ALBANY, NEW YORK

May 7, 1996

3:05 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

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

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

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

Bishop Grant.

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

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

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

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

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

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

Bless and protect them. Direct

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

ACTING PRESIDENT KUHL: Amen. Thank you, Bishop Grant.

Reading of the Journal.

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

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

read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Tully.

SENATOR TULLY: Yes, Mr. President. On behalf of Senator LaValle, please place a sponsor's star on Calendar Number 946.

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

Senator Tully.

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

ACTING PRESIDENT KUHL: The

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

Senator Tully.

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

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

Senator Tully.

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

ACTING PRESIDENT KUHL: The Secretary will read.

SENATOR TULLY: Mr. President, I

now move to reconsider the vote -

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

The Secretary will read.

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

ACTING PRESIDENT KUHL: Senator Tully.

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

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: Senator Tully.

SENATOR TULLY: Mr. President, I

now offer the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Tully.

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

ACTING PRESIDENT KUHL: The substitution is ordered.

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

ACTING PRESIDENT KUHL: The Secretary will read.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill

is passed.

Senator Saland.

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

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

Senator Holland.

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

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

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

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

ACTING PRESIDENT KUHL: The

Secretary will read the substitutions.

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

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

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

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

ACTING PRESIDENT KUHL: The substitutions are ordered.

SENATOR GOLD: Mr. President.

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

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

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

Senator Bruno.

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

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

THE SECRETARY: By Senator Bruno,

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

ACTING PRESIDENT KUHL: Senator Bruno, on the resolution.

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

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

an inspiration to him in his work.

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

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

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

Senator Gold.

SENATOR GOLD: Yeah, Mr.

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

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

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

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

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

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

ACTING PRESIDENT KUHL: The question is on the resolution.

Senator Marchi on the resolution. Senator Marchi.

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

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

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

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

ACTING PRESIDENT KUHL: The

question is on the resolution.

SENATOR GOODMAN: Mr. President.

ACTING PRESIDENT KUHL: Senator Goodman.

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

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

ACTING PRESIDENT KUHL: The

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

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolution is unanimously adopted.

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

(Applause)

Senator Skelos.

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

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

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

Senator Skelos.

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

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

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The Resolution Calendar is adopted.

Senator Skelos.

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

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

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

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

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

I want to recognize a couple of

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

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

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

ACTING PRESIDENT KUHL: The

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

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolution is adopted.

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

(Applause)

Senator Marcellino.

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

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

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

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

ACTING PRESIDENT KUHL: Senator DeFrancisco, on the resolution.

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

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

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

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

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

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

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolution is adopted.

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

Welcome to Albany.

(Applause)

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, may we take up the non-controversial

calendar, please.

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

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

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR MARCELLINO: May we lay

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

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

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

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 660, by -

SENATOR MARCELLINO: Mr.

President.

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

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

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Crime Victims and Corrections Committee in the Majority Conference Room, Room 332. Immediate meeting of the Crime Victims and Corrections Committee in the Majority Conference Room, Room 332.

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

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

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

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

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

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

SENATOR ONORATO: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

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

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

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

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

THE SECRETARY: Section 2. This

act shall take effect on the first day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

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

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill

is passed.

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

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

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

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

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: Announce the results when tabulated.

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

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

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

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

Development Committee in Room 123 of the Capitol.

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

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

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

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

accrued liability reserve fund.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

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

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino. Senator Marcellino.

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

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

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

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

ACTING PRESIDENT KUHL: Senator Onorato.

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

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

SENATOR ONORATO: Thank you, Mr. President.

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Farley on the amendment.

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

Senator Onorato, I respect what

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

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

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

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

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

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

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

I've had -- incidentally, this

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

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

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

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

ACTING PRESIDENT KUHL: Senator Onorato on the amendment.

SENATOR ONORATO: Thank you, Mr. President.

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

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

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

I would really urge the adoption of the amendment.

ACTING PRESIDENT KUHL: Senator Farley on the amendment.

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

SENATOR ONORATO: Well, I

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

SENATOR FARLEY: You can be the prime.

SENATOR ONORATO: Thank you, Senator.

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

SENATOR PATERSON: Party vote in the affirmative.

ACTING PRESIDENT KUHL: The Secretary will call the roll.

(The Secretary called the roll.)

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

SENATOR SKELOS: Party vote in the negative.

ACTING PRESIDENT KUHL: Record the party line votes.

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

ACTING PRESIDENT KUHL: The amendment is lost.

Senator Skelos, why do you rise?

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

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

SENATOR SKELOS: Read the last section.

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

SENATOR LEICHTER: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT KUHL: Senator Farley on the bill.

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

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

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

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

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

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

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

SENATOR LEICHTER: On the bill, Mr. President.

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

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

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

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

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

So the real test will be in your

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

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

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

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

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

Secretary to read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, offers up the following bills directly for third reading:

Senate Print 7510, by Senator Bruno and others, an act authorizing the payment of supplemental retirement allowances;

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

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

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

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The Rules report is accepted.

Senator Skelos.

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

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

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

ACTING PRESIDENT KUHL: Senator Skelos.

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

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

SENATOR SKELOS: I move we accept.

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

those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

SENATOR LARKIN: I vote aye, sir.

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

ACTING PRESIDENT KUHL: The roll call is withdrawn.

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

SENATOR SKELOS: Yes. Would you

please recognize Senator Marchi.

SENATOR MARCHI: The Chair recognizes Senator Marchi.

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

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

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

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

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

years.

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

Dean Rudolph Hasl, dean of the law school;

Richard J. Kane, president of the Alumni Association;

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

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

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

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

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

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

The Secretary will continue to call the controversial calendar.

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

SENATOR PATERSON: Explanation.

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

SENATOR MARCHI: 764, Mr. -- I

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

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

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

SENATOR GOLD: Point of order. They left.

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

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

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

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

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

ACTING PRESIDENT KUHL: Excuse me, Senator Marchi.

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

Senator Paterson, why do you rise?

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

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

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

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

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

SENATOR MARCHI: Yes, certainly, at any time.

ACTING PRESIDENT KUHL: The Senator yields.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and make this act permanent.

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

ACTING PRESIDENT KUHL: Senator Paterson.

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

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

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

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

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

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

Thank you.

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

SENATOR DiCARLO: Thank you, Mr. President.

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

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

Thank you.

ACTING PRESIDENT KUHL: Senator Abate on the bill.

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

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

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

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

Manhattan are addressed.

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

(There was no response.)

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

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

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Would you just stand at ease temporarily.

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

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

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

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

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

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

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

The Chair recognizes Senator Bruno.

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

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

retirees out of this supplemental pension fund.

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

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

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

getting their supplemental retirement checks.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Hoffmann.

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

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

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

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

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

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

SENATOR HOFFMANN: Thank you.

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

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

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

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

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

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

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

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

into some fiscal problems.

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

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

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

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

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

Now, maybe some of my colleagues

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

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

Finance Committee.

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

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

inappropriately raided before.

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

ACTING PRESIDENT KUHL: Senator Connor.

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

our word to these retirees that they would receive this.

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

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

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

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

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

ACTING PRESIDENT KUHL: Senator Dollinger on the amendment.

SENATOR DOLLINGER: On the amendment, Mr. President.

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

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

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

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

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

I suggest we must vote for this amendment.

ACTING PRESIDENT KUHL: Senator

Paterson on the amendment.

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

ACTING PRESIDENT KUHL: Good idea.

SENATOR PATERSON: Thank you, Mr. President.

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

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

Senator Hoffmann talked about the

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

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

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

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

And so I strongly urge that this amendment be passed.

SENATOR GOLD: Mr. President.

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

SENATOR GOLD: Thank you very much.

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

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

Now, the tragedy of it all is now

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

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

Governor's desk that has passed both houses.

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

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

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

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

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

Senator Hoffmann.

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

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

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

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

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

SENATOR DOLLINGER: Would Senator Hoffmann yield to a question?

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

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

ACTING PRESIDENT KUHL: Senator Dollinger.

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT KUHL: Question is on the amendment.

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

(Response of "Aye.")

SENATOR GOLD: Party vote in the affirmative.

SENATOR BRUNO: Party vote in the negative.

ACTING PRESIDENT KUHL: The Secretary will call the roll.

(The Secretary called the roll.)

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

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

ACTING PRESIDENT KUHL: The amendment is lost.

SENATOR DOLLINGER: On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

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

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

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

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

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

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

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

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

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

I urge a no vote, Mr. President.

ACTING PRESIDENT KUHL: Senator

Gold on the bill.

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

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

ACTING PRESIDENT KUHL: Senator Bruno yields, Senator Gold.

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

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

SENATOR BRUNO: 299.

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

SENATOR BRUNO: Yes.

SENATOR GOLD: Mr. President. Mr. President, I was wondering.

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

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

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

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

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

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

court decisions that you have referred to.

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

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

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

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

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

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

to say and do.

SENATOR GOLD: Mr. President.

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

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

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

SENATOR BRUNO: Yes.

ACTING PRESIDENT KUHL: Senator yields.

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

SENATOR BRUNO: Yes, the Comptroller -- the Comptroller initiated the Lawsuit.

SENATOR GOLD: Yes.

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

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

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

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

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

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

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: On the bill.

ACTING PRESIDENT KUHL: Senator Gold, on the bill.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT KUHL: Senator Leichter.

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT KUHL: Senator Hoffmann, on the bill.

SENATOR HOFFMANN: Thank you, Mr. President.

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

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

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

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

SENATOR HOFFMANN: Thank you.

ACTING PRESIDENT KUHL: Senator yields.

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

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

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

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

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

SENATOR BRUNO: Thank you,

Senator. I am also pleased.

SENATOR HOFFMANN: Thank you. Senator Bruno, I have no further questions. I have a few comments based upon that commonality of interest on our part.

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

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

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

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

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

challenge which we know will come.

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

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

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

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

ACTING PRESIDENT KUHL: Senator Abate on the bill.

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

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

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

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

We are independent. We have the

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

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

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

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

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

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

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

We'll read the last section on the bill.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

SENATOR PATERSON: Slow roll call.

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

There are five Senators requesting a slow roll call.

Secretary will read the roll slowly.

THE SECRETARY: Senator Abate.

SENATOR ABATE: No.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Babbush.

(There was no response.)

Senator Bruno.

SENATOR BRUNO: Yes.

THE SECRETARY: Senator Connor.

(Negative indication.)

Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.

SENATOR DiCARLO: Aye.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: No.

THE SECRETARY: Senator Espada.

(There was no response.)

Senator Farley.

ACTING PRESIDENT KUHL: Senator Farley to explain his vote.

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

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

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

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

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

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

Continue the roll call.

THE SECRETARY: Senator Gold.

SENATOR GOLD: No.

THE SECRETARY: Senator Gonzalez.

(There was no response.)

Senator Goodman.

SENATOR GOODMAN: Yes.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoblock.

SENATOR HOBLOCK: Yes.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: To explain my vote.

ACTING PRESIDENT KUHL: Senator Hoffmann to explain her vote.

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

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

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

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

Continue to call the roll.

THE SECRETARY: Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Kruger.

(There was no response.)

Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lachman.

(There was no response.)

Senator Lack.

SENATOR LACK: Aye.
THE SECRETARY: Senator Larkin recorded in the affirmative earlier today.
Senator LaValle.
SENATOR LAVALLE: Aye.
THE SECRETARY: Senator Leibell.
SENATOR LEIBELL: Aye.
THE SECRETARY: Senator Leichter.
SENATOR LEICHTER: No.
THE SECRETARY: Senator Levy.
SENATOR LEVY: Aye.
THE SECRETARY: Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Maltese.
(There was no response.)
Senator Marcellino.
SENATOR MARCELLINO: Aye.
THE SECRETARY: Senator Marchi.
SENATOR MARCHI: Aye.
THE SECRETARY: Senator Markowitz.
SENATOR MARKOWITZ: No.
THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator Mendez. Senator Mendez 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

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

I vote no.

ACTING PRESIDENT KUHL: Senator Onorato in the negative.

Continue to call the roll.

THE SECRETARY: Senator Oppenheimer.

(There was no response.)

Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

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

ACTING PRESIDENT KUHL: Senator Paterson to explain his vote.

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

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

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

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

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

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

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

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

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

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

Secretary will continue to call the roll.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

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

SENATOR RATH: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: No.

THE SECRETARY: Senator Seabrook.

(There was no response.)

Senator Sears.

SENATOR SEARS: Aye.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Yes.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Yes.

THE SECRETARY: Senator Smith.

SENATOR SMITH: No.

THE SECRETARY: Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President.

ACTING PRESIDENT KUHL: Senator Stachowski to explain his vote.

SENATOR STACHOWSKI: Briefly to explain my vote. I just am for supplementation as much as any. I worked closely with the Western New York people, and the one thing I learned from them is that I don't want to be passing another bill that I'm almost positive is

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

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

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

Continue to call the roll.

THE SECRETARY: Senator Stafford excused.

Senator Stavisky.

SENATOR STAVISKY: No.

THE SECRETARY: Senator Trunzo.

(There was no response.)

Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.
THE SECRETARY: Senator Volker.
SENATOR VOLKER: Yes.
THE SECRETARY: Senator Waldon.
SENATOR WALDON: No.
THE SECRETARY: Senator Wright.
SENATOR WRIGHT: Aye.
ACTING PRESIDENT KUHL: Secretary will call the absentees.
THE SECRETARY: Senator Babbush.
(There was no response.)
Senator Espada.
SENATOR ESPADA: No.
THE SECRETARY: Senator Gonzalez.
(There was no response.)
Senator Kruger.
(There was no response.)
Senator Lachman.
SENATOR LACHMAN: No.
THE SECRETARY: Senator Gonzalez.
SENATOR GONZALEZ: No.
THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: No.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Nay.

THE SECRETARY: Senator Seabrook.

SENATOR SEABROOK: No.

THE SECRETARY: Senator Trunzo.

(There was no response.)

ACTING PRESIDENT KUHL: Results.

THE SECRETARY: Ayes 35, nays 21.

ACTING PRESIDENT KUHL: The bill is passed.

Senator DiCarlo, why do you rise?

SENATOR DiCARLO: Mr. President, I would like unanimous consent to be recorded in the negative on Calendar Number 689.

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

will be recorded in the negative on Calendar Number 689.

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

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

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

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

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

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

on Third Reading Calendar.

Senator Farley.

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

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

Senator Bruno.

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

ACTING PRESIDENT KUHL: Chair recognizes Senator Paterson.

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

ACTING PRESIDENT KUHL: Minority

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

Senator Bruno.

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

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

SENATOR BRUNO: Thank you, Mr. President.

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

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

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