ALBANY, NEW YORK

May 28, 1996

3:10 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

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

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

May we bow our heads in a moment of silence.

(Whereupon, there was a moment of silence.)

The reading of the Journal, please.

THE SECRETARY: In Senate, Monday, May 27. The Senate met pursuant to adjournment. Senator Hoblock in the chair upon designation of Temporary President. The Journal of Sunday, May 26, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Without objection, the Journal stands approved as read.

Presentations 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 Kuhl.

SENATOR KUHL: Yes, Madam President.

Amendments are offered to the following Third Reading Calendar bills:

Those sponsored by Senator Skelos, on page 16, Calendar Number 579, which is Senate Print 5730A; also

Senator Seward's bill, on page 18, Calendar Number 637, 5206; also

Senator Velella's bill, on page 22, Calendar Number 732, 4285B; also

Senator Nozzolio's bill, on page 33, Calendar Number 905, Senate Print 4473; also

Senator Volker's bill, on page 36, Calendar Number 923, Senate Print 3995; also

Senator Cook's bill, on page 45, Calendar Number 1021, Senate Print 7425; also

Senator Cook's bill, on page 48, Calendar Number 1060; Senate Print 6269B; also

Senator Leibell's bill, on page 54, Calendar Number 1109, Senate Print 2713; and

Senator Levy's bill, on page 59, Calendar Number 1153, Senate Print 6494.

I would like to make a motion that these bills also retain their place on the Third Reading Calendar, Madam President.

THE PRESIDENT: Amendments received.

Senator Rath.

SENATOR RATH: Yes, Madam President.

On behalf of Senator Velella, on page 15, I'd like to offer the following amendments to Calendar 538, Senate Print Number 5766B, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: Amendments received.

SENATOR RATH: Additionally, Madam President, I would move that the following bills be discharged from their respective committees and be recommended with instructions to strike the enacting clause:

On behalf of Senator Nozzolio, Senate Number 4038.

THE PRESIDENT: Enacting clause struck.

Senator Present.

SENATOR PRESENT: Madam President. On behalf of Senator Alesi, please place sponsor star on Calendar 965; and on behalf of Senator Velella, please place a sponsor star on Calendar 179.

THE PRESIDENT: The bills are starred.

Senator Bruno.

SENATOR BRUNO: Madam President.

I believe that we have a privileged resolution at the desk by Senator Wright. I would ask that it be read in its entirety and that we move its adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Wright, Legislative Resolution, memorializing Governor George E. Pataki to recognize the week of June 2 through June 8, 1996, as "Small Business Week" in the State of New York.

Whereas, small businesses are vital to our nation's economy and our way of life, constituting the single most important segment of our free enterprise system; and

Whereas, small businesses generate virtually all new jobs arising in New York State;

The contributions made by Small Business owners are too often taken for granted even though they often risk their financial security to create jobs, pay taxes and produce goods and services for the people of New York State;

Small businesses are the source of many innovations in products and merchandising and have made significant

contributions to our state and our society;

These findings have prompted the President of the United States of America to designate the week of June 2 through June 8, 1996, as "National Small Business Week"; and

Whereas, small businesses in New York State exert a strong positive influence on the political, economic and social development of the state and the future welfare of the state depends on the continued development of small business; and

Whereas, the members of the New York State Assembly and Senate wish to proclaim their recognition of small business as a crucial element in the economy of New York State; now therefore be it

Resolved, that this Legislative Body pause in its deliberations to congratulate all small business owners and operators in New York State on their achievements and to memorialize Governor George E. Pataki to recognize the week of June 2 through June 8, 1996 as "Small Business Week" in the State of

New York; and be it further

Resolved, that a copy of this resolution, suitably engrossed, be transmitted to Governor George E. Pataki.

THE PRESIDENT: The question is on the resolution.

All those in favor, signify by saying aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The resolution as adopted.

Senator Bruno.

SENATOR BRUNO: Madam President. I believe that there are other resolutions at the desk that we have previously passed -- I would ask that they now be read -- by Senator Wright.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Wright, Legislative Resolution, paying tribute to the New York State honorees of the United

States Small Business Administration upon the occasion of their designation as recipients of the 1996 Small Business People Awards.

Whereas, Small Business owners embody the entrepreneurial spirit which has fueled the economy of our country since its founding; and

Whereas, small businesses continue to create virtually all new jobs in New York State and to train most workers entering our economy;

Small business owners contribute to our state by risking their personal wealth and devoting countless hours to their businesses in order to provide jobs, pay taxes and produce goods and services for the people of the State of New York; and

Whereas, the United States Small Business Administration Districts in New York State each year select a Small Business Person of the Year; and

Whereas, the United States Small Business Administration Districts in New York

State each year select certain outstanding small business people to receive Small Business Advocacy Awards;

The United States Small Business Administration Districts in New York State each year select certain community members to receive Small Business Special Awards; and

Whereas, these awards represent recognition for entrepreneurialship and advocacy from peers and small businesses; and

Deborah A. Naybor, President of Professional Land Surveyor, P.C., has been selected Small Business Person of the Year for the Small Business Administration Buffalo District;

Michael P. Puglisi, Program Specialist for Disabled Veterans Outreach, has been selected Veteran Small Business Advocate of the Year for the Small Business Administration Buffalo District;

Sandra McCoy Bernard, Executive Director of Rochester Women's Network, has been selected Women in Business Advocate of the Year

for the Small Business Administration Buffalo District;

Helen L. Gaiter, Associate Director of the University of Buffalo Purchasing Department has been selected Minority Small Business Advocate of the Year for the Small Business Administration Buffalo District;

James D. Murray of Bisuito, Murray, McDonald and Winterman, has been selected Accountant Advocate of the Year for the Small Business Administration Buffalo District;

Richard J. Goodhart of International Purchasing Services, Incorporated, has been selected Small Business Exporter of the Year for the Small Business Administration New York City District;

T. Crispina French of Crispina Designers has been selected Young Entrepreneur of the Year for the Small Business Administration New York City District;

Suzanne I. Tufts of American Women's Economic Development Corporation has been selected Women in Business Advocate of the

Year for the Small Business Administration New York City District;

Virginia Citrano of Crain's New York Business has been selected as Media Advocate of the Year for the Small Business Administration New York City District;

Mervyn Shorr of Banco Popular de Puerto Rico has been selected Financial Services Associate of the Year for the Small Business Administration New York City District;

Jennifer F. Green of Carol's Educare Child Care Center, Incorporated, has been selected Small Business Person of the Year for the Small Business Administration New York City District;

James E. Corey, III, Senior Vice-President of Chemung Canal Trust Company, has been selected Financial Services Advocate of the Year for the Small Business Administration Syracuse District;

Dannible and McKee, L.L.P., has been selected Accountant Advocate of the Year for the Small Business Administration Syracuse

district;

Herbert O. Carpenter, publisher of Strictly Business Magazine has been selected Media Advocate of the Year for the Small Business Administration Syracuse District;

Ralph L. Vinciguerra, Deputy for Small Business of Defense Contract Management Area Operations, has been selected Minority Small Business Advocate of the Year for the Small Business Administration Syracuse District; and

Whereas, all these United States Small Business Administration award winners have contributed through their success and involvement in the Small Business sector to the economic strength of their communities, their state and their country; and

Whereas, these New Yorkers exemplify the values of diligence, initiative and independence which makes small business such a vital sector of New York State's economy; now, therefore, be it

Resolved, that this Legislative

Body pause in its deliberations to extend its congratulations to these New Yorkers for being designated by the United States Small Business Administration as outstanding 1996 Small Business people; and be it further

Resolved, that this resolution, suitably engrossed, be transmitted to the afore mentioned honorees.

By Senator Wright, Legislative Resolution, paying tribute to the New York State honorees of the United States Small Business Administration upon the occasion of their designation as recipients of the 1996 Small Business People Awards.

Whereas, small business owners embody the entrepreneurial spirit which has fueled the economy of our country since its founding;

Small businesses continue to create virtually all new jobs in New York State and to train most workers entering our economy;

Small business owners contribute to our state by risking their personal wealth

and devoting countless hours to their businesses in order to provide jobs, pay taxes, and produce goods and services for the people of the State of New York;

The United States Small Business Administration each year selects a Small Business Person of the Year from each of the 50 states; and

Whereas, the United States Small Business Administration each year selects certain outstanding small business people in each state to receive Small Business Advocacy Awards;

The United States Small Business Administration each year selects persons from the communities in each state to receive Small Business Special Awards;

The United States Small Business Administration has awarded for 1996 the New York State Small Business Person of the Year Award four Advocacy Awards and two Special Awards for persons in New York State;

Whereas, Karen L. Moore,

President of MC Professional Management and Consulting Company, Incorporated, has been selected New York State Woman in Business Advocate of the Year;

Manuel J. Cabrero, Director of Veteran Business Assistance Center, has been awarded New York State Veteran Small Business Advocate of the Year;

Robert G. Wilmers, Chairman, President and Chief Executive Officer of M&T Bank, has been selected New York State Financial Services Advocate of the Year;

James T. Madore, reporter for the Buffalo News has been selected as the New York State Media Advocate of the Year;

Patrick J. Whalen, President of Forwarding Services, Incorporated, has been selected New York State Business Exporter of the Year;

Mark Nelson of Ovid Technologies, Incorporated, has been selected for the New York State Entrepreneurial Success Award;

Anthony Salucci, President of

Hughes-Treitler Manufacturing Corporation has been selected as Small Business Subcontractor of the Year;

Mark Golden of Golden Artists Colors, Incorporated, has been selected New York State Small Business Person of the Year; and

Whereas, all of these United States Small Business Administration Award winners have contributed, through their success and involvement in the Small Business sector, to the economic strength of their communities, their state and their country; and

Whereas, these New Yorkers exemplify the values of diligence, initiative and independence which make small business such a vital sector of New York State's; now, therefore, be it

Resolved, that this Legislative Body pause in its deliberations to extend its congratulations to these New Yorkers for being designated by the United States Small Business Administration as outstanding 1996 Small Business people; and be it further

Resolved, that copies of this resolution, suitably engrossed, be transmitted to the aforementioned honorees.

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

SENATOR WRIGHT: Thank you, Mr. President.

I rise as the Chairman of the Senate Standing Task Force on Small Business to, on behalf of the Senate, extend a welcome to all of our award winners who have joined with us today and who are here in the gallery to be recognized by the Senate.

I think all of us have an appreciation for Small Business and what Small Business does for this state on a daily in terms of our economy and in terms of job creation. We're very pleased to have the opportunity today to extend our thank you, our appreciation for the job that you do every day with your employees to build and to grow the economy of this state.

The recognition that the United States Small Business Administration extends to you affords us the opportunity to recognize you by resolution, to commend you in your efforts and to reaffirm and endorse those designations and federal awards that have been granted.

I would briefly like to, with the indulgence of my colleagues, introduce the national, state, and regional winners and ask them to rise, if they would, please.

As a national winner in New York State, James T. Madore, business reporter with the Buffalo News.

The state winner, Mark Golden, President, Golden Artist Colors, Inc., State Small Business Person.

The regional winners:

Women in Business Advocate of the Year, Karen L. Moore.

Veteran Small Business Advocate of the Year, Manuel J. Cabrero.

Small Business Exporter of the Year, Patrick J. Whalen; and

Small Business Subcontractor of the Year, Anthony Salucci.

Thank you very much.

If you would please extend our congratulations and the warm wishes of the Senate on behalf of all of the winners.

We're very pleased to have all of you representing the State of New York. We're very pleased to have all of you here joining us today, extending the opportunity to be recognized, and, I hope, also taking the opportunity to lobby all of my colleagues on the issues of Workers' Comp and tax reform in this state.

Thank you very much for joining us.

ACTING PRESIDENT KUHL: Senator Maltese on the resolution.

SENATOR MALTESE: Yes, Mr. President. I want to add my congratulations to those of Senator Wright and all the members of the house on both sides of the aisle.

I want to especially mention,

from Queens County, Susan Tufts, a personal friend, a very, very bright and energetic and articulate spokesman, a person who has worked very diligently to advance the cause not only of women but people involved in small business; has set a very, very energetic example by setting up conferences and seminars advancing the cause of women in New York.

She is a recipient of the Women in Business Advocate of the Year Award, and I want to congratulate her as well as, from Queens County, Jennifer Green, who is Small Business Person of the Year for Carol's Educare Child Care Center in Queens County.

I congratulate them, of course, as exemplifying what is best in women, what is best in Americans and small business people. Small business, after all, are the heart beat of America and very, very honestly keep not only New York State but our country as vibrant and as competitive as we are.

ACTING PRESIDENT KUHL: Senator Stafford on the resolution.

SENATOR STAFFORD: Mr. President. I'll be very brief. You will find it very interesting. We'll all say the same thing. Everybody stands up, but -- oh, the leader says we won't, and we won't.

But I do want to say that we should say the same thing because these people are the best. Our representative Herb Carpenter went to the top in his profession in the public sector, did a great job. He is now at the top in the private sector, and he is the type of individual, together with those who are here today, that make this state and nation really what it is and we certainly do compliment them.

ACTING PRESIDENT KUHL: Senator DeFrancisco on the resolution.

SENATOR DeFRANCISCO: Thank you, Mr. President.

I notice that the Syracuse District Office is well represented, as in most honors that are bestowed on people in this body. But two in particular, Dannible and McKee

and Ralph Vinciguerra from the Syracuse City and they are being honored in this group, as well.

I think the message I want to give is that what we're trying to do here in this state now is to make small business big business so there will be room at the bottom, small businesses, for replacements for next year, and we're trying to do that through the budget process and that's maybe why we're hanging out a little longer than maybe people want us to hang out.

We've got a lot of big issues here. There's been a substantial change over the last year and a half, and in order for that change to continue so you can be even more successful and those out there to replace you next year, we're going to keep these policies going, and all of the members of this body are committed to seeing that that happens.

So congratulations. Be patient with us. We're trying to do what we can to make the climate better for all of you in this State of New York to make money, create jobs, and to

have an atmosphere that all of us can be proud of.

ACTING PRESIDENT KUHL: Senator Bruno on the resolution.

SENATOR BRUNO: Mr. President. I want to just take a minute, and Senator Stafford said that we all say the same things, so I was trying to think of something different to say.

And the thing that I can say that's different is that, I believe, of all the people that have been up to speak so far that I may be the only person so far in this chamber that started a small business here in this state, and I am proudest of that, that I can stand here having started a small business in this state and having gone through all the trials and all of the things that you are well aware of that you have to do in this state to continue a business, to grow a business and to see that business flourish.

So I want to just commend you for your initiative, for your determination, for your persistence, for your ingenuity, for all of

the things -- the energy -- that you bring to your businesses that bring you to this chamber and being acclaimed and recognized as being outstanding in your field.

We in this chamber are proud that you are here and all the people in this state ought to recognize and be proud that you - through your efforts, you create the jobs, you create the growth; and that growth contributes to the improvement of the quality of life for all New Yorkers.

So I am proud to be here and say what I can say in recognition of your outstanding achievements. Congratulations to you.

ACTING PRESIDENT KUHL: Senator Maziarz on the resolution.

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

I, too, want to join Senator Wright and all my colleagues in congratulating all of the honorees here today. I'm sure that this recognition is very well deserved.

I would particularly like to mention one individual from my district, Patrick Whalen, President of Forwarding Services, Inc. Patrick is a small business located in Niagara county, but even within Niagara County, he is located within the best small city in the entire State of New York, North Tonawanda.

So congratulations, Patrick.

ACTING PRESIDENT KUHL: Senator Goodman on the resolution.

SENATOR GOODMAN: Mr. President. I, too, would like to add my warmest congratulations to Suzanne Tufts, who has been distinguished by her inclusion in this rather remarkable list, to point out that there is one thing about her which can be stated unequivocally to be absolutely unique. She is married to a former big league baseball player and that, of course, adds to her clout, to her ability and agility in the base running of the world of small business and to the fact that she is an exceptionally bright, able and extraordinarily enthusiastic citizen of this

state.

I would also like to say a word in salutation to Robert G. Wilmers, who is the Chairman and President and CEO of the M&T Bank in Buffalo. I'm very familiar with his record since, once upon a time, he served as my first Deputy Finance Commissioner in the City of New York and is an individual of extraordinary skill and concern for the well-being of others.

Robert Wilmers, as the Chairman of the M&T Bank has made a unique reputation for the services that he has rendered to the City of Buffalo, both civic and philanthropic, and it is quite evident that whoever the federal screening commission who selected these winners may have been that they were very astute and that they understood quality in the highest sense of that word.

ACTING PRESIDENT KUHL: Senator Seward on the resolution.

SENATOR SEWARD: Thank you, Mr. President.

I, too, want to rise and echo the

sentiments that have been expressed by a number of the members here today. When it comes to the importance of small businesses of our state as they add an employee or two over time, it doesn't grab the headlines that perhaps a large corporation either coming to New York or leaving New York does, but the cumulative effect economically to our state and the importance to our state by the many, many small businesses that add an employee or two a year, the cumulative effect has a tremendous impact on our economy and our life here in New York State.

I want to give special greetings to our state Small business Person of the Year, Mark Golden, President of Golden Artist Colors, Incorporated. This is a multi-million dollar small business with some 45, approximately, employees. It's located in New Berlin, New York, and it has been in the business of manufacturing acrylic artists' paints since 1980; and within the artist paint industry, so to speak, this company is well-known for its quality product and is used by many, many

well-known artists both here in North America and in Europe.

I can assure my colleagues that the success of Golden Artist Colors is not because of the traffic by their location, of their facility. I have toured Golden Artist Colors, and it's located on a back road off a back road in a rural community. It's successful because of the leadership and vision of the Golden family, an outstanding product and a very productive work force.

So my congratulations to Mark Golden and your entire family and all the employees of Golden Artist Colors.

ACTING PRESIDENT KUHL: Senator Alesi on the resolution.

SENATOR ALESI: Thank you, Mr. President.

Like so many of my colleagues today, I join in congratulating those who are up in the gallery there to my left, and it's with great pleasure that I join my leader as a small business owner, one who also got his start in

small business. Perhaps a little bit of a smaller business than Senator Bruno's, but there's still hope for me there, too, I expect.

I would like to congratulate the recipients who are from my district. James D. Murray, who is with a firm in my district in East Rochester and no doubt associated with a very good friend of mine, Charles Bisuito; as well as Sandra McCoy Bernard from the Rochester's Women's Network.

As I said, as a small business owner myself, I understand all of the trials and tribulations firsthand, and anyone who is selected and recognized as an advocate for small business in this state should certainly be congratulated, and I add my congratulations to those of my colleagues and welcome our friends here today.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the resolutions.

The resolutions were previously adopted, but I will take the liberty at this

time on behalf of Senator Bruno and all the Senators here to welcome you to Albany. We hope you enjoy your day here. We certainly appreciate your taking the time out of the day.

We congratulate you for all you have done for New York, certainly, and as you can tell from the outpouring of comments here, there are many people here who would like to have a small business.

So keep up the good work and encouragement. Thank you for joining us.

Other motions and resolutions.

Senator Sears.

SENATOR SEARS: On behalf of Mr. -- or of member Leibell, Mr. President, on page 12, I offer the following amendments to Calendar 457, Senate Print 2984, and ask that the said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 457 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Sears.

SENATOR SEARS: I wish to call up my bill, Print Number 5973B, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 594, by Senator Sears, Senate Print 5973B, an act to amend the Environmental Conservation Law.

SENATOR SEARS: Mr. President. I now move to reconsider the vote by which this bill was passed.

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: The bill is before the house.

Senator Sears.

SENATOR SEARS: I now offer the following amendments.

ACTING PRESIDENT KUHL: The

amendments are received and adopted.

Senator Present.

SENATOR PRESENT: Mr. President. On behalf of Senator Goodman, on page 59, I offer the following amendments to Calendar 1146, Senate Print 4688C, and ask that it retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 1146 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Bruno.

SENATOR BRUNO: Mr. President. I believe that we have been joined by Rabbi Butman, and Rabbi Butman traveled up to the chamber to give us the opening prayer and was held up. So, we in this chamber can use all the prayers that we can get, so I would ask that we now hear Rabbi Butman's prayer.

And thank you very much for making the effort, Rabbi.

ACTING PRESIDENT KUHL: Per your request, Senator Bruno, Rabbi Shmuel M. Butman

of the Lubavitch Youth Organization in Brooklyn, New York, is joining us for the prayer.

Rabbi Butman.

RABBI SHMUEL M. BUTMAN: Thank you very much, Senator Bruno. I was held up in a meeting with the Governor, who, I understand, is a Republican.

SENATOR BRUNO: I pray he stays that way.

RABBI SHMUEL M. BUTMAN: You know what to say.

Let us pray, dear God.

The 11th day of Nissan, corresponding this year to March 31st, marks the 94th anniversary of the birth of the revered Jewish leader Rabbi Menachem M. Schneerson, the Lubavitcher Rebbe. It has become customary to mark this auspicious occasion at the start of - with 94 days of education which you have in this great chamber proclaimed in honor of the Rebbe's activities of education throughout the world.

The Rebbe emphasizes that education is much more than just imparting facts

and ideas. Primarily, it means guiding both ourselves and our youth to become better individuals, more humane, ethical, sensitive and aware.

Therefore, the Rebbe always emphasized education is a process, continuing throughout our lives. We must continue to educate ourselves and especially our youth in the exalted principles upon which this great republic of ours was established.

On the 94th birthday, we start reading Psalm 95, opening with the words of King David. Come let us sing to God; let us sing out loudly to the rock of our deliverance. Let us approach him with thanksgiving; let us sing out loud in song to God, for the God that created us, the king of everyone.

Classical commentaries explained that with these words we will exhort each other as the Messianic era begins and the Rebbe often told us that we live in a special time. This is the last generation of exile and the first generation of redemption.

By Divine providence, the members of this great Senate gathered here have been elected by the people of the great State of New York to serve as custodians of law and morality, enacting laws that create a more ethical, decent and law-abiding society.

New York State, in turn, is privileged to serve as a key state in the United States of America, now the world's only super power, looked up by other nations as the epitome of success and prosperity; therefore, New York State is in a position to influence other nations to adopt the standards of justice and freedom upon which this nation was founded and to which we remain forever committed.

It is customary for me to take this opportunity to place a dollar bill inscribed with the words, "In God We Trust", into a charity box. I remember the first time when I told the Rebbe, Rebbe Schneerson, that I'm going to come here. He told me, "Bring the charity box and offer a dollar so everyone will see that this is our purpose in life, to do

charity and to help each other."

This charity box reminds us of our obligation not only to each other but to the entire universe, to every single human, regardless of race, religion, color or creed. May the members of this Legislature be worthy of the great privilege bestowed upon them. May they be successful in creating a peaceful, just society, serving as a model for the entire world, preparing it for the universal peace and justice of the future.

May the legislators who have so graciously volunteered to serve the public of this state all enjoy great success, both in their public lives and with their families in their private lives; and I want you to know, friends, every sabbath in the synagogues we pray for you when we say may God reward those who sincerely serve the needs of the public, removing all illness from them, sending them blessing and success in all their endeavors.

And let us say, amen.

These are my prepared remarks.

My nonprepared prayer is that 58 days without a budget is long enough, and may you pass the budget successfully immediately.

And let us say, again, amen.

ACTING PRESIDENT KUHL: Senator Marchi.

SENATOR MARCHI: Mr. President. I wouldn't want this occasion to pass without - if I may have unanimous consent to make a short statement.

ACTING PRESIDENT KUHL: Senator Marchi, we have a couple of motions and resolutions to get out of the way first.

SENATOR MARCHI: It's just in the time frame that we're in.

ACTING PRESIDENT KUHL: Senator Marchi.

SENATOR MARCHI: Thank you, Mr. President. Certainly, this is an annual exercise that brings us pleasure and honor. The statements that you have made, Reverend, certainly are inspiring and in keeping with the wonderful tradition that you represent so well.

You go back -- your people go back, many, many centuries. The affirmation of the Torah over a thousand years ago by the Rambam at that time is an eloquent statement and contribution and the early seeds of scholasticism that were sown so nobly at that time, and which is exemplified today by the many schools that you have in your network. This imparting of wisdom and spirituality is something the world desperately needs. You bring that to us, sir, and we're very proud to have it, and we rejoice in your presence.

And I had the pleasure of knowing Rabbi Schneerson, and it was certainly an inspiring experience. We wish you well, and we welcome your presence again with great feelings of friendship and admiration.

ACTING PRESIDENT KUHL: Senator Lachman.

SENATOR LACK: In keeping with what Senator Marchi has just said, but without quoting from Jewish theology -- I might in the future quote from Catholic theology -- I just

want to mention that I have the privilege, very great privilege, about five, six years ago, of meeting with Lubavitcher Rebbe. He was a unique individual. He was a charismatic personality. He was a great scholar and a forceful and dynamic leader of the worldwide Lubavitch movement, and he left a legacy that will be very difficult to replicate. He also left a spiritual -- a voluminous spiritual undertaking that his followers and others around the world will try to follow in his footsteps. He was an outstanding and extraordinary individual; and in honoring him, we honor the entire movement and religion in general.

Thank you.

ACTING PRESIDENT KUHL: Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President. Mr. President, I wish to call up my bill Print Number 2138, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar Number 390, by Senator Nozzolio, Senate Print 2138, an act to amend the Social Services Law and the Education Law.

ACTING PRESIDENT KUHL: Senator Maziarz.

SENATOR MAZIARZ: Mr. President. I now move to reconsider the vote by which this bill was passed.

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: The bill is before the house.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President. I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Senator Bruno, we have one substitution at the desk, if we could take that

up at this time.

SENATOR BRUNO: Please may the substitution, Mr. President.

ACTING PRESIDENT KUHL: Secretary will read the substitution.

THE SECRETARY: On page 39, Senator Maltese moves to discharge from the Committee on Rules Assembly Bill Number 10615 and substitute it for the identical Third Reading Calendar 954.

ACTING PRESIDENT KUHL: Substitution is ordered.

Senator Bruno, that brings us to the calendar.

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

ACTING PRESIDENT KUHL: Secretary will read the noncontroversial calendar.

THE SECRETARY: On page 4, Calendar Number 670, by Senator Larkin, Senate Print 69A, an act to amend the Insurance Law and the Tax Law, in relation to supplemental health

insurance accounts.

SENATOR LEICHTER: Can we have a day on that, please?

ACTING PRESIDENT KUHL: Senator Larkin is not in the chamber.

Senator Hoblock, what is your pleasure?

SENATOR HOBLOCK: Lay the bill aside for the day, Mr. President.

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

THE SECRETARY: Calendar 238, by Senator Larkin, Senate Print 1578B, an act to amend the Real Property Tax Law, in relation to subjecting certain state lands.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 353, by Senator Nozzolio, Senate Print 1657, an act to authorize and direct the Workers' Compensation Board to redetermine the award of volunteer fire fighter.

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

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 381, by Senator DeFrancisco, Senate Print 3520A, an act to amend the Social Services Law, in relation to the transportation of certain persons.

SENATOR DeFRANCISCO: Lay the

bill aside for the day.

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

THE SECRETARY: Calendar Number 500, by the Assembly Committee on Rules, Assembly Print 8383, an act to amend the Election Law, in relation to determination of ballot positions.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 535, by Senator Johnson, Senate Print 4470, an act to amend the Election Law, in relation to distributing the names of inactive voters.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 574, by Senator LaValle, Senate Print 6178A, an act to amend the Town Law, in relation to lands within the Hampton Bay's water district.

ACTING PRESIDENT KUHL: The

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 651, by Senator Holland, Senate Print 5789B, an act to amend the General Municipal Law, in relation to indexing the interest rate.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 664, by Member of the Assembly Pretlow, Assembly Print 8641, concurrent resolution of the Senate and Assembly proposing an amendment to Section 6 of Article 5.

ACTING PRESIDENT KUHL: The question is on the resolution.

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The resolution is adopted.

THE SECRETARY: Calendar Number 681, by Senator DeFrancisco, Senate Print 6375, an act to amend the Highway Law, in relation to components of the State Scenic Byways System.

SENATOR DeFRANCISCO: Lay it aside for one day, please.

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

THE SECRETARY: Calendar Number 694, by Member of the Assembly Colman, Assembly Print 1655A, an act to amend the Criminal Procedure Law, in relation to requiring the district attorney.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 713, by Member of the Assembly Espada, Assembly Print 9826, an act to amend the Mental Hygiene Law, in relation to making a technical correction.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 717, by Senator Libous, Senate Print 6756, an

act to amend the Mental Hygiene Law, in relation to discharging fees.

SENATOR PATERSON: Mr. President.

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

SENATOR PATERSON: May we have a day on this? There are a few Senators who are unable to be here and we would like to ask a couple of questions of Senator Libous.

ACTING PRESIDENT KUHL: Senator Hoblock.

SENATOR HOBLOCK: Mr. President. Will you lay that bill aside for a day, please.

ACTING PRESIDENT KUHL: The bill is laid aside for the day at the request of the sponsor.

Secretary will continue to call the noncontroversial calendar.

THE SECRETARY: Calendar Number 822, by the Assembly Committee on Rules, Assembly Print 7522A, an act to amend the Real Property Tax Law, in relation to the real property tax exemption.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 829, by Senator Maziarz, Senate Print 6253, an act to amend the Public Authorities Law, in relation to membership of Niagara Frontier Transportation Authority.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 833, by Senator Maziarz, Senate Print 6440A.

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

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

THE SECRETARY: Calendar Number 835, by Senator DeFrancisco, Senate Print 6788A, an act to amend the Canal Law, in relation to the abandonment and sale of certain canal lands.

SENATOR DeFRANCISCO: Lay the bill aside for one day please.

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

THE SECRETARY: Calendar Number 855, by Senator DiCarlo, Senate Print 6068, an act to amend the Criminal Procedure Law, in relation to plea bargains in felony sex offenses.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 860, by Senator Volker, Senate Print 6695, an act to amend the Criminal Procedure Law, in relation to designating evidence and property control specialists.

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.)

Announce the results when tabulated.

THE SECRETARY: Ayes 48. Nays 1. Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 872, by Senator Maziarz, Senate Print 6574, an act to amend the State Administrative Procedure Act, in relation to exempting certain commission.

ACTING PRESIDENT KUHL: Senator Maziarz.

SENATOR MAZIARZ: Mr. President. Can I ask at this time to place a star in front of Calendar Number 872, please.

ACTING PRESIDENT KUHL: Calendar Number 872 will be starred at the request of the sponsor.

Secretary will continue to call the noncontroversial calendar.

THE SECRETARY: Calendar Number 888, by Senator Saland, Senate Print 6055A, an act to amend the State Finance Law, in relation to making monies from the open space account.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 895, by the Assembly Committee on Rules, Assembly Print 7505C.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 951, by Senator Lack, Senate Print 6467, an act to amend the Election Law, in relation to polling places in Suffolk County.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR GOODMAN: Mr. President.

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

SENATOR GOODMAN: I ask to be recorded in the negative on Calendar Number 860, please.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Goodman will be recorded in the negative on Calendar Number 860.

Secretary will continue to call the noncontroversial calendar.

THE SECRETARY: Calendar Number 954, substituted earlier today, by the Assembly Committee on Rules, Assembly Print 10615, an act to amend the Election Law, in relation to notice to candidates.

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

THE SECRETARY: Section 2. This act shall take effect on the 31st day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 976, by Senator Levy, Senate Print 375, an act to amend the Vehicle and Traffic Law, in relation to sentences for alcohol or drug related offenses.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 986, by Senator Kuhl, Senate Print 515A, an act to amend the Agriculture and Markets Law and the

Economic Development Law, in relation to the creation of the New York State Center for agribusiness development.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 987, by Senator Larkin, Senate Print 937, an act to amend the Alcoholic Beverage Control Law, in relation to providing for the creation of a class B-1 distillers license.

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

THE SECRETARY: Section 4. This act shall take effect on the 120th day.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1027, by Member of the Assembly Gunther, Assembly Print 2288B, an act to amend the Real Property Law and the Real Property Tax Law, in relation to the assessment of property.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1034, by Senator Seward, Senate Print 6337A, an act to amend the Real Property Tax Law, in

relation to the authorizing the collection of solid waste fees.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1048, by Senator Rath, Senate Print 7372, an act to amend the Town Law, in relation to applicant fees paid for certain services.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1051, by Senator LaValle, Senate Print 7429, an act to amend the General Municipal Law, in relation to point systems.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1063, by Senator LaValle, Senate Print 6711, an act to amend the Domestic Relations Law, in relation to information regarding the Thalassemia Trait.

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 48. Nays 1. Senator Maziarz recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1086, by Senator Goodman, Senate Print 7458.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1140, by Senator Levy, Senate Print 3942A, an act to amend the Vehicle and Traffic Law, in relation to fines and penalties.

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

THE SECRETARY: Section 2. This

act shall take effect on the first day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1154, by Senator Velella, Senate Print 6497, an act to amend the Vehicle and Traffic Law, in relation to reports required upon accident.

SENATOR HOBLOCK: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1193, by Senator Maltese, Senate Print 494, an act to amend the Election Law and the Education Law, in relation to sample ballots.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1203, by Senator Maltese, Senate Print 4524, an act to amend the Election Law, in relation to the names of independent bodies.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

Senator Hoblock, that completes the noncontroversial calendar. What's your pleasure?

SENATOR HOBLOCK: Mr. President. Would you kindly proceed with the controversial calendar.

ACTING PRESIDENT KUHL: Secretary will call controversial calendar beginning with Calendar Number 500 by Senator Volker.

THE SECRETARY: On page 13,

Calendar Number 500, by the Assembly Committee on Rules, Assembly Print 8383, an act to amend the Election Law, in relation to the determination of ballot positions.

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

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

Continue to call the controversial calendar.

THE SECRETARY: Calendar Number 535, by Senator Johnson, Senate Print 4470, an act to amend the Election Law, in relation to distributing the names of inactive voters.

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

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

THE SECRETARY: Calendar Number 651, by Senator Holland, Senate Print 5789B, an act to amend the General Municipal Law.

SENATOR LEICHTER: Explanation.

SENATOR HOLLAND: Senator, this

is the bill that you asked us to change some wording in. We have done your bidding, and it reappears on the floor.

It simply says that the prime rate will not go above 9 percent -- I mean the rate municipalities will pay will normally be set at the prime rate but will not go above 9 percent, and it's to correct what the courts have done in the past and set it at the highest possible 9 percent.

SENATOR LEICHTER: Mr. President. If Senator Holland will yield.

ACTING PRESIDENT KUHL: Senator Holland, do you yield to a question by Senator Leichter?

SENATOR HOLLAND: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: Senator, I still have a technical objection to the bill. Let's get to the merits, to the meat of it, and if you will be so good as to yield. This provision provides, does it not, for the payment

of interest on judgments recovered against a municipal corporation? Is that right?

SENATOR HOLLAND: Yes, sir.

SENATOR LEICHTER: And that rate of interest is paid only from the day of judgment until the judgment is paid; is that right?

SENATOR HOLLAND: Right.

SENATOR LEICHTER: Do you believe that a municipal corporation like any other judgment debtor should pay its bill and its judgment as it becomes due?

SENATOR HOLLAND: If at all possible, certainly.

SENATOR LEICHTER: So if a corporation pays the judgment, there is no problem about interest on the judgment; isn't that right? It will pay a couple of days, five days, the interest is minimal. Isn't that correct?

SENATOR HOLLAND: Yes.

SENATOR LEICHTER: So you are dealing with a case where the municipal

corporation takes its time in paying the judgment; is that right?

SENATOR HOLLAND: I guess that's because that's what they have to do. Yes, sir.

SENATOR LEICHTER: Well, whatever -

SENATOR HOLLAND: I can give you a specific example, if you'd like. We just passed a bill here last week to authorize the Town of Orangetown to pay $10 million bond over a ten-year period because they had been found guilty of something, and this is a perfect example of where this would have saved that town lots and lots of money had they not signed before this bill was passed.

SENATOR LEICHTER: All right. But the fact is, Senator, is it not, that we've got a judgment creditor and a court has decided and it's usually a jury has decided that the municipal corporation has wronged an individual or small business maybe or large business or group of taxpayers and is indebted to these taxpayers?

SENATOR HOLLAND: Yes.

SENATOR LEICHTER: And the taxpayers have been found to be out of money or they're due monies; isn't that correct?

SENATOR HOLLAND: It could be the taxpayers. It could be an individual, yes.

SENATOR LEICHTER: Whoever it is.

SENATOR HOLLAND: Yes.

SENATOR LEICHTER: Whoever the judgment creditor is.

SENATOR HOLLAND: Right.

SENATOR LEICHTER: And if the town delays the paying, the judgment creditor doesn't receive the judgment that he or she or it has been entitled to receive. Isn't that true?

SENATOR HOLLAND: I believe that when the case was settled, the judge would immediately set the rate. Whether they pay it in two days or two years, the Court doesn't care. They set the rate immediately, I believe.

SENATOR LEICHTER: Well, Senator, the rate is set by law. In fact, that's what

you are trying to do here. You are trying to amend the law. The law now provides for an interest rate of 9 percent.

SENATOR HOLLAND: No. The law provides for an interest rate from 3 to 9 percent at the judge's discretion, and the judges are setting it at 9 percent, regardless of what the prime rate is. We are trying to bring it down so that the municipalities will not have to pay the top of the market.

SENATOR LEICHTER: All right. But if you were, let's say for the sake of the argument -- I'm sorry. Let me just back up for a moment. The reason I said 9 percent I was dealing with an instance of a judgment against some judgment creditor other than a municipal corporation. But if you were a judgment creditor, you had received a judgment against a municipal corporation and that municipal corporation, for whatever reason, doesn't pay the judgment, you now may be out of money and you may have to go and borrow the money to keep up with your business or whatever activity you

were engaged in and whatever events led to that judgment. Right?

SENATOR HOLLAND: Okay.

SENATOR LEICHTER: Now, let me say to you, your bill provides that the interest rate is going to be either 9 percent or the prime rate, whichever is lower.

SENATOR HOLLAND: It will be between 3 and 9 percent; but if the prime rate is lower, it will be the prime rate.

SENATOR LEICHTER: Okay. Presently, the prime -- well, as I read your bill, it says, "Upon any judgment, a claim accrued against a municipal corporation shall be the prime rate but shall not exceed..." -

SENATOR HOLLAND: You're correct.

SENATOR LEICHTER: So it's either 9 percent or the prime rate if the prime rate is less.

SENATOR HOLLAND: Yes.

SENATOR LEICHTER: Do you know what the prime rate is at the present time.

SENATOR HOLLAND: Eight and a

quarter.

SENATOR LEICHTER: Most banks say eight and a quarter. Now, Senator, you are the judgment debtor, and you've got to go and you've got to borrow the money because a municipal corporation -- let's say you are a contractor. You did some work for a municipal corporation. The municipal corporation doesn't pay you. You got a cash flow problem. You go to your bank, and you say, "I've got this judgment, but they won't pay me at this time, and I've got to borrow money." That's what's going to happen, isn't it?

SENATOR HOLLAND: Could be.

SENATOR LEICHTER: Right. And would you tell me how often it is that a judgment creditor, particularly if it's an individual, you or me, or a small business gets the prime rate? Do you know how often that is?

SENATOR HOLLAND: I never get the prime rate.

SENATOR LEICHTER: Exactly. You will never get it. I will never get it. Most

small businesses will never get it. So now you, as the small business or you as Joe Holland, who has been injured and found to be entitled to some money, you've got to go to the bank, and the bank is going to charge you probably 11 percent or 12 percent. Right?

SENATOR HOLLAND: Yes.

SENATOR LEICHTER: And the municipal corporation somewhere down the line is finally going to pay, you hope, and under your bill, they won't even get 9 percent. Now they are only going to get eight and a quarter.

SENATOR HOLLAND: Senator, let's take the other side of the argument. Let's take that $10 million that the Town of Orangetown has to pay back and the taxpayers have to pay it back. That's the taxpayers of the Town of Orangetown have to pay $10 million back at 9 percent. Wouldn't it be better for the taxpayers, wouldn't it save them money if they paid it at eight and a quarter instead of 9 percent? Doesn't that make a lot of sense to you?

SENATOR LEICHTER: Senator, it makes a lot of sense. It would be even better if you said no interest or 1 percent. But the fact is the town, which consists of the taxpayers, has been found guilty. They are liable to this poor contractor. He paved the road or he built the town hall.

SENATOR HOLLAND: Senator, you will never convince me. I have been in business myself. Joe Bruno should have said that when he was talking to the people upstairs. And I was -- owed money to the federal government, and they are the biggest rip-off that there is with their interest and fees, et cetera, et cetera. I'm trying to lower that. The governments are unfair. This is one step in the right direction.

SENATOR LEICHTER: Senator, I'm sorry to say that your bill is unfair to that small individual. It's unfair to that Joe Holland, small businessman, struggling to get along, has a judgment against a municipal corporation, and now you say the most interest

you can get is the prime rate, the same prime rate as maybe Chrysler can get or G.E. can get, but which you, Joe Holland, admitted can never get.

So why shouldn't you the judgment creditor receive the monies that you are entitled to, and at least get a rate of interest that's going to compensate you for the failure of the municipal corporation to pay its debt?

SENATOR HOLLAND: I'm sorry, Senator, but you are not convincing me at all. I feel that the people of the town -- for instance, the Town of Orangetown should be protected, and they can safe thousands, perhaps hundreds of thousands of dollars, by a fair interest rate rather than a 9 percent, the top of the market.

SENATOR LEICHTER: Okay. Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: On the bill.

ACTING PRESIDENT KUHL: Senator

Leichter on the bill.

SENATOR LEICHTER: You know, it's amusing to me because you hear from the other side of the aisle talk about property rights and the individual, and then you come up with a bill that actually damages the individual; that says that a municipal corporation can pay less interest -- less interest than an ordinary judgment debtor; and furthermore, sets a rate of interest that most individuals, almost any individual business, will never get which is the prime rate.

The whole idea of paying interest on a judgment is that you want to make the judgment creditor whole if the judgment debtor doesn't pay the bill. All, by the way, that the judgment debtor has to do to avoid interest is just pay the judgment. You've have been found liable; pay the judgment. But if you can't pay the judgment, why should the person who has been found by a jury or by a judge to be entitled to a judgment -- he's been damaged. He's been injured. He is entitled to money. Now you cap

the interest that he can get on the judgment. It's totally unfair.

Just the other day, Senator Johnson came in with a bill on property rights. I happen to agree with him on principle. I didn't like that particular bill. He and I agreed we'd try to work out a bill. That's a bill that deals with reverse condemnation.

Now, if somebody in fact has had the value of their property diminished by action of the municipal corporation, let's say that person gets a judgment. He is already out. Now the municipal corporation doesn't pay. Why should you limit him to the prime rate? The prime rate is less than the 9 percent, and even the 9 percent at the current rate of interest - if that individual has to go out and borrow money, he is going to pay 11 or 12 percent. It's just not fair. It's just not fair.

Furthermore, I don't like the bill because it puts a municipal corporation in a special status. Why should a municipal corporation be any different than any other

judgment debtor, whether an individual, an insurance company, a large corporation? Why should they be treated any different? Why shouldn't our laws be uniform since the theory here is to try to make the judgment creditor whole?

And, again, that's only when the judgment debtor doesn't pay. The judgment has been levied against him. We know that many judgment debtors, that probably includes municipal corporations, hold back paying for any number of reasons. Usually they hate to part with the money. But this poor guy or poor small business -- you guys just got up and you said small business are wonderful and so on. Then the only bill you are going to do today is going to screw small businesses if they are contractors who recover against a municipal corporation.

You're right, Senator Holland. For the taxpayers, it would be better if they didn't have to pay the judgment at all or if you set interest at 1 percent. But why should you

do that to that small businessman or to Joe Holland who has recovered a judgment. It just isn't fair.

Let me also point out that the bill as originally presented -- and I'm glad Senator Holland amended it -- talked about the federal prime rate. There is no such thing as the prime rate. So now he changed it, and he said the prime rate. The problem with that is that the prime rate is not necessarily uniform. If you go out and you say prime rate, most big banks have the same prime rate. It's eight and a quarter. But if you are in some small community, it's quite possible that your local bank up in Senator Stafford's area, Champlain National Bank, may very well have a prime rate of eight and a half percent.

SENATOR HOLLAND: We called at your suggestion, Senator.

SENATOR LEICHTER: What?

SENATOR HOLLAND: We called at your suggestion. According to the Federal Reserve -

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

SENATOR HOLLAND: I just want to speak to the Senator again, Mr. President.

ACTING PRESIDENT KUHL: Are you asking Senator Leichter to yield to a question?

SENATOR HOLLAND: I am.

SENATOR LEICHTER: Yes, I will yield.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HOLLAND: Thank you, Mr. President. According to the Federal Reserve Public Information Office, the prime rate is a figure that is tracked and published by the Federal Reserve. The prime rate is calculated by the Federal Reserve by averaging the lending rates charged by approximately 18 key lending institutions. The lending rates charged by these banks vary, depending upon what the discount rate is,. The discount rate of interest charged by the Federal Reserve to lending institutions when they borrow money from

the Federal Reserve. Presently the prime rate is at eight and a quarter percent. The discount rate is at 5 percent. The prime rate tends not to fluctuate unless the discount rate is changed by the Federal Reserve.

So they do set the rate, Senator. They accumulate the rate.

SENATOR LEICHTER: No. Sorry, Senator. The Federal Reserve does not set the rate.

SENATOR HOLLAND: They accumulate the rate.

SENATOR LEICHTER: No. What they do is they average the rate. You call, and you can find out the prime rate is generally eight and a quarter. That's not the Federal Reserve prime rate. There is no such thing, and you changed the bill.

I'm just saying that, technically, you can go to some banks and they will not have the prime rate as the big banks have; and, therefore, you can have a conflict here. Somebody can say the prime rate -- you

say prime rate, and if you going to go and try to collect on a judgment and try to get the interest on it, you may go to a small bank which says, "Well, our prime rate is eight and a half." The big banks, Chase, Citibank, are all eight and a quarter. Some of the small banks are not.

So it's not a big deal. I think the bill in that respect could have been drafted better. But I think the main objection, as I stated, is it's just unfair to somebody who recovers a judgment. And why, if you recover a judgment against a municipal corporation, should that corporation have the right to, in a sense, stiff or short change the judgment creditor. A private individual or corporation or insurance company has got to pay 9 percent, which is probably even too low, but you make it even lower if it's a municipal corporation.

Unreasonable, illogical, unfair.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr.

President. If Senator Holland will yield for just one question?

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

SENATOR HOLLAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Thank you, Senator. Somewhat in pursuit of where Senator Leichter's line of questioning took us, I wanted to ask you if there was any discussion in the drafting of this bill of the possibility of, in effect, a chilling effect on settlements based on the fact that the judgment debtor may be aware of the fact that the prime rate is descending and because they could save an amount of money, such as you described earlier, would, in a sense, wait out the prime rate and pick a good time to settle where the prime rate might be at something like eight or seven and half percent, each percentage of one percent resulting in savings of a great amount of

money?

SENATOR HOLLAND: Senator, I suppose that that's a possibility. But in the few cases that I have seen, the person is so interested in recouping or recovering their judgment, their money, that unless it was just about to happen and everyone knew that the prime was going to change, I would suggest that they would rather have the judgment in their favor regardless of the prime.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson on the bill.

SENATOR PATERSON: The judgment debtor may feel that way, but -- the judgment creditor may feel that way, but I was suggesting that the debtor might want to wait until the prime rate descends; otherwise, I think what Senator Leichter said is a point well-taken.

As a society, we are, collective, those who are contractors, those who are doing business, and those who are often owed money by municipalities. I would hate for us to speak in favor of the government and to speak in favor of the township and then nick ourselves to death at the expense of individuals. We owe money to someone, I think it's only fair that we pay our debt, and finding methods in which we can lower the amount of money that we have to pay would be as unfair as a collective society as if we as individuals found a sort of loophole to avoid paying each other back.

So I think sometimes we get caught up in the spirit of what will save taxpayers as if taxpayers is a concept in which taxpayers are always right. In this case, the representatives of taxpayers have put the taxpayers in the position of owing money; and if there's that great a problem and the taxpayers feel a necessity to address it perhaps they might want to change the local government through elections.

But I just think that if there is a situation where money is actually owed and that was understood at the time that the judgment was reached that the judgment creditor or the person who's owed money is entitled to the largest sum they can receive based on the amount of money that they are owed and the interest.

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

SENATOR HOLLAND: I would just like to close.

ACTING PRESIDENT KUHL: Senator Holland to close debate.

SENATOR HOLLAND: Just really two things. First of all, if the prime rate was going up, Senator, that might encourage them to complete their judgment -- or finalize their problem, too, so there's two sides to that argument. The other thing is that both of you gentlemen seem to say that since the loan you would get at the bank would probably be in the 12 or 13 percent area that we should charge the

taxpayers 12 percent, 13 percent. I don't think that's right. We're limiting it to the prime rate. It was at 9 percent. I think that's the fairest thing to the taxpayers.

SENATOR LEICHTER: If Senator Larkin will yield, please.

ACTING PRESIDENT KUHL: Senator Larkin is not in the chamber, Senator Leichter.

SENATOR LEICHTER: I'm sorry. Senator Holland.

ACTING PRESIDENT KUHL: Senator Holland will you yield to Senator Leichter.

SENATOR HOLLAND: Certainly.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: I hope Senator Larkin doesn't take umbrage that I made that mistake or that you don't take umbrage that I made that mistake, but I apologize, in any event, Senator.

But, you know, you talk about, you know, that we're protecting the taxpayer. That poor contractor who hasn't been paid the

judgment that he is entitled to be paid, isn't he a taxpayer, too?

SENATOR HOLLAND: He's being paid the judgment, so we're talking about the interest on top of the judgment. He is getting his money. He is getting his money.

SENATOR LEICHTER: But, Senator, if he has to go -- I know we went through this again, but maybe -- maybe I wasn't clear enough, but if he's got to go to a bank -- you are a small businessman, and a lot of you got up and you were extolling the virtue of small business, and everything you said I fully agree with, but that small businessman who doesn't have that reserve of $10 million or $100 million when he doesn't get paid, what does he have to do? He's got to go to the bank and borrow the money, doesn't he?

SENATOR HOLLAND: So you believe, Senator, that this rate should be raised from a top of 9 percent to whatever the bank charges. You think that's fair.

SENATOR LEICHTER: Senator, I

would have no problem with that.

SENATOR HOLLAND: I would.

SENATOR LEICHTER: Because why is -- let me ask you something. Why is it unfair? The poor man or the poor small business doesn't have the money. He is entitled to be paid. He isn't getting paid. He's got to go to the bank and borrow the money for one reason, that the judgment hasn't been paid. Why wouldn't it be fair to say that he ought to get the prevailing rate of interest?

SENATOR HOLLAND: Senator, you can go back in history, and you probably know this, and the rate was set at 3 percent when President Carter had inflation running at 23 percent, and the difference was horrendous. Then the municipality could pay 3 percent on their judgments, and the interest rate, the prime, was 23 percent. So we're trying to make it fair in statute, and it only makes sense to me, and we are protecting the taxpayer. I thought you would love that idea.

SENATOR LEICHTER: Senator,

excuse me.

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

SENATOR HOLLAND: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR LEICHTER: Just to make it clear, Senator, you are not by this bill eliminating the 3 percent floor. That was done before. That's not the law. The law now says 9 percent.

SENATOR HOLLAND: No, no, no, you are reading the wrong section of the law, Senator. The law now says 3 to 9 percent.

SENATOR LEICHTER: Well, as I look at your bill and I see the language that is added, the only thing you add is, "Shall be the prime rate but shall..." So the present law is that it shall not exceed 9 percent which is the same thing for a private debtor as it is for a municipal corporation.

SENATOR HOLLAND: I have to say again you are correct.

SENATOR LEICHTER: Right. Thank you, Senator. So that what you are doing is you are lower or allowing for the possibility of lowering the rate.

And as I said before, Mr. President, just briefly on the bill. One thing I just want to say. You know, Senator Holland gets up and says I'm protecting the taxpayers. You are not protecting the taxpayers. What you are doing is hurting and injuring that small business who did work for the municipal corporation, hasn't been paid, recovered a judgment, doesn't get the judgment paid. Now he's got to go to a bank, borrow money at 12, 13 or maybe 14 percent, and Senator Holland says, "I'm only going to give you eight and a quarter percent." That's wrong. It's unfair.

Senator, if you want to justify things on the basis of taxpayers, then you will oppose Senator Johnson's efforts on property rights. You'll oppose other efforts where you make government -- government pay for what they ought to pay, and what you are doing is saying,

"No, I'm going to give government a special status." I just find it incongruous in view of the positions that you people ordinarily take.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 651 are Senators Abate, Leichter, Markowitz, Montgomery, Onorato and Paterson. Ayes 44. Nays 6.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 888, by Senator Saland, Senate Print 6055A, an act to amend the State Finance Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes -

SENATOR PATERSON: Mr. President.

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

SENATOR PATERSON: What calendar number are we?

ACTING PRESIDENT KUHL: Calendar Number 888, Senator Paterson, by Senator Saland. It's Senate Print 6055A.

SENATOR PATERSON: May we have an explanation on that, Mr. President?

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Can we lay

that aside for the day, please.

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

THE SECRETARY: Calendar Number 895, by the Assembly Committee on Rules, Assembly Print 7505C, an act to amend the Environmental Conservation Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Tully, an explanation of Calendar Number 895 Senate Print 4564C has been asked for by the Acting Minority Leader, Senator Paterson.

SENATOR TULLY: Thank you, Mr. President.

This legislation provides DEC - it's a departmental bill -- with authority to establish special management areas on and around artificial and natural reefs and ship wrecks in the marine and coastal district, and it also develops regulations for the taking of fish, shell fish and crustacea specific to those areas. It really is to help eliminate the conflicts between commercial and recreational

users re the management of artificial reefs and the habitat created.

This bill is sponsored by Assemblyman Weisenberg in the other house. It's passed that house twice, once unanimously last year, and this year on February 28 by a vote of 142 to 2.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President I would like to congratulate Senator Tully and Assemblyman Weisenberg for their work.

Actually, my question does not really relate to the passage of this bill. I think this is a very good bill, and the management areas are particularly helpful around the artificial reefs to supervise and make sure that there isn't excessive fishing or problems that would be caused.

If Senator Tully would just yield for one question?

ACTING PRESIDENT KUHL: Senator Tully, do you yield to one question from Senator

Paterson?

SENATOR TULLY: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, my question is just simply, in the establishment of management areas particularly around the artificial reefs, there are a lot of different constructions that can qualify as artificial reefs, not -- to forbid, for instance, the sinking of an oil rig as an artificial reef in certain areas. I wanted to know that in placing those artificial reefs and setting up those management areas, has there been any thought to establishing environmental impact statements in those particular areas, so we make sure the shores are safe when we establish these artificial reefs?

ACTING PRESIDENT KUHL: Senator Tully.

SENATOR TULLY: Thank you, Mr. President. Thank you, Senator Paterson for your

kind remarks with regard to myself and Assemblyman Weisenberg. They're certainly well deserved in the case of Assemblyman Weisenberg.

With regard to EIS, in March of 1993 under the prior administration, DEC issued its generic environmental impact statement and plan for the development and management of artificial reefs, and I am aware that there is a memo in opposition to this proposal which is concerned about the possibility of utilization of an array of undesirable materials, and I have in my hands a copy of a memo from Stephen Bobarokus, who is the Legislative Council of New York State DEC, which clearly indicates that the existing management plan sets forth which materials are acceptable for the construction of artificial reefs and specifically indicates that those referred to in the EPL memo will not be included.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you very much. That's quite good, Senator Tully. I

think Senator Tully is engaged in too much humility today. The remarks I meant for him were actually heartfelt. It was Assemblyman Weisenberg, who I was -- a little bit superfluous. He was once my exercise instructor, and he is the reason that I am the shell of a man that I once was.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Will Senator Tully yield?

ACTING PRESIDENT KUHL: Senator Tully, do you yield to Senator Leichter?

SENATOR TULLY: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LEICHTER: Senator, there is nothing in your bill which states what material DEC may use or may not use in the making of artificial reefs; isn't that right?

SENATOR HOLLAND: That's accurate.

SENATOR LEICHTER: All you're saying is if there's an artificial reef, however done and under whatever conditions or regulations or proposals, you limit fishing in that reef.

SENATOR TULLY: That's correct, Mr. President. For Senator Leichter's benefit, this legislation simply provides DEC with the authority to designate special management areas.

SENATOR LEICHTER: Right.

Mr. President. It's clear to me that I think EPL has misunderstood the bill, and that the objection that it states really has nothing to do with the bill. The bill just says there's going to be limited fishing in artificial reefs, and how those reefs are constructed or where they should be constructed or why they should be constructed is a matter for another day, another forum.

SENATOR TULLY: As usual, Mr. President, Senator Leichter is the epitome of clarity and lucidity.

ACTING PRESIDENT KUHL: Senator

Marchi.

SENATOR MARCHI: Just one question. It's more a matter of curiosity rather than -- I intend to vote for the bill.

ACTING PRESIDENT KUHL: Senator Tully, do you care to yield to a curious question from Senator Marchi?

SENATOR TULLY: I do, yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MARCHI: There is a self destruct in 1999.

SENATOR TULLY: Senator Marchi, that's an excellent question. Just about three minutes ago, I asked my counsel why that was in there, and he said they put a sunset in the original bill of 1999, and this is just following it since it's an amendment.

SENATOR MARCHI: Very good. I'm sensitive about time.

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

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 895 are Senators Abate, Dollinger, Goodman, LaValle, Leibell, Nanula. Ayes 55. Nays 6.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call the controversial calendar.

SENATOR LEVY: No.

ACTING PRESIDENT KUHL: Also Senator Levy will be recorded in the negative on the last bill, 895.

THE SECRETARY: Calendar Number 1086, by Senator Goodman, Senate Print 7458, an act to amend the Tax Law, in relation to disclosure of tax returns.

SENATOR PATERSON: Explanation.

SENATOR LEICHTER: Can you lay that aside for the day, please?

ACTING PRESIDENT KUHL: Senator Goodman, Senator Leichter has asked for the bill to be laid aside for one day. Is that your desire, or do you wish to debate the bill?

SENATOR GOODMAN: Senator, as we discussed earlier, I was thinking of possibly doing that but we already moved it if that's agreeable to you.

SENATOR LEICHTER: Mr. President. I have advised Senator Goodman that I have an amendment which, indeed, has been drafted and just put on my desk. Frankly, I really would like to have a little more time on that.

SENATOR GOODMAN: I would be glad to provide that, Senator.

SENATOR LEICHTER: Thank you, Senator Paterson.

ACTING PRESIDENT KUHL: Secretary will lay the bill aside for the day at the request of the sponsor.

Continue to call the controversial calendar.

THE SECRETARY: Calendar Number 1154, by Senator Velella, Senate Print 6497, an act to amend the Vehicle and Traffic Law, in relation to reports.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR MARCELLINO: Mr. President. May we lay that bill aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside at the request of the Majority Leader.

SENATOR MARCELLINO: At the request of the sponsor.

THE SECRETARY: Calendar Number 1203, by Senator Maltese, Senate Print 4524, an act to amend the Election Law, in relation to

the names of independent bodies.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Maltese, an explanation of Calendar Number 1203 has been asked for by Senator Paterson.

SENATOR MALTESE: Yes, Mr. President. This bill is very -- almost identical to the same bill, seeking to accomplish the same purpose in 1995 that passed the Senate with 59 aye votes and one nay and passed the Assembly with 134 aye votes to zero.

What we seek to do is to permit the name of an independent body to contain the word independent or a derivative of such word but not as the sole name of such independent body.

What we're hoping to do is allow many parties across the state, including parties that are not officially on the ballot when independent candidates choose candidates to use variations of "independent" if they have some other words like independent fusion, independent alliance, independent citizens, and so on.

In addition, the bill would provide that if the name is unduly similar to the Independence Party which was formed in 1994 -- as my colleagues are aware, the attaining the regular party status in New York State is accomplished by securing 50,000 votes during a gubernatorial year for the candidates for Governor and Lieutenant Governor. In 1994 the Independence Party gained that status. As a result reading that in conjunction with the Election Law provision in Section 6138 would preclude entirely other groups and parties from using even similar names using independent, trying to show the voter that they are indeed independent, differentiating them from the other regular parties.

In addition, the bill seeks to alleviate the problem of many courts and boards, that when the name of a party is similar they strike the petitions and do not give the candidates an opportunity to file another petition or to pick another name. What this bill specifically by its provisions does is

permits the new party to select another name in lieu of that, in lieu of being stricken from the ballot. It is to all intents and purposes, as near as I can see, a good government bill.

ACTING PRESIDENT KUHL: Senator Hoffmann.

SENATOR HOFFMANN: I wonder if the Senator would yield to a question, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR HOFFMANN: Senator Maltese, am I correct in understanding that the name or term "independence", as you give the example, may be used, but the term "independent" is specifically prohibited at this point?

SENATOR MALTESE: Mr. President, it's my understanding that the name of the new party is "Independence" and most of the case law on that was made in 1970 with -- when the Conservation Party attempted to secure a ballot position, and the Conservative Party fought that lawsuit, and I was the attorney at that time and

it went to the Court of Appeals and the Court of Appeals ruled that the names were so similar that it would -- there would be considerable confusion, and this was borne out by the fact that the court calendars at the Court of Appeals, the bulletin board at the Court of Appeals, and the New York Times stories at the time confused the names and used them interchangeably. So, therefore, the -- it was upheld, the candidate Ottinger at that time for U. S. Senate, his Conservation Party was stricken, and he was not given another opportunity to select a new party name.

The -- thus the section is the law and if a -- a group attempted to utilize the name "Independent" without the permission, if you will, or authorization of the Independence Party, they would not be able to do so; but if this bill is enacted, it would clarify any confusion, and a local group would be able to use the name "Independent" together with some other word. If they used only word "Independent", they would not be able to

utilize it, in my opinion, and then the court would or the board would give them an opportunity to select another name.

ACTING PRESIDENT KUHL: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

Thank you, Senator Maltese, for your explanation, and I believe I understand the purpose of the bill and much of it makes good sense from a housekeeping perspective, but I'm probably somewhat unique in this chamber in that I have, in fact, run with an "Independent" ballot line in the past, and in several different elections I circulated the requisite number of petitions and had my name placed on the ballot, in what we called the "Independent", with a "t", Party.

Now, it would seem to me after having done that three or four times and having had no objection to it from the state Board of Elections, that there should be some, oh, priority given, for lack of a better word. I

like to think that I'm "grandmothered" in for use of that term for some time in the future; but instead I find that another organization - and you successfully explained that it is, in fact, a political party as opposed to an individual with a -- with a ballot line -- I don't purport to be a political party although other candidates have used the same ballot symbol and the same party designation that I created initially in 1984, so I guess you could say I am part of a minor party, but Mr. Golisano and the very formidable Independence Party appears to be given some preferential treatment here in creating a statute that would forbid anyone to do what I have already done successfully.

Now, I don't have any particular need to continue using that term, and this raises another interesting dilemma for me. Having seen Mr. Golisano co-opt a variation on the term that I used for a party definition, I changed my party's definition a couple of years ago to the Reform Party. I thought that fit

more clearly with the agenda that I was promoting, and so we've had the Reform Party on the ballot in central New York a couple of times and other people have also, with my permission, used my ballot symbol, which is a little picture of a family farm, by the way, and the name Reform Party.

Now, I understand, if I'm reading the newspapers correctly, that another multi millionaire wants to have a "Reform Party", and if ross Perot and Tom Golisano are going to go around and steal all my ideas and create political parties and we're just going to cave in and put in statute laws that allow them to do that, I think it's important here for people to understand that that's what's happening.

I believe that we should be operating a little differently. This is not a personal issue for me. It's one that I have experienced, so I understand that there are probably other candidates out there that might encounter a similar situation in the future. So I'm sure that I'm likely to be either the only

or one of a handful of votes in this chamber, but I think in the interest of good government, it would be appropriate for some of us to register that we do not want to allow multi millionaires, by virtue of the fact that they are capable of enacting a significant number of signatures and create a political party, to preclude somebody else who has already had the use of that term from continuing to use that term.

That's, in effect, a form of discrimination. I believe here that the prior usage should have been considered before granting sole ownership to the Golisano Independence Party.

So I'm -- I'm left with this difficult dilemma of voting against something that probably has little meaning to most of the other members of this house, considering the fact that we know because of gerrymandering and the political line-up in this house and in the other chamber, that most races are not in question to the extent that that third party is

going to make a significant difference in the outcome of a race. I would imagine most people here will find this a convenient measure to just clean up what has become a cumbersome little bit of housekeeping.

I see it a little differently. I see it as an inappropriate response to thwart independence in its very essence, independence among candidates who might otherwise not be elected to serve in this or the other chamber of the New York State Legislature, and I would just for the record ask that some of my colleagues might reflect on that and join me in casting a "no" vote today.

ACTING PRESIDENT KUHL: 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: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Yes. I vote aye, and I just want to state my reasons for the record.

I think that there's many, many misinformed voters in all the districts through out the state in a think there is such a thing as an "independent party", and that the name itself means it's a party and I think it was misleading on ballots to have a name called "independent" which played into the voters mis understandings that this was not a party at all. It was merely a group of people who happened to sign a petition, and I say this because I've gotten an Independent line as well, and I understand that many people who knew that I had an Independent line were confused about whether there was a party as opposed to a loose knit group of Republicans, Democrats and the like who signed a series of petitions.

So I think this is a good bill to avoid a situation that would be re-occurring where confused voters would think there is such a party as "independent" just because a group of

Republicans and Democrats signed a petition to put the person on the ballot under that misleading name.

I agree with Senator Hoffmann, however, in one respect, and that is that same confusion is going to continue now because of one party that happened to get enough votes in a gubernatorial election year to continue that confusion a little bit within the voters' minds; so I'm going to vote "aye".

ACTING PRESIDENT KUHL: Announce the results.

Senator Marchi to explain his vote.

SENATOR MARCHI: I just wanted to make an observation. Independence, George Bernard Shaw said, is middle class blasphemy.

I vote "aye" on this bill.

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 50, nays one, Senator Hoffmann recorded in the negative.

ACTING PRESIDENT KUHL: The bill

is passed.

Senator Marcellino.

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

ACTING PRESIDENT KUHL: Yes, we have several substitutions we can take at this time. Ask the Secretary to read.

THE SECRETARY: On page 10, Senator Wright moves to discharge from the Committee on Rules Assembly Bill Number 9125 and substitute it for the identical Third Reading Calendar 409.

On page 61, Senator Holland moves to discharge from the Committee on Rules Assembly Bill Number 9823-A, and substitute it for the identical Third Reading Calendar 1170.

On page 35, Senator Present moves to discharge from the Committee on Rules Assembly Bill Number 8394-B and substitute it for the identical Third Reading Calendar 916.

On page 36, Senator Larkin moves to discharge from the Committee on Rules

Assembly Bill Number 7695-B, and substitute it for the identical Third Reading Calendar 924.

On page 46, Senator Farley moves though discharge from the Committee on Rules Assembly Bill Number 10508 and substitute it for the identical Third Reading Calendar 1022.

On page 48, Senator Lack moves to discharge from the Committee on Rules Assembly Bill Number 2417-A, and substitute it for the identical Third Reading Calendar 1057.

So page 49, Senator Hannon moves to discharge from the Committee on Rules Assembly Bill Number 9118 and substitute it for the identical Third Reading Calendar 1061.

On page 48, Senator Skelos moves to discharge from the Committee on Rules Assembly Bill Number 4728-C and substitute it for the identical Third Reading Calendar 1053.

And on page 70, Senator Libous moves to discharge from the Committee on Rules Assembly Bill Number 9824 and substitute it for the identical Third Reading Calendar 714.

ACTING PRESIDENT KUHL:

Substitutions are ordered.

Senator Smith, why do you rise?

SENATOR SMITH: Thank you, Mr. President.

I rise because on Wednesday, May 22nd, I was out of the chamber on some very important legislative business, and I'd like to note for the record, had I been here, I would have voted in the negative on Calendar Number 1151, Bill Number 6353, and Calendar Number 1092, Bill Number 3065.

ACTING PRESIDENT KUHL: Senator Smith, the record will reflect that had you been in the chamber whenever the votes on Calendar Number 1190 -- 1151 and 1092 -

SENATOR SMITH: 1092.

ACTING PRESIDENT KUHL: -- were taken, that you would have voted in the negative.

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

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Now, Mr. President, there being no further business, I move that we adjourn until Wednesday, May 29th, at 3:00 p.m., in memory of Assemblyman Philip Healey, who passed away yesterday, and Mr. Harry Connor, the father of our Minority Leader.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, Wednesday, May 29th, at 3:00 p.m., in memory of Harry Connor and Phil Healey.

(Whereupon at 4:55 p.m., the Senate adjourned.)