SENATOR ONORATO:   Mr. President,  
8           I have an amendment at the desk on this bill.  I  
9           waive its reading and may I have the opportunity  
10          to explain it briefly?

11                          ACTING PRESIDENT KUHL:   Senator,  
12          there is an amendment that was just received.  
13          The reading of it is waived, and you are now  
14          afforded the opportunity on the floor to explain  
15          the amendment.

16                          SENATOR ONORATO:   Thank you, Mr.  
17          President.

18                          Mr. President, this is a very  
19          simple amendment.  I want to commend Senator  
20          Farley for the original bill.  I'm a co-sponsor  
21          on it, but due to changing of times, I offer  
22          this amendment to perhaps make it a little bit  
23          better.

1                   Basically what my amendment does  
2           would add displaced workers who have been losing  
3           their jobs left and right lately through the  
4           phenomenon of downsizing our industry in the  
5           state of New York. I think it would offer them  
6           an excellent opportunity to further their  
7           education in this manner by adding them where  
8           there's room available. It's not going to cost  
9           the state any further money but make these  
10          courses available to our workers who have been  
11          displaced through no fault of their own, and I  
12          urge its adoption, Senator Farley.

13                   Perhaps you want to lay the bill  
14          aside, or I would certainly appreciate for the  
15          first time if we actually passed an amendment  
16          offered by this side of the aisle.

17                   Thank you, Mr. President.

18                   ACTING PRESIDENT KUHL: Senator  
19          Farley on the amendment.

20                   SENATOR FARLEY: Yes. If I can,  
21          I may address even the bill at this time. We'll  
22          get it all done at once.

23                   Senator Onorato, I respect what

1       you're trying to do. Let me just give you the  
2       history of this because we have been around with  
3       this. At one time -- at one time this  
4       particular legislation had all 60 members of the  
5       Senate as sponsors, Senator Gold and Leichter  
6       and everybody I could think of, Senator  
7       Present. It goes back a number of years.

8                Believe it or not, this bill was  
9       a major priority of the elderly back when I was  
10      chairman of the Aging Committee. It was vetoed  
11      by Governor Carey who said it should have a  
12      means test to -- the State University says it  
13      would cost more to administer a means test if  
14      they put it in -- if they put a means test on  
15      it, they would oppose it.

16               Well, it passed again later under  
17      Governor Cuomo in both houses, and he vetoed it  
18      on the same objection. He actually was  
19      criticized editorially all over the state, and I  
20      probably shouldn't say this on the floor, but I  
21      will. I got a message from an emissary from the  
22      Governor that said, Do something to the bill so  
23      that we can sign it. So I reduced it to nine

1 hours. That's the minimum load that a person  
2 can take and still be a full-time student.

3 Now, you have to realize that the  
4 senior citizen now can audit a course at the  
5 State University but they don't get credit for  
6 it. This allows them to take a course for  
7 credit on a space available basis. If there's  
8 no room in the class, they can't get there.

9 I have no quarrel with your  
10 displaced worker situation. As a matter of  
11 fact, coming from Schenectady -- and Senator  
12 Hoblock and myself have a lot -- and Senator  
13 Bruno have a lot of people that have lost their  
14 jobs and, as a matter of fact, we're doing all  
15 we can to try to retrain them, et cetera. It's  
16 an excellent idea. I'm not going to put down  
17 your idea, Senator Onorato.

18 As a matter of fact, I would be  
19 willing to sponsor a bill doing that same thing,  
20 a separate bill for displaced workers with you.  
21 I would be happy to go on the bill with you and  
22 try to work to see if we could get this.

23 I've had -- incidentally, this

1 had 140-some-odd sponsors in the Assembly at one  
2 time. Assemblyman Conners who died carried it  
3 for years. Senator McEneny -- excuse me -  
4 Assemblyman McEneny has it now, and I would hope  
5 that he can get it through.

6 I would rather not, I won't say  
7 clutter up the bill with your amendment. I  
8 would prefer to do a separate bill. I would be  
9 happy to talk to you about it. We could put a  
10 whole load of things in here, faculty members,  
11 and so forth, but I don't want to poison the  
12 bill or -- with adding on an awful lot of other  
13 people.

14 Also, Senator Onorato, this is  
15 "Senior Citizen Day". It's one that I would  
16 like to see go forward. I'm confident that we  
17 could get the Governor to sign it. I would like  
18 to work with -- particularly with your side of  
19 the aisle to make sure that the Assembly takes  
20 it up. I don't think there's any objection  
21 anymore on the second floor to this. I don't  
22 think Governor Cuomo had an objection to it, but  
23 the bill just never passed. It's passed three

1 or four times over there, but we need to pass it  
2 again, but I would urge the defeat of the  
3 amendment with all due respect, and I'll be  
4 happy to work with you on a separate bill with  
5 that, if it wants to be an Onorato-Farley or the  
6 whole members of the group, great.

7 ACTING PRESIDENT KUHL: Senator  
8 Onorato on the amendment.

9 SENATOR ONORATO: Thank you, Mr.  
10 President.

11 Thank you, Senator Farley, for  
12 sharing some of your views on it, and I would  
13 just like to add a note to it.

14 One of the main reasons that I  
15 did offer this amendment today was the fact that  
16 it was "Senior Citizen Day", and in my district  
17 where I have been heavily impacted by  
18 downsizing, I have been receiving many, many  
19 calls from our senior citizens concerned about  
20 their children who have already lost their jobs  
21 and was asking if there was anything that I  
22 could possibly do to help them in a retraining  
23 program, and I mentioned the fact, I says, Well,

1       you know, I'm on a bill with Senator Farley,  
2       which is an excellent one, offering you people  
3       nine hours of extra classes on space available.  
4       I says, I'm going to offer an amendment.  
5       Perhaps we can help solve -- keep the seniors  
6       happy by allowing them to take part in it and to  
7       allow their children to have their day in the  
8       sun also, and this is why I think we can  
9       accomplish this whole thing today.

10                   I would really urge the adoption  
11       of the amendment.

12                   ACTING PRESIDENT KUHL:  Senator  
13       Farley on the amendment.

14                   SENATOR FARLEY:  Incidentally, on  
15       the amendment, on a possible bill, I think we  
16       ought to go full time, that we ought to be able  
17       to take fifteen hours displaced worker and not  
18       just the nine.  I think this nine hours is -  
19       basically it's a very modest load.  It's the  
20       minimum that somebody can take and still be a  
21       full-time student.  I think if we do a displaced  
22       worker bill, it should be unlimited hours.

23                   SENATOR ONORATO:  Well, I

1           certainly offer my co-sponsorship if we can see  
2           that bill before this session ends.

3                        SENATOR FARLEY:  You can be the  
4           prime.

5                        SENATOR ONORATO:  Thank you,  
6           Senator.

7                        ACTING PRESIDENT KUHL:  The  
8           question is on the amendment.  All those in  
9           favor of the amendment signify by saying aye.

10                      SENATOR PATERSON:  Party vote in  
11           the affirmative.

12                      ACTING PRESIDENT KUHL:  The  
13           Secretary will call the roll.

14                      (The Secretary called the roll.)

15                      ACTING PRESIDENT KUHL:  Party  
16           line vote on the negative -- on the Democratic  
17           side in favor.

18                      SENATOR SKELOS:  Party vote in  
19           the negative.

20                      ACTING PRESIDENT KUHL:  Record  
21           the party line votes.

22                      THE SECRETARY:  Ayes 20, nays  
23           35.  Party vote.

1                   ACTING PRESIDENT KUHL:  The  
2                   amendment is lost.

3                   Senator Skelos, why do you rise?

4                   SENATOR SKELOS:  Mr. President,  
5                   at this time, would you -

6                   SENATOR FARLEY:  Could we have a  
7                   vote on the bill.

8                   SENATOR SKELOS:  Read the last  
9                   section.

10                  ACTING PRESIDENT KUHL:  The  
11                  Secretary will read the last -- Senator Leichter  
12                  on the bill.

13                  SENATOR LEICHTER:  Mr. President,  
14                  on the bill.

15                  ACTING PRESIDENT KUHL:  Senator  
16                  Leichter, on the bill.

17                  SENATOR LEICHTER:  Senator  
18                  Farley, certainly your bill has a lot of merit.  
19                  I see it has some distinguished co-sponsors, but  
20                  I'll tell you, there's an unreality about this  
21                  bill.  It's sort of Pollyanna.

22                  We have a State University system  
23                  that is in dire straits.  We have enormous

1 problems in this system. It is underfunded. We  
2 have a group of new trustees that are misusing  
3 their position. They just hounded out the  
4 chancellor of the State University, and then you  
5 come in with a bill like this, Well, we'll let  
6 senior citizens attend. There may not be a  
7 State University left for them to attend, or if  
8 they go to the State University, they're going  
9 to find that there are so few classes available  
10 and those classes are so full, and since your  
11 bill provides that their right to attend depends  
12 upon available space, that -- I'm not sure that  
13 we're giving them very much.

14 The Governor has put forth a  
15 budget that again cuts SUNY substantially by \$72  
16 million. In addition, he cuts TAP. Last year,  
17 the tuition for SUNY, as you all know, went up  
18 \$750 as a consequence of a very severe budgetary  
19 cut.

20 The New York Times ran a good  
21 series on the State University. It pointed out  
22 that not many years ago, we were funding 90  
23 percent of the State University. Now we're

1 funding, I believe less than 60 percent and it  
2 may even be less than 50 percent. New York  
3 State is about 47th or 48th of all 50 states in  
4 their support for higher education.

5 So, you know, I question the  
6 value, Senator, of doing something of this  
7 sort. I guess, you know, you can go before  
8 senior citizen groups and say, Look what a  
9 wonderful thing I've done. I've enabled you to  
10 take classes for free at the State University,  
11 but what you're not telling them is that a great  
12 university system is about to be dismantled and,  
13 frankly, I don't see the Republicans and I  
14 certainly don't see the Governor -- well, it's  
15 silly to talk of the Governor because he's the  
16 one who's responsible, but I don't see the  
17 Majority in this house doing something to save  
18 the system. It is a very, very serious problem  
19 we have.

20 We created, and Senator Marchi  
21 will remember because he was probably in it at  
22 the beginning, a statewide university system  
23 under Nelson Rockefeller. I think it's probably

1 his proudest achievement, and that system has  
2 been whittled away, and now with the cuts of the  
3 last two years, it is really a system that is in  
4 deep, deep trouble and, frankly, that's what we  
5 need to address and rather than these "feel  
6 good" bills, Senator Farley, I would like to see  
7 you address the real problem. I would like to  
8 see our Higher Education Committee -- and I have  
9 a world of respect for Senator LaValle, but I  
10 would like to see us deal with the real problem  
11 of the State University system.

12 ACTING PRESIDENT KUHL: Senator  
13 Farley on the bill.

14 SENATOR FARLEY: Let me tell you  
15 something, Senator Leichter. This is not a  
16 "feel good" bill. This is a bill that in  
17 reality is needed. It's a bill that's been a  
18 very high priority of the elderly of this state  
19 for a lot of years. It's -- I happen to teach  
20 at the State University. I have been there most  
21 of my adult life. I'm a full professor there.  
22 I happen to -- I'm a graduate of the State  
23 University as is Judge Solomon and former

1 Senator Solomon. He wasn't one of my students,  
2 but he comes out of there, and let me tell you,  
3 there's room in classes for the elderly, and  
4 incidentally, let me say that there's no one on  
5 this side of the aisle or no one in this house  
6 that is opposed to letting -- that feels that  
7 the State University is in its demise. We  
8 support TAP. We have supported the State  
9 University in this house, and this Legislature  
10 has fought for the State University, and it will  
11 -- it is our shining jewel for this state.

12 This is a valid piece of  
13 legislation, one that I think should become  
14 law. It's long overdue. There's 49 members of  
15 this house that are sponsoring this  
16 legislation.

17 Senator Skelos has worked hard on  
18 this legislation for a number of years. It's a  
19 piece of legislation whose time has come. I'm  
20 telling you as a professor, there's something -  
21 when you get an elderly person in your class  
22 with the experience that they have to offer, the  
23 other students grow -- gain from it. It's a -

1 and believe me, there's room in class after  
2 class at the State University. True, we need to  
3 pay more attention to what is happening there.  
4 This budget that is going to be adopted will  
5 address the needs of the State University.

6 I'm excited about the future of  
7 our State University. I'm excited about the  
8 future of this bill, and I urge its support.

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

11 SENATOR LEICHTER: On the bill,  
12 Mr. President.

13 Senator Farley, I'm going to  
14 support the bill, but I'm just telling you that  
15 it doesn't deal with what is the real issue, and  
16 that's what I'm challenging you and the Majority  
17 to do. You talk about room in classes. That's  
18 just not the case, or maybe in physical  
19 education, maybe some of the seniors will be  
20 able to go into pole vaulting or classes in  
21 other sports activities, but when you look and  
22 you talk to the students, what is happening in  
23 classes, basic classes, English, history, and so

1 on, they can't get into classes. They can't  
2 take courses that they need to graduate, and if  
3 you don't realize that this is a system in  
4 trouble, Senator, then I think you're doing an  
5 ostrich-like act. You're just blind to what is  
6 happening.

7 So I challenge you not to come  
8 out with all of these "feel good" bills but to  
9 really deal with a problem that is a real threat  
10 to this state.

11 You know, we talk about economic  
12 competitiveness and we throw money at large  
13 corporations that are downsizing. Economic  
14 competitiveness means that you've got to give  
15 educational opportunities to the people in this  
16 state.

17 There's another article in the  
18 Times today about how well free tuition has  
19 worked at CUNY, how it has enabled people to get  
20 good jobs, but CUNY is also suffering because of  
21 the Pataki cuts, because of the budget, Senator,  
22 that you and this Majority has supported.

23 So the real test will be in your

1           commitment to SUNY, to CUNY, to higher  
2           education, when that budget comes out and let's  
3           see whether you have been able to eliminate the  
4           cuts for higher education.

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

7                         (There was no response.)

8                         Hearing none, the Secretary will  
9           read the last section.

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

12                        ACTING PRESIDENT KUHL:  Call the  
13           roll.

14                        (The Secretary called the roll.)

15                        THE SECRETARY:  Ayes 56.

16                        ACTING PRESIDENT KUHL:  The bill  
17           is passed.

18                        SENATOR SKELOS:  Mr. President,  
19           at this time could we please return to reports  
20           of standing committees.  I believe there's a  
21           report of the Rules Committee.

22                        ACTING PRESIDENT KUHL:  There is  
23           a report of the Rules Committee.  I'll ask the

1 Secretary to read.

2 THE SECRETARY: Senator Bruno,  
3 from the Committee on Rules, offers up the  
4 following bills directly for third reading:  
5 Senate Print 7510, by Senator Bruno and others,  
6 an act authorizing the payment of supplemental  
7 retirement allowances;

8 7502, by Senator Bruno and  
9 others, an act to amend the Education Law, in  
10 relation to submission of school district  
11 budgets.

12 SENATOR SKELOS: Mr. President, I  
13 move to accept the report of the Rules  
14 Committee.

15 ACTING PRESIDENT KUHL: The  
16 motion is to accept the report of the Rules  
17 Committee. All those in favor signify by saying  
18 aye.

19 (Response of "Aye".)

20 Opposed, nay.

21 (There was no response.)

22 The Rules report is accepted.

23 Senator Skelos.

1                   SENATOR SKELOS: Mr. President,  
2                   at this time for the purposes of Senator Larkin  
3                   voting, could we please take up Calendar Number  
4                   984, Senate 7510.

5                   ACTING PRESIDENT KUHL: The  
6                   Secretary will read the title to Calendar Number  
7                   984.

8                   THE SECRETARY: Calendar Number  
9                   984, by Senator Bruno, Senate Print 7510, an act  
10                  authorizing the payment of supplemental  
11                  retirement allowances.

12                  ACTING PRESIDENT KUHL: Senator  
13                  Skelos.

14                  SENATOR SKELOS: Would you please  
15                  -- is there a message at the desk?

16                  ACTING PRESIDENT KUHL: There is  
17                  a message of necessity at the desk, Senator  
18                  Skelos.

19                  SENATOR SKELOS: I move we  
20                  accept.

21                  ACTING PRESIDENT KUHL: The  
22                  motion is to accept the message of necessity on  
23                  Calendar Number 984 which is at the desk. All

1 those in favor signify by saying aye.

2 (Response of "Aye".)

3 Opposed, nay.

4 (There was no response.)

5 The message is accepted.

6 The Secretary will read the last  
7 section.

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

10 ACTING PRESIDENT KUHL: Call the  
11 roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT KUHL: Senator  
14 Larkin, how do you vote?

15 SENATOR LARKIN: I vote aye, sir.

16 SENATOR SKELOS: Mr. President,  
17 please withdraw the roll call.

18 ACTING PRESIDENT KUHL: The roll  
19 call is withdrawn.

20 The Secretary will continue to  
21 call the controversial calendar, with the  
22 exception -- Senator Skelos.

23 SENATOR SKELOS: Yes. Would you

1 please recognize Senator Marchi.

2 SENATOR MARCHI: The Chair  
3 recognizes Senator Marchi.

4 SENATOR MARCHI: Mr. President, I  
5 have a very pleasant responsibility to recognize  
6 and to address, and that is the presence of St.  
7 John's University School of Law graduates and  
8 functionaries who have distinguished themselves  
9 and are here this year, and they have been  
10 coming here on an annual basis for the purpose  
11 of meeting, because there are so many elements  
12 in this state. If we survive as we have in the  
13 past and worked out our problems in budgets and  
14 formulation of laws in giving meaning and  
15 significance to the word "Empire State", it's  
16 because of the tremendous membership of St.  
17 John's University graduates that have given  
18 life, animated the works of enlightened  
19 self-interest -- public interest -- in a most  
20 commendable way.

21 We had an earlier debate about  
22 how much we were doing or failing to do,  
23 recognizing the fact, Mr. President, that

1 Washington, no matter what the auspices are,  
2 whether they're Democratic or Republican, they  
3 turn a cold shoulder when it comes to  
4 recognizing the measure of effort that this  
5 state makes to meet its cultural, educational  
6 and social needs.

7                   We still cling to the belief that  
8 we -- that humanity must be treated with the  
9 same dignity that we like and expect to receive  
10 from -- from each other, and they are here  
11 today, St. John's University. I need not tell  
12 you, those of you who are familiar with St.  
13 John's University, believe you -- believe me  
14 that if the conditions that were described a  
15 little earlier in some of the debate were  
16 applied to St. John's, St. John's really lives  
17 and prospers and grows on a very, very Spartan  
18 basis, yet they produce excellence that no one  
19 will challenge.

20                   They are here today, and I would  
21 ask just -- I would just cite the presence of a  
22 few people, but there are many of them who will  
23 be meeting later as they have through the

1 years.

2 On my list here, I have the  
3 Honorable Milton Mollen, former presiding  
4 justice of the Appellate Division, Second  
5 Department. We go back a long time, don't we,  
6 Judge Mollen?

7 Dean Rudolph Hasl, dean of the  
8 law school;

9 Richard J. Kane, president of the  
10 Alumni Association;

11 The Honorable Edward J. Hart,  
12 associate justice of the Appellate Division;

13 Ann Murphy, assistant dean for  
14 Alumni Relations, and many others who will be  
15 assembling later on this afternoon at a  
16 reception.

17 I ask, Mr. President, that you,  
18 in your own inimitable way, give them a warm  
19 welcome again on behalf of the Senate of the  
20 state of New York and wish them well on their  
21 brief stay here with us today.

22 ACTING PRESIDENT KUHL: Senator  
23 Marchi, thank you for bringing it to the

1 attention -- to the attention of the chamber  
2 that -- the presence of these members from St.  
3 John's University.

4 Certainly on behalf of yourself,  
5 Senator Bruno, and all the members, we welcome  
6 you all to Albany. Hope you have a very  
7 pleasant stay and congratulations for all you do  
8 for us certainly, and for all the people in the  
9 state of New York, and enjoy your stay while  
10 you're in Albany.

11 The Secretary will continue to  
12 call the controversial calendar.

13 THE SECRETARY: Calendar Number  
14 764, by Senator Marchi, Senate Print 2379, an  
15 act to amend the Public Authorities Law, in  
16 relation to directing the Triborough Bridge and  
17 Tunnel Authority.

18 SENATOR PATERSON: Explanation.

19 ACTING PRESIDENT KUHL: Senator  
20 Marchi, Senator Paterson, the Acting Minority  
21 Leader has asked for an explanation on Calendar  
22 Number 764.

23 SENATOR MARCHI: 764, Mr. -- I

1           was caught up in the emotional circumstances of  
2           presenting my friends.  That's -- what number do  
3           we have?

4                           ACTING PRESIDENT KUHL:  Calendar  
5           Number 764, Senate Print 2369, which deals with  
6           the toll collection on the Verrazano Bridge.

7                           SENATOR MARCHI:  This is the one  
8           directional -- well, I'm sure that everyone is  
9           just waiting anxiously to vote for this bill  
10          because they -- every single member in this  
11          chamber is imbued with a sense of justice, and  
12          I'm sure that they would do nothing, that they  
13          would touch nothing that would disabuse anyone,  
14          especially in the presence of distinguished St.  
15          John's University alumni.

16                          SENATOR GOLD:  Point of order.  
17          They left.

18                          SENATOR MARCHI:  Point of order.  
19          They left.  We go back to an old routine, hey?

20                          No, this is a very serious bill.  
21          When the Verrazano Bridge was draped over the  
22          entry to the harbor and -- it was a very  
23          important facility, not built for Staten Island

1       because I can assure you, having lived through  
2       that period when the building of the bridge was  
3       very much in contention in both Bay Ridge and,  
4       as Senator DiCarlo probably remembers as a  
5       youngster -- but his father remembers very  
6       clearly, and your father also, Senator Paterson  
7       -- it was greeted with mixed feelings, and that  
8       would be the most charitable attribution that I  
9       could make or characterization that I could make  
10      about the Verrazano Bridge at that time.

11               Of course, that has brought us  
12      closer together, but the purpose of the bridge  
13      at that time was to provide access, the  
14      tremendous traffic that was going down below the  
15      40th parallel, all going into Manhattan. There  
16      was no other way in which you could reach the  
17      mainland unless you took a ferry trip, and that  
18      only could accommodate a few numbers of cars.  
19      So without that bridge, the millions and  
20      millions of cars that go over it annually -- it  
21      runs into many tens of millions of automobiles  
22      every single year -- now are able to cut across  
23      and go directly south to -- and to proceed to

1 New Jersey south without going into lower  
2 Manhattan. They would have had to go to the  
3 Brooklyn Battery Tunnel or the bridges and plow  
4 through Manhattan. So you can imagine the -  
5 really the effectiveness of that bridge in  
6 relieving lower Manhattan and all the areas in  
7 between of the heavy traffic that would have  
8 been inevitable and still growing. You'd be  
9 choking over in those areas if it had not been  
10 for the Verrazano Bridge.

11 ACTING PRESIDENT KUHL: Excuse  
12 me, Senator Marchi.

13 I see Senator Paterson has  
14 risen. I'm not sure whether he's fulfilled with  
15 the explanation or whether he wishes to ask you  
16 a question.

17 Senator Paterson, why do you  
18 rise?

19 SENATOR PATERSON: No. I was  
20 listening to the explanation, Mr. President. I  
21 don't really know why I rose.

22 SENATOR MARCHI: Did you wish to  
23 pose a question, Senator?

1                   SENATOR PATERSON: Well, while  
2 I'm here, yes.

3                   ACTING PRESIDENT KUHL: Senator  
4 Paterson, you look great on your feet, but you  
5 look better in the chair.

6                   Senator Marchi, do you yield to a  
7 question from Senator Paterson?

8                   SENATOR MARCHI: Yes, certainly,  
9 at any time.

10                  ACTING PRESIDENT KUHL: The  
11 Senator yields.

12                  SENATOR PATERSON: Senator  
13 Marchi, isn't it true that an environmental  
14 impact statement has not been done on the  
15 traffic in that particular area since 1988?

16                  SENATOR MARCHI: Well, with the  
17 -- if you listen to the rest of my peroration,  
18 you will probably feel that any other decision  
19 other than the one that I'm suggesting in this  
20 legislation would be -- would certainly be -- do  
21 violence to your concept, our shared concept of  
22 justice. So perhaps we might defer that,  
23 Senator.

1           The traffic going into -- in the  
2 morning. The toll is collected when they come  
3 back. The tremendous traffic that comes up from  
4 the south and proceeds -- and proceeds over the  
5 Verrazano Bridge into Manhattan and other points  
6 of Long Island is enormous. If we had to  
7 reverse the process, either have a two-way toll  
8 or a toll coming -- being paid at the way out,  
9 the delays -- the interminable delays that are  
10 already attendant on traffic over that bridge -  
11 the talk is already going on of either  
12 amplifying it or building another one to relieve  
13 the enormous traffic that is -- the condition  
14 under which the present bridge is operating  
15 under -- would delay and practically wipe out  
16 the employment opportunities of many people who  
17 have to take their cars in for working purposes,  
18 and the delay is very, very extensive, very  
19 long, and Congress at one point had established  
20 that the fare be collected -- collected on the  
21 way back.

22           Now, you can understand people  
23 start the day going into the various -- fanning

1 out over Long Island and to Connecticut and New  
2 York, and so forth. They all leave early  
3 because they have a day to address, but coming  
4 back is a different matter. People will come  
5 back over the space of many hours. So it's far  
6 easier to accommodate a flow of traffic that  
7 doesn't -- that is not as intense in collecting  
8 the fares.

9 So it's a matter of employment.  
10 It's a matter of survival economically to  
11 thousands of people in Staten Island, those who  
12 use the bridge. We're not the major component  
13 of that traffic, but we are a significant  
14 component, and without the access that is  
15 required at the beginning of a workday -- and  
16 even then it's under very trying circumstances  
17 -- many times people, because of accidents or  
18 other factors, end up by being delayed somewhat,  
19 but nothing compared to what it would be if the  
20 process was reversed.

21 So that there is a tremendous  
22 convenience to the people of New York City and  
23 the Northeast by having this bridge in place,

1 but we're paying a very heavy price down there,  
2 and to have this reversed would intensify that  
3 burden to the breaking point, and I don't think  
4 anyone here really seriously can suggest that we  
5 reverse that process.

6 We have a -- we have a problem  
7 too that's generated by this heavy flow of  
8 traffic, but I say when all the equities are  
9 evaluated, we simply cannot negotiate anything  
10 that would permit this process to be reversed  
11 without killing us economically. I don't think  
12 that's the intention of anyone in this chamber.

13 The environmental impact  
14 statement, I don't know when it's going to come  
15 in, if ever, but we can't leave this Damoclean  
16 sword dangling over the people of Staten Island  
17 that must have this facility at this point and  
18 must have the capacity, the capability of  
19 getting to work on time without really, really  
20 threatening their livelihood, and I don't think  
21 that's the intention of anyone here.

22 We have other problems in Staten  
23 Island. You know, if any other community in the

1 state of New York had the problem that we have  
2 with the garbage dump, where over 50 percent of  
3 all the solid waste in the state of New York is  
4 deposited on Staten Island -- and that mound is  
5 climbing, reaching greater heights -- you'd have  
6 a revolution in any other part of the city of  
7 New York or any other community that I can think  
8 of.

9                   Sometimes I feel I'm derelict  
10 because I haven't dramatized this dilemma  
11 enough, but we've put up with that, maybe  
12 because we don't have any choice and we're  
13 hoping and praying and working towards an  
14 earlier resolution of that problem.

15                   I'm very proud of the fact that  
16 Senator DiCarlo, who's on the other side of the  
17 bridge and could allege some of the problems,  
18 also shares that feeling and support -- has  
19 loyally supported our feeling as our  
20 distinguished Minority Leader at one time  
21 supported us. I think an objective  
22 consideration of the equities that are involved  
23 here would lead you to support this legislation

1 and make this act permanent.

2 Now, if technology or something  
3 comes along at some point to reverse it, then  
4 maybe other options can be exercised and the law  
5 can be changed, but the circumstances as they  
6 exist now where the caprice or whim of anybody  
7 in a position of authority can reverse that  
8 project -- prospect and, indeed, the very fact  
9 that there is opposition offered to this bill  
10 would indicate that there are those who would  
11 reverse it, makes it imperative, I think for the  
12 people that I represent, along with Senator  
13 DiCarlo, that this legislation be approved.

14 ACTING PRESIDENT KUHL: Senator  
15 Paterson.

16 SENATOR PATERSON: Mr. President,  
17 Senator Marchi has answered all of the questions  
18 that I would have asked.

19 So on the bill. This legislation  
20 was originally passed in 1986, and it was passed  
21 with a certain stigma in the sense that there  
22 was some federal legislation that had a caveat  
23 that to receive federal highway money, New York

1 State must pass this legislation in the form  
2 that we did. That restriction that the fed's  
3 put on us at that particular time advised by  
4 Congressman Molinari and now Congressman Susan  
5 Molinari has elapsed and so, therefore, we are  
6 not under the same pressure, I would say, to  
7 pass the legislation, or it certainly was  
8 advisable to pass the legislation at that  
9 particular time because it enabled our state to  
10 receive greater federal highway monies.

11 Staten Island's gain,  
12 unfortunately, has been a loss for other centers  
13 in Brooklyn and in Queens and in lower Manhattan  
14 that have suffered because of the increased  
15 traffic from trucks and other vehicles that are  
16 trying to avoid the toll, and so while we do  
17 appreciate the problem that may exist, we would  
18 need to be further enlightened if the 1988  
19 environmental impact statement would be updated  
20 so that we can establish that there really  
21 should be a problem.

22 And for that reason, 13  
23 enlightened members of this chamber voted

1       against this bill last year, Mr. President, and  
2       they are Senators Abate, Connor, Espada, Kruger,  
3       Leichter, Markowitz, Mendez, Montgomery,  
4       Oppenheimer, Paterson, Smith, Santiago and  
5       Stachowski. Now, more interesting than the fact  
6       that these Senators voted against the  
7       legislation, Mr. President, is that there is  
8       nothing on this piece of paper.

9                   Thank you.

10                  ACTING PRESIDENT KUHL: The Chair  
11       recognizes Senator DiCarlo on the bill.

12                  SENATOR DiCARLO: Thank you, Mr.  
13       President.

14                  Senator Marchi said everything  
15       that I would have said, and I want to thank  
16       Senator Marchi for his many years of standing up  
17       for the rights of the people of Staten Island  
18       which I represent a portion of, but I just want  
19       to add that it's been said that what's been done  
20       to the Verrazano Bridge in terms of the toll has  
21       been to the detriment of a lot of people in  
22       Brooklyn, and speaking as a representative from  
23       Brooklyn who represents Staten Island and

1 Brooklyn who lives in Brooklyn, whose district  
2 is connected by both sides of the Verrazano  
3 Narrows Bridge, not only from my constituents on  
4 Staten Island do I support this bill but even my  
5 constituents in Brooklyn, in Bay Ridge, in  
6 Bensonhurst, who find it to be a convenience,  
7 not something that's a detriment to their  
8 lives. So I urge its passage.

9 Thank you.

10 ACTING PRESIDENT KUHL: Senator  
11 Abate on the bill.

12 SENATOR ABATE: Yes, on the  
13 bill. With all due respect for my colleagues, I  
14 speak on behalf of the 13 state Senators and  
15 Senator Paterson who is reading from a blank  
16 sheet. I will try to fill in some writing on  
17 that sheet, but -- and I understand the  
18 arguments made by Senator Marchi that there was  
19 a compliance or a need to comply with a federal  
20 rule in 1986 to ensure that federal dollars  
21 would be forthcoming to Staten Island.

22 There were a great deal of issues  
23 that were very eloquently outlined by the

1 Senator, but if we were to make the one-way toll  
2 permanent, we would be neglecting another  
3 community whose voice needs to be heard in this  
4 chamber, and I would lend a voice to the  
5 residents of lower Manhattan.

6 It's one of those issues when I  
7 go into lower Manhattan, if there are two or  
8 three issues that are presented to me on any  
9 given day, the issue around the air quality, the  
10 increased vehicular traffic caused by the  
11 one-way toll is of increasing concern to the  
12 residents of lower Manhattan, and before we make  
13 this one-way toll permanent, there must be a  
14 serious consideration by this body working with  
15 the local officials to see how we can remedy  
16 that situation. Before that occurs, I believe  
17 there are local issues that are still rampant,  
18 that are serious, that need to be addressed, and  
19 I would still advise us that before we proceed,  
20 we need a more recent environmental impact  
21 statement. There has not been one done for a  
22 very long period of time, and I cannot support  
23 this legislation until the needs of lower

1 Manhattan are addressed.

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

4 (There was no response.)

5 If not, then the Secretary will  
6 read the last section.

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

9 ACTING PRESIDENT KUHL: Call the  
10 roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT KUHL: Announce  
13 the results when tabulated.

14 THE SECRETARY: Those recorded in  
15 the negative on Calendar Number 764, Senators  
16 Abate, Connor, Espada, Gold, Leichter,  
17 Markowitz, Nanula, Onorato, Paterson, Santiago,  
18 Seabrook, Smith, Stachowski, Stavisky. Also,  
19 Senator Montgomery, Senator Oppenheimer. Ayes  
20 42, nays 16.

21 ACTING PRESIDENT KUHL: The bill  
22 is passed.

23 Senator Skelos.

1                   SENATOR SKELOS:  Would you just  
2 stand at ease temporarily.

3                   ACTING PRESIDENT KUHL:  The  
4 Senate will stand at ease for a few moments.

5                   (Whereupon, the Senate stood at  
6 ease from 4:15 p.m. to 4:21 p.m.)

7                   The Senate will come to order.  
8 Ask the members to find their places, the staff  
9 to find theirs.  Have a little order in the  
10 chamber.

11                  SENATOR BRUNO:  Mr. President,  
12 can we at this time call up Calendar Number 984.

13                  ACTING PRESIDENT KUHL:  The  
14 Secretary will read the title to Calendar Number  
15 984.

16                  THE SECRETARY:  Calendar Number  
17 984, by Senator Bruno, Senate Print 7510, an act  
18 authorizing the payment of supplemental  
19 retirement allowances.

20                  ACTING PRESIDENT KUHL:  The  
21 message of necessity was previously accepted.

22                  The Chair recognizes Senator  
23 Bruno.

1                   SENATOR BRUNO: Mr. President, we  
2                   have before us a pension supplementation bill.  
3                   There are approximately 350,000 public employees  
4                   that have retired over the years, and these  
5                   people were of great service to the people of  
6                   this state. We in this chamber feel that these  
7                   public employees should get their pension  
8                   supplementation, and this bill will accomplish  
9                   that.

10                   I think it's important to note  
11                   that the Assembly has passed a bill, and they  
12                   have passed a different version. This is the  
13                   Governor's program bill. This is a bill that  
14                   the Governor has said he will sign and make a  
15                   law of this state. It will pay, not starting in  
16                   September, but it will pay the retirees  
17                   retroactively to last September. This fund is  
18                   there. The money is available, and it does some  
19                   of the other things that are appropriate as  
20                   relates to municipalities and it, in essence,  
21                   doesn't leave it to the discretion of the  
22                   comptroller on whether or not he should pay  
23                   this. It mandates that the comptroller pay the

1           retirees out of this supplemental pension fund.

2                         So, Mr. President, for those in  
3           this chamber that would like to see the retirees  
4           of this state, the people who have served the  
5           people of this state get a pension supplementa  
6           tion, I am stating that if we pass this bill, we  
7           send it to the Assembly, the Assembly will pass  
8           it, the Governor will sign it and checks will  
9           start to flow. If people want to do otherwise,  
10          well, then, the people of this state who deserve  
11          this supplementation are going to be on the  
12          sidelines waiting.

13                        Again, I just talked with the  
14          Governor. The Governor has indicated that he  
15          will state publicly that this bill that's before  
16          us, his program bill, is the bill that he will  
17          sign into law. So everything else aside, we  
18          want the retirees to get their pension  
19          supplementation because we feel they deserve  
20          it. They've earned it. It's overdue.

21                        So I would urge my colleagues in  
22          this chamber to expedite the passage of this  
23          legislation so that the retirees can start

1 getting their supplemental retirement checks.

2 Thank you, Mr. President.

3 ACTING PRESIDENT KUHL: The Chair  
4 recognizes Senator Hoffmann.

5 SENATOR HOFFMANN: Mr. President,  
6 I believe I have an amendment at the desk.

7 ACTING PRESIDENT KUHL: There is  
8 an amendment at the desk, Senator Hoffmann.

9 SENATOR HOFFMANN: I would ask  
10 its short title be read, please.

11 ACTING PRESIDENT KUHL: You're  
12 asking for the reading of it to be waived,  
13 Senator Hoffmann, and an opportunity to explain  
14 the amendment.

15 SENATOR HOFFMANN: Thank you. I  
16 will be happy to explain the amendment.

17 ACTING PRESIDENT KUHL: The floor  
18 is yours to explain the amendment.

19 SENATOR HOFFMANN: Thank you.

20 Mr. President, Senator Bruno, I  
21 think eloquently explained the great desire that  
22 everyone in this chamber has, I'm sure, to see  
23 that the retirees of the state of New York

1       achieve that due that they were denied last year  
2       and, in fact, for many years have been denied,  
3       which is an opportunity to experience a gravely  
4       needed, in some cases, desperately needed  
5       increase in their pensions.

6                       This state has a very rich  
7       pension fund. It's now \$77 billion, and it also  
8       has some of the most dedicated employees of the  
9       state and some retirees who served at a time  
10      when they worked for relatively meager wages.  
11      Many of them have lived into ripe old years, and  
12      they are trying to get by on an income from  
13      their pensions that is not adequate even for  
14      survival.

15                      There are horror stories of  
16      police and firefighters who risked their lives  
17      in the line of duty but are now forced to live  
18      without adequate income because their pensions  
19      have not been supplemented and have not been  
20      increased in many years.

21                      We do, in fact, have a pension  
22      supplement fund. It was established in the '60s  
23      for the purpose of increasing those pensions,

1 especially for the older pensioners, and the  
2 reality of that fund is that it has not been  
3 fairly used and there have been several attempts  
4 by this Legislature under two governors, I might  
5 add, to raid that pension fund. Now the courts  
6 have made it absolutely clear that a raid on  
7 that pension fund will not be tolerated.

8 This bill, although it does  
9 several very good things is still flawed in that  
10 it would continue a raid on the pension fund.  
11 This time the raid would be from the  
12 supplemental pension fund, and it would be used  
13 to offset those costs incurred in the years  
14 '91-92, '92-93, '93-94, '94-95 by local  
15 governments under a system that was called PUC,  
16 and it was later proven by the courts to be  
17 illegal.

18 The PUC system was Projected Unit  
19 Credit method. That was the acronym that this  
20 state government came up with as a means of  
21 evading responsibility for picking up these  
22 costs, and it was a way of borrowing from  
23 localities at a time when the state began to get

1       into some fiscal problems.

2                   PUC was later overturned in the  
3 courts and then last year on June 7th of 1995,  
4 this Legislature, both houses with only two  
5 dissenting votes in each -- one dissenting vote  
6 in the Assembly, one dissenting vote in the  
7 Senate, passed very late at night without very  
8 much explanation a bill that was a raid on the  
9 pension fund.

10                   Now, it was camouflaged as an  
11 increase in the pensions for retirees, and it  
12 sounded very good on the surface. It was very  
13 difficult to find out what it actually did. I  
14 was one of the two legislators in the state of  
15 New York who voted against it, frankly because I  
16 couldn't understand it and even my layman's  
17 reading of it made me suspect that there was a  
18 raid in there.

19                   It turned out that I was  
20 correct. There was a raid on the pension fund  
21 and the courts, in their wisdom -- two courts to  
22 date -- the Appellate Division has made its  
23 ruling and has stated that it is implicit in the

1 Constitution's assurance that pension benefits  
2 shall not be impaired and that pension  
3 beneficiaries are entitled to the independent  
4 judgment of the comptroller in managing the  
5 system's assets.

6 Now, the bill before us today, I  
7 am sorry to say, well intentioned as it is, does  
8 two things that are absolutely verboten  
9 according to the Appellate Division, and I would  
10 best guess by the time the Court of Appeals  
11 rules on this in another -- in a very short  
12 amount of time, we're going to find that they  
13 also will uphold this. The decision so far has  
14 been that the comptroller must have sole  
15 discretion. The bill before us today eliminates  
16 the sole discretion for the comptroller. The  
17 courts have ruled that there shall be no  
18 impairment of those funds, that the pension  
19 funds are to be used exclusively for a pension,  
20 not to a payback for the local governments for  
21 years '91 through current. That's what's  
22 proposed in this bill.

23 Now, maybe some of my colleagues

1 across the aisle who put their names on this  
2 bill were unaware of the reality of that. This  
3 flies in the face of the court's ruling which  
4 invalidates the law that was enacted last year  
5 and puts us back at square one. \$230 million of  
6 the pension reserve fund, the pension supplement  
7 fund would be used in effect as budget  
8 balancing. This is another raid on the pension  
9 fund, some of it for local governments, some of  
10 it for the state's share, all necessitated by  
11 the invalidation of PUC by the courts and the  
12 comptroller's ruling -- the court's ruling that  
13 there could be no bullet to the head or as the  
14 comptroller liked to say, a booby trap on last  
15 year's bill.

16 The comptroller spoke earlier  
17 today to some retirees after he got wind of this  
18 bill. Most of us have only recently seen it.  
19 Like so many other things that happen around  
20 here, this came with no adequate review, and I'm  
21 disappointed in that. I thought we were doing  
22 things in a more progressive way this year and  
23 that bills of this sort would come before the

1 Finance Committee.

2 I'm troubled that this bill came  
3 through the Rules Committee. There was no  
4 adequate review by Civil Service or any of the  
5 other of government operations. There was no  
6 adequate review of this bill. It has just come  
7 to us now. So forgive me if I am not as  
8 articulate as I would like to be about this  
9 measure, but I really believe that in the best  
10 interests of the retirees of this state, it  
11 would be a terrible mistake to pass this bill in  
12 its present form.

13 Therefore, I have offered at the  
14 desk, and many of my colleagues concur with me,  
15 a measure that is modeled on the bill previously  
16 passed in the Assembly which complies with the  
17 court ruling and makes it very clear that we  
18 cannot mandate to the comptroller the means by  
19 which he must undertake repayment and that we  
20 absolutely cannot raid the pension supplement  
21 fund in any way to balance the budget even if it  
22 is to repay local governments and to repay the  
23 state's share for those years when it was

1 inappropriately raided before.

2 So, please, let's pass the  
3 amendment and do what the Assembly has already  
4 done and send a reasonable bill to the Governor  
5 that will not in any way erode the pension fund  
6 of the retirees of the state of New York.

7 ACTING PRESIDENT KUHL: Senator  
8 Connor.

9 SENATOR CONNOR: I guess the most  
10 important principle involved here with this bill  
11 is keeping our word, as the Legislature, as the  
12 representatives of all the people in this state,  
13 keeping our word to our retirees, keeping our  
14 word to those who served the people of this  
15 state and, indeed, invested a lifetime and  
16 supplementing their pension, which in many cases  
17 hasn't been done in many years in a way that  
18 reflects current economic reality, and the only  
19 way to really keep our word which we gave last  
20 year is to adopt this amendment offered by  
21 Senator Hoffmann, which is the bill which the  
22 Assembly passed, and which would pay the  
23 supplementation retroactively to when we gave

1       our word to these retirees that they would  
2       receive this.

3                   The bill the Majority has  
4       presented and apparently which the Governor  
5       supports simply repeats the error of last year  
6       and, as Senator Hoffmann pointed out, many of us  
7       erred, but, indeed, some of us recognize it  
8       would truly be foolish -- truly be foolish to  
9       once again repeat the same mistake, if you can't  
10      learn from what happened last year that the  
11      Comptroller and the courts will not allow a raid  
12      on the pension fund and that the only way to  
13      insure supplementation for our retirees is by a  
14      straightforward bill, which this amendment is,  
15      that provides that supplementation, and that  
16      anything else, an attempt to revisit last year,  
17      an attempt to stubbornly adhere to last year's  
18      mistake, will only thwart that obligation we  
19      have to the retirees.

20                   Therefore, Mr. President, I urge  
21      this body, let's do the straightforward, direct  
22      thing. Let's do something rare for the  
23      Legislature. Let's do something straight

1 forward. We say we want to supplement the  
2 retirees' pensions, let's simply supplement the  
3 retirees' pensions and stop trying back door  
4 raids on the pension fund, which, thanks to our  
5 Constitution and its establishment of the  
6 Comptroller and the court system, is thwarted by  
7 the law.

8 You know, I'm willing to admit  
9 last year, under the circumstances, I voted for  
10 the original plan. The courts have made me see  
11 the light. It's time just to keep our word to  
12 the retirees who were caught -- who were caught  
13 in the middle of this thing. They have nothing  
14 to do with it. They desperately need that  
15 little bit of supplementation to their pension  
16 that we all say we want to provide.

17 So let's do it the direct way.  
18 Let's adopt this amendment. Let's not play  
19 political games with this. Let's do what the  
20 Assembly did. Pass this amendment and give them  
21 their benefits.

22 ACTING PRESIDENT KUHL: Senator  
23 Dollinger on the amendment.

1                   SENATOR DOLLINGER: On the  
2 amendment, Mr. President.

3                   I would just supplement both the  
4 comments, the excellent comments of our  
5 Democratic leader, Senator Connor, and my  
6 colleague Senator Hoffmann. I believe that this  
7 is not only the right thing to do, I think we're  
8 bound by our oath of office to do it, because it  
9 seems to me that the way the Legislature works  
10 is we did take a step and, Senator Connor, I was  
11 one of those who voted for this bill last time  
12 because I thought it was within the ambit of our  
13 legislative power to push that envelope to see  
14 whether we could take this idea, debate it as  
15 you wish, but the Legislature could take an  
16 idea, try it. We did try it. Right or wrong,  
17 we tried it. I voted for it.

18                   The courts came back to us in the  
19 checks and balance system that governs this  
20 state and said the Legislature does not have the  
21 power to raid the pension fund. Even if it  
22 decides in its majority wisdom that it should,  
23 it didn't get the power from the people of the

1 state of New York to do it. It wasn't  
2 constitutionally given to the Legislature. You  
3 can't do it. Don't do it. It's a power vested  
4 by the Constitution solely in the hands of the  
5 Comptroller.

6 It seems to me having been told  
7 that by the courts in this state, the system of  
8 checks and balances have worked and the oath of  
9 office that I took to uphold the Constitution of  
10 this state now requires that we not do something  
11 that our courts have told us violates the  
12 fundamental power that the people gave to the  
13 Comptroller and took away from this  
14 Legislature.

15 I think our oath of office  
16 requires that every member of this chamber vote  
17 for this bill, that we stop doing something that  
18 the courts have told us is bad for the people of  
19 this state and which we do not have the  
20 constitutional power to do.

21 I suggest we must vote for this  
22 amendment.

23 ACTING PRESIDENT KUHL: Senator

1 Paterson on the amendment.

2 SENATOR GOLD: Why don't I yield  
3 to Senator Paterson.

4 ACTING PRESIDENT KUHL: Good  
5 idea.

6 SENATOR PATERSON: Thank you, Mr.  
7 President.

8 The pension system has grown just  
9 in the last four years from \$58 billion to \$77  
10 billion. The unfortunate result of that is that  
11 there have been many attempts to raid the  
12 pension system because of other financial  
13 problems that the state has.

14 Senator Hoffmann has offered us a  
15 unique opportunity with this amendment because I  
16 think it's been pretty clear from court dicta  
17 that we as a Legislature were wrong, that we did  
18 not keep our contract with the individuals  
19 around this state who worked hard, and it is  
20 their work and their efforts that have provided  
21 the broad revenue base for this pension system  
22 in the first place, and we owe them.

23 Senator Hoffmann talked about the

1 projected unit credit method, and this was  
2 something that, to be fair, wasn't put in by  
3 Governor Pataki. It was put in by Governor  
4 Cuomo, and it doesn't matter who put it in. It  
5 was wrong. But what's so interesting is that  
6 Governor Pataki campaigned against the projected  
7 unit credit method. That was part of his  
8 campaign when he was running for governor, and  
9 the minute he gets into office, he vetoes a  
10 pension supplement bill and the individuals of  
11 this state have not received a supplement since  
12 1988, and then in June of 1995, this bill is  
13 offered that at the time we believed would  
14 establish a pension supplement for individuals  
15 who had worked here in New York State.

16 But what it actually had is what  
17 Comptroller McCall calls a booby trap, because  
18 if there was any attempt to challenge that raid  
19 on the Special Reserve Fund, the \$390 million  
20 that was a pension supplement, if there was any  
21 challenge to it, then that delayed the payments  
22 of the supplement for a year, and so it was one  
23 of those pieces of legislation that actually

1       negated any attempt to actually try to thwart  
2       it, and so that's where we come to this  
3       discussion today in a situation where people who  
4       live in this state relied, on their detriment,  
5       through a contract they have with us who are  
6       their legislators, and we are allowing the state  
7       to enrich itself unjustly by raiding this  
8       particular system.

9                In other types of cases, this  
10       kind of gimmick or this kind of hoodwinking of  
11       the public might not be perhaps as sad and as  
12       mournful as this is, but the fact is that there  
13       are individuals who have retired who will die  
14       before they ever get the money that they rightly  
15       earned, and that's why this amendment that  
16       Senator Hoffmann has offered and which Senator  
17       Connor commented on, they are giving us really a  
18       second chance, a chance to let the people of  
19       this state know that we respect their right to  
20       their pension funds from our pension system.

21               And so I strongly urge that this  
22       amendment be passed.

23               SENATOR GOLD:   Mr. President.

1                   ACTING PRESIDENT KUHL: Chair  
2 recognizes Senator Gold on the amendment.

3                   SENATOR GOLD: Thank you very  
4 much.

5                   First of all, Mr. President, I  
6 think we ought to clarify terms because when we  
7 talk about, Senator Bruno, keeping our promise,  
8 I don't think voting for a bill keeps a  
9 promise. I think what keeps a promise is  
10 passing a law and seeing somebody get a check.  
11 That's keeping a promise.

12                   Senator, I don't understand why.  
13 Maybe you can explain, Senator Bruno, why the  
14 Governor introduced this bill or you did it for  
15 him on May 6th, which is I guess yesterday. I  
16 don't understand that because you, Senator  
17 Bruno, I assume committed to this issue,  
18 sponsored a bill back in April with Senator  
19 Trunzo and some of your colleagues which, by  
20 coincidence, is the exact same amendment that is  
21 being offered by the Democrats by way of Senator  
22 Hoffmann.

23                   Now, the tragedy of it all is now

1 we hear all of the time, if you amend the bill  
2 it's got to go back to the printer, and when  
3 it's at the printer we're going to waste time,  
4 and then it's got to come and it's got to sit on  
5 a desk. I don't know this, I can't speak for  
6 Senator Hoffmann, but it seems to me that if the  
7 Rules Committee went in and reported out Senate  
8 Bill 7457A, which is the same as the amendment,  
9 and then moved to substitute the Assembly bill  
10 which is already passed, we could pass today,  
11 Senator Bruno, a bill that's already passed both  
12 houses. So we wouldn't have to make that  
13 argument that we can pass a bill today that the  
14 Governor says he is going to sign and wait for  
15 the Assembly to do it and see whether the  
16 Assembly is interested or not, and then worry  
17 that even if the Assembly was interested and the  
18 Governor is interested, it can't be a law anyway  
19 because the courts have said that.

20 We could pass a bill today,  
21 Senator Bruno, either by way of this amendment  
22 or by way of your reporting out the Trunzo-Bruno  
23 bill and actually get something on the

1 Governor's desk that has passed both houses.

2 So the bottom line here is that  
3 we are fighting not to pass, quotes, "a bill" on  
4 the floor of the Senate. The Democrats in this  
5 house led by our leader are trying to get a  
6 law. Now, a law means money. A law means that  
7 we can get a check in these people's hands. I  
8 think the concept of passing, quotes, "a bill"  
9 that does not become a law or a law that will be  
10 voided by the courts does not keep a promise.

11 As a matter of fact, when you are  
12 dealing with people who are looking for a  
13 pension supplement, it's a terrible hoax, it's a  
14 terrible joke, to put it out there and give them  
15 a hope, when the fact is that we know from  
16 scratch that that hope cannot be fulfilled.

17 So I would urge my colleagues on  
18 the other side, number one, to either pass the  
19 amendment as offered by Senator Hoffmann or if  
20 it gets in your craw that this Democrat from  
21 Upstate New York might get some credit for some  
22 involvement in the legislative process, God  
23 forbid, from your point of view, then put out

1 the Trunzo bill and substitute the Assembly  
2 version and, today, we could have a situation  
3 where both houses pass something that is sign  
4 able, that is legal and that can pass the money  
5 through.

6 ACTING PRESIDENT KUHL: Is there  
7 any other Senator wishing to speak on the  
8 amendment?

9 Senator Hoffmann.

10 SENATOR HOFFMANN: I want to  
11 compliment my colleague, Senator Gold, on his  
12 great insight into the legislative process.  
13 Once again, I was a day late and a little bit  
14 short on determining that the better route for  
15 correcting this would be to the one that he has  
16 just described so carefully.

17 And I would certainly like to  
18 communicate to Senator Bruno -- I am unable to  
19 ask him to yield for a question because under  
20 the new Senate rules -- well, actually, I could  
21 because he did speak briefly. But I would be  
22 willing -- Mr. President, if you would inform  
23 Senator Bruno that I would be more than willing

1 to withdraw this amendment so that Senator Bruno  
2 could simply move to substitute the Senate Bill  
3 before us for the Assembly bill that's  
4 previously passed, or we could go back to the  
5 Rules Committee and move to substitute Calendar  
6 7457A, which was introduced on April 23 by  
7 Senator Bruno and -- let me think -- it looks  
8 like every other Republican Senator in this  
9 house.

10 By golly, I wish I had a chance  
11 to put my name on this bill because this is the  
12 same language as my amendment today, and I would  
13 be more than happy to withdraw my amendment  
14 right now if Senator Bruno would prefer the  
15 course of action just outlined by Senator Gold.

16 ACTING PRESIDENT KUHL: Is there  
17 any other Senator wishing to speak on the  
18 amendment?

19 SENATOR DOLLINGER: Would Senator  
20 Hoffmann yield to a question?

21 ACTING PRESIDENT KUHL: Senator  
22 Hoffmann, do you yield to a question from  
23 Senator Dollinger?

1                   SENATOR HOFFMANN: Yes, I'd be  
2 happy to, m-m h-m-m.

3                   ACTING PRESIDENT KUHL: Senator  
4 Dollinger.

5                   SENATOR DOLLINGER: Are you  
6 telling me that every member of the Republican  
7 Conference supports the amendment because they  
8 stood on a bill that is identical?

9                   SENATOR HOFFMANN: Well, that  
10 would be -- that would be my understanding  
11 having read both the Assembly measure and the  
12 measure here, it appears that they are identical  
13 bills. They are not "uni" bills but it appears  
14 they are identical.

15                   SENATOR DOLLINGER: Well, then,  
16 could you offer me any explanation why we  
17 wouldn't have a majority vote from that side of  
18 the aisle in support of this amendment?

19                   SENATOR HOFFMANN: Well, I'm at a  
20 loss to understand why this bill has come before  
21 us right now, and why it came through Rules  
22 instead of Finance and why it's come with a  
23 message of necessity and why we're not dealing

1 with the budget as a whole. So I'm really not  
2 in a position to explain how anything works  
3 around here.

4 But I'm as confused as you are,  
5 Senator Dollinger, about why we have these two  
6 very different bills, one -- I will call them  
7 "the good bill" and "the bad bill."

8 The good bill which I compliment  
9 Senators Trunzo, Bruno, Alesi, Cook,  
10 DeFrancisco, DiCarlo, Farley, Goodman, Hannon,  
11 Hoblock, Holland, Johnson, Kuhl, Lack, Larkin,  
12 LaValle, Leibell, Levy, Libous, Maltese,  
13 Marcellino, Marchi, Maziarz, Nozzolio, Padavan,  
14 Present, Rath, Saland, Sears, Seward, Skelos,  
15 Spano, Stafford, Tully, Velella, Volker and  
16 Wright, on having introduced back on April 23rd  
17 which is identical to Bill Number 10470A, which  
18 has already passed the Assembly.

19 I mean I'm delighted that they  
20 introduced this one, and I hope that perhaps  
21 following the suggestion of Senator Bruno that  
22 they will agree to that substitution, and we  
23 will have the good bill introduced as opposed to

1        what I'm going to, in my naivete, refer to as  
2        the bad bill which is the one before us today  
3        which, unfortunately, will put us right back in  
4        the courts because this one appears to be headed  
5        right down that same little trail to the  
6        courthouse again.

7                    I mean we've already had the  
8        Supreme Court and the Appellate Division say  
9        that what we did back on June 6th of 1995 was  
10       illegal, infringed on the Comptroller's rights  
11       and was an unconstitutional raid on the pension  
12       fund. This, in effect, is another unconstitu  
13       tional raid on the pension fund and ties the  
14       Comptroller's hands in a way the courts have  
15       said is illegal.

16                   So I can't see why we would  
17       duplicate an action that's already been  
18       invalidated by two courts and is headed to a  
19       third. I really think it is important for us to  
20       do something, as Senator Gold said, that is  
21       meaningful.

22                   ACTING PRESIDENT KUHL: Question  
23       is on the amendment.

1 All those in favor of the  
2 amendment to Calendar Number 984 signify by  
3 saying aye.

4 (Response of "Aye.")

5 SENATOR GOLD: Party vote in the  
6 affirmative.

7 SENATOR BRUNO: Party vote in the  
8 negative.

9 ACTING PRESIDENT KUHL: The  
10 Secretary will call the roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT KUHL: Record  
13 the party line votes. Announce the results.

14 THE SECRETARY: Ayes 23, nays  
15 36. Party vote.

16 ACTING PRESIDENT KUHL: The  
17 amendment is lost.

18 SENATOR DOLLINGER: On the bill,  
19 Mr. President.

20 ACTING PRESIDENT KUHL: Senator  
21 Dollinger, on the bill.

22 SENATOR DOLLINGER: Mr.  
23 President, I have to go back and talk to that

1       guy on the second floor because, I'll tell you,  
2       he has gotten very good in the last year and a  
3       half.

4                   I can remember when he sat over  
5       where Senator Maziarz was, very seldom spoke,  
6       wasn't, I didn't think, particularly persuasive,  
7       and, my God! Between the 23rd of April and  
8       today, he changed 37 votes in this house. I  
9       mean I have never seen such a persuasive guy.

10                   He must have had a wonderful  
11       argument, Senator Bruno, and I would just love  
12       to know what he told you that suddenly made  
13       it -- all of a sudden everybody on that side of  
14       the aisle change their minds.

15                   It was great on the 23rd of  
16       April. It's all of sudden not worthy of a  
17       single vote today. I can't understand what  
18       happened. I'm just astounded. I better go back  
19       down and have him give me a course on the power  
20       of politics and persuasion because he must have  
21       been brilliant in what he had to tell you.

22                   Mr. President, on the bill. I'm  
23       disappointed again. I unfortunately think that

1 politics has reared its head. I don't think we  
2 will have a bill. I think the people who  
3 deserve a pension supplementation will continue  
4 to be held hostage to the politics of the second  
5 floor.

6 I think we're going to continue  
7 to raid -- the Governor obviously wants to  
8 continue to plunder our pension fund. I would  
9 point out that to some extent this is the one  
10 thing Governor Pataki promised us we wouldn't  
11 have. This raid is a pension tax. It's just as  
12 though we taxed their pensions. This is a  
13 pension tax. He is taxing the pensions to fund  
14 the operations of his government just as plain  
15 as if it were a tax.

16 This is the Pataki pension tax  
17 from a man who promised that he wasn't going to  
18 raise taxes. We've all talked about this  
19 Governor and how he was going to reduce our  
20 taxes. He is now raising the pension tax. This  
21 is a pension tax. It's coming.

22 I urge a no vote, Mr. President.

23 ACTING PRESIDENT KUHL: Senator

1 Gold on the bill.

2 SENATOR GOLD: Mr. President, I  
3 would be very grateful if our distinguished  
4 leader would yield to a question, please.

5 SENATOR BRUNO: Mr. President, I  
6 would be honored to yield -

7 ACTING PRESIDENT KUHL: Senator  
8 Bruno yields, Senator Gold.

9 SENATOR BRUNO: -- to such a  
10 distinguished leader of the Finance Committee  
11 for the Minority, Senator Gold.

12 SENATOR GOLD: Thank you. First  
13 of all, prior to the question, I just want to  
14 throw a thought in your mind because I know that  
15 you like to be fiscally responsible. I think if  
16 you would have adopted our position, you would  
17 feel so good that without spending that extra  
18 400 on that new driver you would still be  
19 hitting the ball 300 yards off the tee.

20 SENATOR BRUNO: 299.

21 SENATOR GOLD: 299? You did  
22 good, better than Tully.

23 SENATOR BRUNO: Yes.

1                   SENATOR GOLD: Mr. President.

2                   Mr. President, I was wondering.

3                   Senator Bruno, I am disturbed at  
4                   one factor of the bill and it was raised briefly  
5                   in the Finance Committee, and your distinguished  
6                   counsel gave an answer but I would like to get  
7                   it out on the record.

8                   Senator Hoffmann pointed out that  
9                   there are at least two court decisions, possibly  
10                  even a third, which have suggested that if we  
11                  pass legislation which mandates the Comptroller  
12                  to make certain kinds of payments, that it's  
13                  unconstitutional. Now, we tried that with  
14                  Comptroller Regan, and, apparently, in the  
15                  McDermott versus Regan case, they struck it  
16                  down. We tried it way back with Comptroller  
17                  Levitt and the Court struck it down; and then in  
18                  the case of McCall versus Pataki the Court  
19                  struck it down.

20                  If that's the case, why should we  
21                  feel comfortable, Senator, that if we pass a  
22                  bill again in the same form that somehow the  
23                  court will not block the money going to the

1       retirees? And let me say, Senator, that I  
2       believe that if it was up to Joe Bruno, the  
3       human being, the money would go through because  
4       you have sponsored the Trunzo bill.

5                       So why, Senator, are we now  
6       ignoring the Trunzo-Bruno bill, which exists and  
7       is passable, for a bill which has a formula in  
8       it that on three occasions, with three separate  
9       Comptrollers, our highest court said we can't do  
10      it.

11                      SENATOR BRUNO: Thank you,  
12      Senator Gold, for that question, and the answer  
13      is very basic, very direct, very simple. I  
14      discussed this with the Governor, and he  
15      indicated that his very learned counsel, as our  
16      counsel have also concluded, that the court  
17      cases that the good Senator Hoffmann, who can be  
18      excused because she doesn't have a legal  
19      background, that those court cases do not  
20      pertain to the specifics of this pension  
21      supplementation fund which was created strictly  
22      to supplement the pensions, and it is not a  
23      deduction or any other that related to those

1 court decisions that you have referred to.

2 Mr. President, lawyers -- and  
3 this will be a revelation -- disagree. That's  
4 why there are more lawyers than people in this  
5 state. I misspoke. I'm sorry. Almost more  
6 lawyers than there are individuals because  
7 lawyers differ. But the Governor -- and I have  
8 the greatest respect for lawyers. But the  
9 Governor, who is a lawyer, who has counsels who  
10 are lawyers, they indicate that this -- this  
11 will see that the retirees will get their checks  
12 immediately and the other version -- and Senator  
13 Hoffmann and Senator Gold, I address you  
14 directly because the Senators that were on that  
15 version that's in the Assembly, we quickly left  
16 that version when the Governor indicated to us  
17 that if we passed it he would veto it  
18 immediately and the people who are retired would  
19 not get their pension supp'.

20 So we -- caring about the  
21 retirees, the 350,000 who are out there waiting  
22 to see what you do and what we do, so when the  
23 Governor said, "Here's my bill, I want to see

1       that these people get the money, pass it and  
2       send it to me, they will get their money," we,  
3       wanting them to get the money, immediately  
4       abandoned that futile effort that does nothing  
5       but fool the public into thinking they are going  
6       to get something they are not going to get,  
7       because, to my knowledge, Mr. President, we have  
8       three branches here in New York State  
9       constitutionally. The Executive is one and the  
10      Legislature is two, and in order for a bill to  
11      become law, it must pass the Legislature, both  
12      houses in identical form, and get signed by the  
13      Governor. So when the Governor says, "I will  
14      veto that bill in the Assembly if you send it to  
15      me," I then feel that we have to look for an  
16      alternative.

17                        So we asked the Governor for an  
18      alternative, and the Governor said, "Here is my  
19      alternative." We quickly accepted that  
20      alternative. It is on the floor. Pass it. It  
21      goes to the Assembly. They pass it. The  
22      Governor signs it tomorrow, and the checks start  
23      to flow.

1                   You play games. You politicize  
2                   it, and these poor people who are out there  
3                   waiting for our action will not get one cent.  
4                   It is unfair. It is totally unfair to these  
5                   deserving people who are out there, who have  
6                   done their duty. It is totally unfair to  
7                   politicize this by grandstanding in the  
8                   Assembly, putting the bill out, knowing the  
9                   Governor will veto it. Grandstanding. It's  
10                  very unbecoming and it's certainly -- Mr.  
11                  President. It is not anything that I would feel  
12                  members in this house would want to relate to.  
13                  I would think the members in this house would  
14                  want to see a bill passed that the Governor  
15                  guarantees he will sign and that these checks  
16                  will flow.

17                         So for those of you who are  
18                         concerned for these people who are out there, my  
19                         message is this is the version that the Governor  
20                         will sign that will get the money flowing. So I  
21                         would urge my colleagues stop talking, start  
22                         acting, and let's start moving these checks to  
23                         the people who are waiting to hear what you have

1 to say and do.

2 SENATOR GOLD: Mr. President.

3 ACTING PRESIDENT KUHL: Senator  
4 Gold, you still have the floor.

5 SENATOR GOLD: Will the  
6 distinguished gentleman yield to another  
7 question?

8 ACTING PRESIDENT KUHL: Senator  
9 Bruno, do you yield to another question?

10 SENATOR BRUNO: Yes.

11 ACTING PRESIDENT KUHL: Senator  
12 yields.

13 SENATOR GOLD: Senator Bruno,  
14 actually the money would have flowed last year  
15 except there was a lawsuit. Isn't that  
16 correct?

17 SENATOR BRUNO: Yes, the  
18 Comptroller -- the Comptroller initiated the  
19 Lawsuit.

20 SENATOR GOLD: Yes.

21 SENATOR BRUNO: And we negotiated  
22 in the pension supp' bill that if the  
23 Comptroller initiated a lawsuit that no matter

1        what happened that the pension supplemental  
2        funds would flow in September of '96. The  
3        Comptroller sued, and sued again, and so the  
4        money hasn't been flowing.

5                        Now, this bill basically says  
6        despite the lawsuit, we will take it back not to  
7        '96, which we negotiated in the budget last  
8        year which we all agreed to -- all of us in this  
9        chamber agreed that the pension supp' would  
10       start in September of '96. This now changes the  
11       budget agreement, and let's recognize what we're  
12       doing. We are changing the negotiated budget  
13       agreement that the Speaker was a party to. He  
14       was one of the three people, the five people.  
15       Senator Connor agreed to the budget. You passed  
16       it with us, and that was the arrangement.

17                        Now, the Speaker moves  
18        unilaterally, passes a bill that not only can  
19        keep the money from flowing but makes it  
20        retroactive to September, which we support. We  
21        wholeheartedly support. It changes the budget  
22        deal. It changes the budget negotiations. It  
23        takes us in a little different direction, but we

1 agree. We agree. So let's recognize where  
2 we're at. We've changed the budget that we all  
3 voted for which starts these checks in September  
4 regardless of the lawsuits by the Comptroller,  
5 and it makes it retroactive to September of  
6 '95. And that's what this bill will do.

7 So I would just urge you to pass  
8 it and let's get the checks on their way.

9 SENATOR GOLD: Mr. President.

10 ACTING PRESIDENT KUHL: Senator  
11 Gold.

12 SENATOR GOLD: On the bill.

13 ACTING PRESIDENT KUHL: Senator  
14 Gold, on the bill.

15 SENATOR GOLD: First of all, I  
16 want to thank the Majority Leader for his  
17 graciousness in yielding. I don't understand  
18 his remarks, and I don't understand this bill  
19 for a number of reasons.

20 Firstly, you said that the  
21 Speaker acted unilaterally and you don't know  
22 why the Speaker acted unilaterally. I can only  
23 tell you without speaking to the Speaker that

1 maybe one of the reasons the Speaker acted was  
2 because of his reliance upon Joe Bruno, Caesar  
3 Trunzo, and some other people. Maybe, Senator  
4 Bruno, he believed that when you and Senator  
5 Trunzo and others put your name to 7457 that you  
6 meant it. That may have been one of the reasons  
7 why he acted. He may have believed that if they  
8 passed a bill that you put your name on that you  
9 might have moved that bill.

10 Secondly, you talk about passing  
11 laws and having checks flow. Maybe I'm wrong,  
12 Senator Bruno, and I'm willing to learn, but I  
13 don't think that you can issue checks, and I  
14 don't think that Sheldon Silver can issue  
15 checks. I think the checks are issued by the  
16 Comptroller of the State of New York. So if we  
17 pass a law that the Comptroller is not going to  
18 abide by, there are not going to be checks  
19 flowing. We will be in court again.

20 And before we get too mad at this  
21 particular Comptroller going to court, I remind  
22 you that he has gone to court on this issue in  
23 the same tradition as Comptroller Regan and

1 Arthur Levitt. They tell the Legislature that  
2 we have to abide by the law and if we want to be  
3 law makers we shouldn't be law breakers and, in  
4 essence, with this bill that's what we are  
5 doing.

6 The other point I want to make,  
7 Senator Bruno, is that you keep using one  
8 expression and I'm glad you do, and that is that  
9 we have to keep our promises. Now, I would like  
10 to remind this chamber that we have already  
11 overridden the Governor on a veto, and many of  
12 us did it on the theory that we have got to keep  
13 our promises, that last year we passed a law,  
14 the Governor did not sign. We promised that if  
15 certain things were done, we would keep that  
16 commitment. They were done. The Governor  
17 vetoed the bill, and we as a Legislature over  
18 rode a veto of this Governor because we felt we  
19 had to keep a promise.

20 Now, the Governor has not fallen  
21 apart. As a matter of fact, I think the  
22 Governor handled the veto override with the kind  
23 of grace and stature that I would expect from

1 the Governor. As a matter of fact, there have  
2 been governors in the past that would whine and  
3 groan and please don't override vetoes because  
4 the Executive Department will fall apart. It  
5 doesn't fall apart any more than the  
6 presidencies of Reagan or Ford or Clinton or  
7 anybody else would fall apart because a  
8 Legislature would override a veto.

9 I always thought that that was  
10 separation of powers, that that was the way  
11 government ought to work, and I would say that  
12 if we pass the bill which already passed the  
13 Assembly and the Governor vetoed it, let's  
14 override it, and I would be able to look at this  
15 Governor, who I think on a personal basis is one  
16 of the nicest people I have met in Albany. I  
17 disagree with him on a lot of issues, but he is  
18 a nice person, and I think he would understand  
19 that we would be doing our legislative job,  
20 particularly in a situation which is identical,  
21 in my opinion, in philosophy to the situation  
22 where we have already overridden a governor's  
23 veto, and that is a situation where the

1       Legislature says we made a promise and it's  
2       important to keep that promise.

3                 Now, Senator Bruno, that's your  
4       expression and I respect you for it, Senator,  
5       because I think you like to keep promises. So  
6       let's analyze the promise. Was the promise to  
7       pass a bill or was the promise to get these  
8       people their money?

9                 Now, I don't claim to have the  
10       intellect of a judge such as the Presiding Judge  
11       of the Court of Claims, Judge Mega, but you  
12       don't need to rise to that distinguished level  
13       to understand that a promise means the people  
14       have to get the money.

15                So, Senator Bruno, with the  
16       greatest respect and I do have great respect for  
17       you, I personally will not vote for this bill.  
18       I think it's a lie. It's a fraud. That's the  
19       effect of it. I think that we are not keeping  
20       the promise, and the way you keep the promise is  
21       to vote for either the Trunzo bill, the Hoffmann  
22       amendment, something that will pass both  
23       houses. If the Governor doesn't like it, I

1       respect his right to veto. We override that  
2       veto, and the Comptroller of this state will  
3       have a law that he can follow and those people  
4       will get the money. That is keeping the  
5       promise, Senator Bruno. Nothing short of that  
6       keeps the promise.

7                    ACTING PRESIDENT KUHL: Senator  
8       Leichter.

9                    SENATOR LEICHTER: Mr.  
10       President. Senator Bruno, you tell us that  
11       learned counsel to the Governor have advised him  
12       that the bill that's before us is  
13       constitutional. These were the very same  
14       learned counsel who last June said that the bill  
15       that we passed is constitutional. I relied on  
16       it. You relied on it. We all relied on it. So  
17       happens that they were wrong last year.

18                   And, Senator, I would rather rely  
19       on the Comptroller, who was right, who told us  
20       last year, "Don't do it this way." He said,  
21       "It's unconstitutional; it infringes my power;  
22       I will have to go to court," which he did, and  
23       the court decided who in this instance was more

1 learned, and it was the Comptroller and the  
2 Comptroller's counsel.

3 Now, Senator Bruno comes and says  
4 trust these people again. Well, they were wrong  
5 once. I've looked at the court decision. I  
6 don't claim to be learned in any respect, but as  
7 I read the decision of the Appellate Division  
8 which declared unconstitutional what we did last  
9 year -- and I want to read from the decision in  
10 McCall versus Pataki, and the Court says, "It is  
11 implicit in the Constitution's assurance that  
12 pension benefits shall not be impaired, that the  
13 funds from which those benefits are drawn are to  
14 be protected," and here's the key language, "and  
15 that pension beneficiaries are entitled to the  
16 independent" -- "independent judgment of the  
17 Comptroller in managing the system assets."

18 So, Senator Bruno, you and the  
19 Majority together with the Assembly listening to  
20 the courts, having had this unfortunate  
21 experience last year where we were shown to be  
22 constitutionally wrong, put in a bill -- this is  
23 the Trunzo bill -- that says -- uses the

1 language, the very language the Court did,  
2 "subject to the discretion and judgment of the  
3 Comptroller," -- exactly in accord with what the  
4 Court said, and we're told by the Comptroller, I  
5 understand -- in fact, I saw a letter which he  
6 wrote to the Assembly sponsor -- that the  
7 Assembly bill, which is the counterpart to the  
8 Trunzo bill, if that bill is passed and signed  
9 into law, he will make the pension payments.

10 So the only problem we have is  
11 the learned counsel around the Governor who were  
12 wrong last year and seem to be wrong this year,  
13 and Senator Gold is absolutely correct. Senator  
14 Bruno, if you want to get pension payments to  
15 retirees, it is very simple. You pass the bill  
16 that passed in the Assembly, the Trunzo bill.  
17 You people studied the issue. You have learned  
18 counsel. You very wisely put into your bill,  
19 "subject to the discretion and judgment of the  
20 Comptroller."

21 If the Governor still disagrees  
22 and vetoes the bill -- and, frankly, it seems  
23 like sort of a petty, silly fight. If the

1 purpose is to get money to the retirees and the  
2 Governor says, "Write the bill this way," the  
3 Court says, yes, the Comptroller is right, you  
4 got to write it this way, and the Comptroller  
5 says, "Now I will pay if you just pass this  
6 bill." But the Governor says, "No, I want my  
7 language; I like my language; I was right last  
8 year," even though the Court said he wasn't and  
9 insists on his language.

10 Well, if he does that, our  
11 obligation is to see that that bill becomes law  
12 in spite of the Governor's veto and then we will  
13 be fulfilling our obligation to the retirees.

14 The sad thing about all of this  
15 is that, as we know, there are retirees who are  
16 receiving a ridiculously low pension. These  
17 people are in pain. These people are being  
18 hurt. We know that there exists a very simple  
19 way to get payments to them immediately, and we  
20 should follow the Court. We should follow the  
21 learning, the wording that you put into the bill  
22 that the Assembly has passed and that will  
23 resolve the matter. This bill will not.

1                   If you vote for this bill, you  
2                   are flying right into the face of the court  
3                   decision and you will not get that  
4                   supplementation to the retirees.

5                   ACTING PRESIDENT KUHL:  Senator  
6                   Hoffmann, on the bill.

7                   SENATOR HOFFMANN:  Thank you, Mr.  
8                   President.

9                   I was intrigued that Senator  
10                  Bruno felt compelled to note for the rest of my  
11                  colleagues that I am not an attorney, and I  
12                  don't want to try to paraphrase exactly what he  
13                  said, but my understanding at the time was that  
14                  it was somehow an explanation for my not having  
15                  the adequate knowledge to understand the  
16                  Governor's rationale or the Senate Republicans'  
17                  rationale in presenting this bill before us  
18                  today.  Now, forgive me if I have misstated  
19                  something there, but I did feel that somehow my  
20                  judgment was being challenged just a little bit  
21                  because I'm missing a law degree.

22                  And I wonder if Senator Bruno  
23                  would be kind enough to yield for a question.

1                   ACTING PRESIDENT KUHL:  Senator  
2           Bruno, would you yield to a question from  
3           Senator Hoffmann?

4                   SENATOR BRUNO:  Mr. President, I  
5           believe that I would be happy to yield.

6                   SENATOR HOFFMANN:  Thank you.

7                   ACTING PRESIDENT KUHL:  Senator  
8           yields.

9                   SENATOR HOFFMANN:  Thank you, Mr.  
10          President.  Thank you, Senator Bruno.

11                   SENATOR BRUNO:  I will let you  
12          know after the question.

13                   SENATOR HOFFMANN:  You may have  
14          already anticipated this question.  Senator  
15          Bruno, do you possess a law degree?

16                   SENATOR BRUNO:  I do not, I'm  
17          proud to say.

18                   SENATOR HOFFMANN:  Thank you,  
19          Senator Bruno.  That's all I wanted to know.  I  
20          believe that that puts us on a somewhat even  
21          footing, Senator Bruno, and I like it when we're  
22          on an even footing, and I am very pleased -

23                   SENATOR BRUNO:  Thank you,

1 Senator. I am also pleased.

2 SENATOR HOFFMANN: Thank you.

3 Senator Bruno, I have no further questions. I  
4 have a few comments based upon that commonality  
5 of interest on our part.

6 Because I don't have a law  
7 degree, let me just share with my colleagues  
8 what I do when I don't immediately understand  
9 that very complex legalese that so often comes  
10 before us, especially when it comes in the  
11 middle of the night. I try to take a look at  
12 that legislation and I compare it to the  
13 Constitution.

14 I am a relatively strict  
15 constructionist. In fact, there are some people  
16 in my district who think that I'm more like  
17 Herbert Hoover than Bill Clinton, and I don't  
18 particularly mind that because I think that the  
19 Constitution has held us in very good stead in  
20 this nation and in this state.

21 And a year ago -- back in June,  
22 less than a year ago, when we had that pension  
23 supplement bill that came to us and I did not

1 fully understand all of it, I took a good look  
2 at how this interfaced with the Constitution and  
3 I tried to find out what the Comptroller thought  
4 about it and, even though I was by my little own  
5 self in the Senate chamber, I voted against it  
6 and I said at the time that it was unconstitu  
7 tional. So I guess I am puzzled today that  
8 Senator Bruno would suggest now I don't have  
9 enough wisdom to understand that this is such a  
10 great bill, when a year ago I was on target and  
11 the rest of my colleagues did not correctly  
12 anticipate that we would have both a Supreme  
13 Court and an Appellate Court decision that said  
14 we were unconstitutional.

15 By golly, by my account, it looks  
16 like it's Hoffmann one-Senate zip on this  
17 issue. So I think that I am right where the  
18 public needs some of us to be in introducing an  
19 amendment that makes sense and in asking you,  
20 Senator Bruno, using your power as Majority  
21 Leader and Chairman of the Rules Committee, to  
22 just substitute these bills so that we can get a  
23 bill that will withstand the constitutional

1 challenge which we know will come.

2 I don't think you have to be a  
3 lawyer to serve in the New York State Senate. I  
4 keep telling people who aren't lawyers that they  
5 really ought to think about running because we  
6 need more people here who don't think in  
7 legalese. We need a few more people here who  
8 are farmers and doctors and housewives and  
9 teachers and business owners like Senator Bruno  
10 is who will take a look at the Constitution and  
11 try to answer the most basic questions instead  
12 of relying on lawyers who have already been  
13 proven wrong in their interpretation of the  
14 law. Maybe we have people on the second floor  
15 advising us on this that are just too narrowly  
16 focused on some of those little details of the  
17 law, and they don't have enough of the broad  
18 world view, theoretically, that we do in this  
19 Senate chamber.

20 Now, I'm proud of the fact that I  
21 don't have a law degree just as Senator Bruno  
22 is, and I don't feel that it has been an  
23 impairment in any way, shape or form for me

1 representing the people of the 48th Senate  
2 District. But in this matter, I would really  
3 ask Senator Bruno to take a good look at what  
4 not lawyers but judges have determined. Judges  
5 are supposed to be the best and the brightest of  
6 the lawyers. Judges are what people become  
7 after they have been really, really good lawyers  
8 for a long, long time or have friends in high  
9 places who want to move them onto the bench.

10 But I am sure that the Supreme  
11 Court and the Appellate Court that ruled that we  
12 were unconstitutional had some very fine lawyers  
13 on that bench when they made that determination,  
14 and I am going to have to say I respect their  
15 wisdom ahead of the wisdom of lawyers on the  
16 second floor who are advising us for the second  
17 year in a row to do something which I deem from  
18 my very limited legal knowledge to be  
19 unconstitutional.

20 ACTING PRESIDENT KUHL: Senator  
21 Abate on the bill.

22 SENATOR ABATE: Yes. I feel  
23 compelled -- so much has been said today, but I

1 wanted to respond to Senator Bruno's  
2 characterization dividing the population in New  
3 York State into two categories. One, we have  
4 the people throughout the New York State and  
5 then, on the other hand, we have lawyers, and I  
6 am here to stand up to represent the lawyers, as  
7 well as the people in New York State, and  
8 certainly the lawyers in this chamber need some  
9 representation.

10 I, for one, and I think the other  
11 lawyers in this chamber are also proud of being  
12 lawyers. We also perceive of ourselves as  
13 people of the state, of New York State, and  
14 fully capable of representing them.

15 As a person and as a lawyer, I  
16 agree with my colleagues on this side of the  
17 aisle that we are, as legislators, an  
18 independent branch of government, and I am not  
19 compelled by the statement that the Governor is  
20 going to veto a bill whether it's the Trunzo  
21 bill or language that equals the amendment.  
22 That is not a persuasive argument.

23 We are independent. We have the

1 capacity to be rational. We have the capacity  
2 to look hard at the decisions rendered by the  
3 Supreme Court as well as the Appellate Division;  
4 and in our studious and very serious-minded  
5 business, we can take guidance from that  
6 decision.

7 So if we really care about not  
8 committing another charade and we really care  
9 about the retirees in the state and want to  
10 ensure they receive a pension supplement, we  
11 should get down to business, not about  
12 perpetuating another hoax on the retirees of  
13 this state.

14 So, I really urge we put politics  
15 aside. Send a message to the Governor, I  
16 believe, of both houses of the Legislature.  
17 Pass a Trunzoesque -- for years from now, we  
18 will be talking about this Trunzoesque  
19 legislation that truly helps people, that is  
20 constitutional, that does not tie the hands of  
21 the Comptroller. We will be applauded by  
22 showing our independence, by doing something  
23 intelligent, something that's constitutional and

1 send a very strong message to the Governor, who  
2 I believe will follow suit if we do the right  
3 thing today.

4 We should not be worried about a  
5 Governor's veto. We should instead be listening  
6 to our constituents and the voice of the  
7 retirees who are urging us today to take action  
8 that is meaningful, and that action that is  
9 meaningful today is to support this amendment,  
10 turn it into support for the Trunzo legislation  
11 today, and let's do the right thing.

12 Let's not do political rhetoric.  
13 Let's do the right thing today, and so I will  
14 support the amendment and oppose the legislation  
15 that is before us, and I do that as a lawyer, as  
16 a person, as a state Senator.

17 ACTING PRESIDENT KUHL: Senator  
18 Abate, the amendment was defeated earlier today.

19 We'll read the last section on  
20 the bill.

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

23 ACTING PRESIDENT KUHL: Call the

1 roll.

2 (The Secretary called the roll.)

3 SENATOR PATERSON: Slow roll

4 call.

5 ACTING PRESIDENT KUHL: Are there  
6 five Senators in the chamber? Will they stand,  
7 please?

8 There are five Senators  
9 requesting a slow roll call.

10 Secretary will read the roll  
11 slowly.

12 THE SECRETARY: Senator Abate.

13 SENATOR ABATE: No.

14 THE SECRETARY: Senator Alesi.

15 SENATOR ALESI: Yes.

16 THE SECRETARY: Senator Babbush.

17 (There was no response.)

18 Senator Bruno.

19 SENATOR BRUNO: Yes.

20 THE SECRETARY: Senator Connor.

21 (Negative indication.)

22 Senator Cook.

23 SENATOR COOK: Yes.

1 THE SECRETARY: Senator  
2 DeFrancisco.

3 SENATOR DeFRANCISCO: Yes.

4 THE SECRETARY: Senator DiCarlo.

5 SENATOR DiCARLO: Aye.

6 THE SECRETARY: Senator  
7 Dollinger.

8 SENATOR DOLLINGER: No.

9 THE SECRETARY: Senator Espada.  
10 (There was no response.)  
11 Senator Farley.

12 ACTING PRESIDENT KUHL: Senator  
13 Farley to explain his vote.

14 SENATOR FARLEY: Thank you, Mr.  
15 President. I rise to support this bill.

16 Let me say I applaud Senator  
17 Bruno for bringing this before us. This is a  
18 bill the Governor can sign. He has already  
19 pledged, if you will, to veto anything else. I  
20 am going to vote for any pension supplementation  
21 bill that comes before this house, basically.  
22 I'm very anxious to see it happen. I think it's  
23 terribly important.

1           I have many state employees,  
2           retired employees of the municipal and state  
3           governments, and they really need a pension  
4           supplementation. There is no question about  
5           that. They have been promised that.  
6           Unfortunately, with the Comptroller and so many  
7           other things, they have been frustrated in this  
8           endeavor. This is an example of moving this  
9           process forward.

10           Is this the final answer to  
11           everything? Maybe not, but it certainly gets  
12           the thing going. Both houses are on record as  
13           saying they want to do a pension  
14           supplementation. That is good bill. It is one  
15           that really answers it and takes the Comptroller  
16           out of the process of stopping the payment of  
17           this supplementation.

18           I rise to support the bill, and I  
19           vote aye.

20           ACTING PRESIDENT KUHL: Senator  
21           Farley will be recorded in the affirmative.

22           Continue the roll call.

23           THE SECRETARY: Senator Gold.

1 SENATOR GOLD: No.

2 THE SECRETARY: Senator

3 Gonzalez.

4 (There was no response.)

5 Senator Goodman.

6 SENATOR GOODMAN: Yes.

7 THE SECRETARY: Senator Hannon.

8 SENATOR HANNON: Yes.

9 THE SECRETARY: Senator Hoblock.

10 SENATOR HOBLOCK: Yes.

11 THE SECRETARY: Senator Hoffmann.

12 SENATOR HOFFMANN: To explain my  
13 vote.

14 ACTING PRESIDENT KUHL: Senator  
15 Hoffmann to explain her vote.

16 SENATOR HOFFMANN: I have  
17 repeatedly urged that this Legislature and the  
18 Governor come to terms to put together an  
19 appropriate pension supplement bill. I feel  
20 very, very strongly about the need to increase  
21 the pension supplementations of the -- to  
22 increase the pensions of our retirees of this  
23 state, and I know some firsthand who are living

1 in or on the verge of absolute poverty. It is a  
2 terrible tragedy that we have not done something  
3 fair before this time, but I will deeply resent  
4 it if anyone characterizes my vote today in  
5 opposition to this unconstitutional measure as  
6 being in any way opposed to increasing the  
7 pensions of the retirees of this state.

8 I will vote aye -- nay. Excuse  
9 me. Vote in the negative.

10 ACTING PRESIDENT KUHL: Senator  
11 Hoffmann will be recorded in the negative.

12 Continue to call the roll.

13 THE SECRETARY: Senator Holland.

14 SENATOR HOLLAND: Yes.

15 THE SECRETARY: Senator Johnson.

16 SENATOR JOHNSON: Aye.

17 THE SECRETARY: Senator Kruger.

18 (There was no response.)

19 Senator Kuhl.

20 SENATOR KUHL: Aye.

21 THE SECRETARY: Senator Lachman.

22 (There was no response.)

23 Senator Lack.

1                   SENATOR LACK: Aye.  
2                   THE SECRETARY: Senator Larkin  
3 recorded in the affirmative earlier today.  
4                   Senator LaValle.  
5                   SENATOR LAVALLE: Aye.  
6                   THE SECRETARY: Senator Leibell.  
7                   SENATOR LEIBELL: Aye.  
8                   THE SECRETARY: Senator Leichter.  
9                   SENATOR LEICHTER: No.  
10                  THE SECRETARY: Senator Levy.  
11                  SENATOR LEVY: Aye.  
12                  THE SECRETARY: Senator Libous.  
13                  SENATOR LIBOUS: Aye.  
14                  THE SECRETARY: Senator Maltese.  
15                  (There was no response.)  
16                  Senator Marcellino.  
17                  SENATOR MARCELLINO: Aye.  
18                  THE SECRETARY: Senator Marchi.  
19                  SENATOR MARCHI: Aye.  
20                  THE SECRETARY: Senator  
21 Markowitz.  
22                  SENATOR MARKOWITZ: No.  
23                  THE SECRETARY: Senator Maziarz.

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SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator Mendez.

Senator Mendez excused.

Senator Montgomery.

(There was no response.)

Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator

Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Mr. President,

to explain my vote.

ACTING PRESIDENT KUHL: Senator

Onorato to explain his vote.

SENATOR ONORATO: I rise on this

bill. I certainly am in favor of supplementing  
the pensioners, but I don't think that today's  
bill is going to do that. I think it's going to  
only raise false hopes in our senior citizens  
and our pensioners into actually believing that  
they are going to get a pension supplementation  
out of this legislation. The only thing that

1 this is going to cause, again, is further  
2 litigation and a further delay in them actually  
3 receiving this supplementation, and, for that  
4 reason, I ask them to reconsider. Table this  
5 bill and get one that is going to stand up  
6 constitutionally and not pull the wool over our  
7 retirees' eyes.

8 I vote no.

9 ACTING PRESIDENT KUHL: Senator  
10 Onorato in the negative.

11 Continue to call the roll.

12 THE SECRETARY: Senator  
13 Oppenheimer.

14 (There was no response.)

15 Senator Padavan.

16 SENATOR PADAVAN: Yes.

17 THE SECRETARY: Senator Paterson.

18 SENATOR PATERSON: Mr. President,  
19 to explain my vote.

20 ACTING PRESIDENT KUHL: Senator  
21 Paterson to explain his vote.

22 SENATOR PATERSON: That is a bill  
23 that gives with one hand and takes away with

1 another, and there are many employees around the  
2 state who want to get their checks as soon as  
3 possible. Many of them have serious health  
4 problems; many of them are elderly and, because  
5 of that, they are somewhat favorable toward this  
6 bill. Who can blame them? No one. But who can  
7 remind them? We can remind them, remind them of  
8 the terrible truth that we passed a bill similar  
9 to this last year and it was struck down by the  
10 courts.

11 So the people of the State of New  
12 York at least can take solace in the fact that  
13 they did elect an official who is following his  
14 discharged duties, and that is the Comptroller  
15 H. Carl McCall.

16 But there was a characterization  
17 such that Comptroller McCall is unilaterally  
18 bringing legal action in these cases. In the  
19 legal action that prevailed McCall versus  
20 Pataki, he was joined in the action by Ed  
21 Guzdek, who is the chair of the New York State  
22 Police Conference. There was an amicus brief  
23 from the American Association of Retired people,

1 from the Retired Public Employees Association  
2 and from the Retired New York State Teachers.  
3 If you go around and ask the unions -- and I  
4 think that my colleagues should go and ask the  
5 AFL-CIO and ask the Civil Service Employees  
6 Association what they think of this bill -- they  
7 will tell you what this bill is really about.

8 The reason that the opposition  
9 isn't louder is because we actually through our  
10 own action last year withheld checks from people  
11 who deserved them. That is a horror. I thought  
12 that Senator Hoffmann gave us a chance to  
13 rectify the situation with her amendment today.  
14 We didn't follow it. So in the first instance  
15 the fact that we denied workers of this state, I  
16 think it's a shame.

17 ACTING PRESIDENT KUHL: Senator  
18 Paterson, excuse me. It's just awfully noisy.  
19 It's terribly discourteous to override a fellow  
20 colleague's voice when he is trying to cast his  
21 vote. So, members, please take your chairs.  
22 Take the conversations, if they are necessary,  
23 out of the chamber.

1                   Thank you for the interruption,  
2                   Senator Paterson. Please continue.

3                   SENATOR PATERSON: Oh, that's all  
4                   right, Mr. President, it wasn't discourteous.  
5                   It's just that I'm really not making very much  
6                   sense. So I will just vote no and sit down.

7                   ACTING PRESIDENT KUHL: Senator  
8                   Paterson will be recorded in the negative.

9                   Secretary will continue to call  
10                  the roll.

11                  THE SECRETARY: Senator Present.

12                  SENATOR PRESENT: Aye.

13                  THE SECRETARY: Senator Rath.

14                  ACTING PRESIDENT KUHL: Senator  
15                  Rath, how do you vote?

16                  SENATOR RATH: Aye.

17                  THE SECRETARY: Senator Saland.

18                  SENATOR SALAND: Aye.

19                  THE SECRETARY: Senator  
20                  Santiago.

21                  SENATOR SANTIAGO: No.

22                  THE SECRETARY: Senator  
23                  Seabrook.

1 (There was no response.)  
2 Senator Sears.  
3 SENATOR SEARS: Aye.  
4 THE SECRETARY: Senator Seward.  
5 SENATOR SEWARD: Yes.  
6 THE SECRETARY: Senator Skelos.  
7 SENATOR SKELOS: Yes.  
8 THE SECRETARY: Senator Smith.  
9 SENATOR SMITH: No.  
10 THE SECRETARY: Senator Spano.  
11 SENATOR SPANO: Aye.  
12 THE SECRETARY: Senator  
13 Stachowski.  
14 SENATOR STACHOWSKI: Mr.  
15 President.  
16 ACTING PRESIDENT KUHL: Senator  
17 Stachowski to explain his vote.  
18 SENATOR STACHOWSKI: Briefly to  
19 explain my vote. I just am for supplementation  
20 as much as any. I worked closely with the  
21 Western New York people, and the one thing I  
22 learned from them is that I don't want to be  
23 passing another bill that I'm almost positive is

1 going to end up in court, making them wait,  
2 thinking they got a check coming, and the check  
3 is never going to come because it's going to be  
4 dragged through the court system again, and they  
5 are still not going to get their money.

6 So I would prefer that we didn't  
7 pass a false hope, but that we would come  
8 together with the Assembly, agree on a bill,  
9 pass it, and have a real pension supplementa  
10 tion so at this time I have to vote no on this  
11 bill.

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

14 Continue to call the roll.

15 THE SECRETARY: Senator Stafford  
16 excused.

17 Senator Stavisky.

18 SENATOR STAVISKY: No.

19 THE SECRETARY: Senator Trunzo.

20 (There was no response.)

21 Senator Tully.

22 SENATOR TULLY: Aye.

23 THE SECRETARY: Senator Velella.

1 SENATOR VELELLA: Yes.  
2 THE SECRETARY: Senator Volker.  
3 SENATOR VOLKER: Yes.  
4 THE SECRETARY: Senator Waldon.  
5 SENATOR WALDON: No.  
6 THE SECRETARY: Senator Wright.  
7 SENATOR WRIGHT: Aye.  
8 ACTING PRESIDENT KUHL: Secretary  
9 will call the absentees.  
10 THE SECRETARY: Senator Babbush.  
11 (There was no response.)  
12 Senator Espada.  
13 SENATOR ESPADA: No.  
14 THE SECRETARY: Senator Gonzalez.  
15 (There was no response.)  
16 Senator Kruger.  
17 (There was no response.)  
18 Senator Lachman.  
19 SENATOR LACHMAN: No.  
20 THE SECRETARY: Senator  
21 Gonzalez.  
22 SENATOR GONZALEZ: No.  
23 THE SECRETARY: Senator Maltese.

1 SENATOR MALTESE: Aye.  
2 THE SECRETARY: Senator  
3 Montgomery.  
4 SENATOR MONTGOMERY: No.  
5 THE SECRETARY: Senator  
6 Oppenheimer.  
7 SENATOR OPPENHEIMER: Nay.  
8 THE SECRETARY: Senator  
9 Seabrook.  
10 SENATOR SEABROOK: No.  
11 THE SECRETARY: Senator Trunzo.  
12 (There was no response.)  
13 ACTING PRESIDENT KUHL: Results.  
14 THE SECRETARY: Ayes 35, nays 21.  
15 ACTING PRESIDENT KUHL: The bill  
16 is passed.  
17 Senator DiCarlo, why do you  
18 rise?  
19 SENATOR DiCARLO: Mr. President,  
20 I would like unanimous consent to be recorded in  
21 the negative on Calendar Number 689.  
22 ACTING PRESIDENT KUHL: Without  
23 objection, hearing no objection, Senator DiCarlo

1 will be recorded in the negative on Calendar  
2 Number 689.

3 Senator Bruno, we have some  
4 motions and resolutions. There's motions, if we  
5 can return to motions and resolutions, we will  
6 take those.

7 Senator Farley.

8 SENATOR FARLEY: Thank you, Mr.  
9 President.

10 On behalf of Senator Libous, on  
11 page 63, I offer the following amendments to  
12 Calendar 191, Senate Print 5724B, and I ask that  
13 bill retain its place.

14 ACTING PRESIDENT KUHL:  
15 Amendments to Calendar Number 191 are received  
16 and adopted. Bill will retain its place.

17 SENATOR FARLEY: On behalf of  
18 Senator Goodman, on page 46, I offer the  
19 following amendments to Calendar Number 786,  
20 Senate Print 6692, and I ask that that bill  
21 retain its place.

22 ACTING PRESIDENT KUHL: Calendar  
23 786 will be amended. Bill will retain its place

1 on Third Reading Calendar.

2 Senator Farley.

3 SENATOR FARLEY: On behalf of  
4 Senator Saland, on page 65, Calendar 380, I  
5 offer the following amendments to Senate Print  
6 2784, and I ask that that bill retain its place  
7 on the Third Reading Calendar.

8 ACTING PRESIDENT KUHL:  
9 Amendments to Calendar Number 380 received and  
10 adopted. The bill will retain its place on the  
11 Third Reading Calendar.

12 Senator Bruno.

13 SENATOR BRUNO: Mr. President,  
14 could we at this time recognize Senator Paterson  
15 for an announcement.

16 ACTING PRESIDENT KUHL: Chair  
17 recognizes Senator Paterson.

18 SENATOR PATERSON: Mr. President,  
19 tomorrow morning, May the 8th, at 10:30 a.m.,  
20 there will be a conference of the Minority in  
21 Room 314, the Minority Conference Room, tomorrow  
22 morning at 10:30.

23 ACTING PRESIDENT KUHL: Minority

1 conference tomorrow, that's Wednesday, May 8,  
2 10:30 a.m., in the Minority Conference Room,  
3 Room 314.

4 Senator Bruno.

5 SENATOR BRUNO: Mr. President, is  
6 there anything else at the desk that we should  
7 be attending to?

8 ACTING PRESIDENT KUHL:  
9 Everything appears to be taken care of.

10 SENATOR BRUNO: Thank you, Mr.  
11 President.

12 There being no further business  
13 to come before the Senate, I would move that we  
14 stand adjourned until 11:00 a.m. tomorrow.

15 ACTING PRESIDENT KUHL: Without  
16 objection, the Senate stands adjourned until  
17 tomorrow, Wednesday, May 8, at 11:00, 11:00 a.m.

18 (Whereupon, at 5:33 p.m., the  
19 Senate adjourned.)

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