ALBANY, NEW YORK

May 29, 1996

3:04 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

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

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

We're pleased to have Pastor Christian Schoenberg of the Trinity Lutheran Church of Hawthorne, New York, with us today to give the invocation.

REVEREND CHRISTIAN SCHOENBERG: In the name of the Father and of the Son and of the Holy Spirit. Amen.

Let us pray.

Father in heaven, we thank You for this day, for the blessings from Your hand that have come to us, for the opportunities You present to serve You by serving people. We thank You for calling us to be public servants in this state. Forgive us for our past failures

and mistakes, for our selfishness and shortsightedness. Renew us today to start afresh, to become better stewards and managers of the public resources at our disposal. Enable us to earn and keep the public trust by fulfilling our calling with integrity, wisdom, care and compassion. Grant Your blessing upon our deliberations and decisions today that they may benefit the people of this state, through Jesus Christ, Your Son, our Lord, who lives and rules with You, one holy God, one Spirit, now and forever. Amen.

ACTING PRESIDENT KUHL: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, May 28th. The Senate met pursuant to adjournment. The Journal of Monday, May 27th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

The Chair recognizes Senator DiCarlo.

SENATOR DiCARLO: Mr. President, on behalf of Senator Wright, on page 49, I offer the following amendments to Calendar 1081, Senate Print 6734, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 1081 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President, on behalf of Senator Saland, on page 65, I offer the following amendments to Calendar 274, Senate Print 3502-B and ask that bill retain its place

on Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 274 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President, on behalf of Senator Spano, on page 39, I offer the following amendments to Calendar 989, Senate Print 6209, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 989 are received and adopted. Bill will retain its place on the Third Reading Calendar.

Senator DiCarlo.

SENATOR DiCARLO: On behalf of Senator Rath, please place a sponsor's star on Calendar Number 1047.

ACTING PRESIDENT KUHL: Calendar 1047 is starred at the request of the sponsor.

Senator DiCarlo.

SENATOR DiCARLO: And on behalf

of Senator Volker, please remove the sponsor's star from Calendar 507.

ACTING PRESIDENT KUHL: The sponsor's star is removed from Calendar 507.

Senator Johnson, we have a substitution at the desk if you want to take that at this time.

Secretary will read.

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: On page 17, Senator Seward moves to discharge from the Committee on Rules Assembly Bill Number 10463-A and substitute it for the identical Senate Bill 6173-A.

ACTING PRESIDENT KUHL: Substitution is ordered.

Senator Johnson.

SENATOR JOHNSON: Recognize Senator Stafford.

ACTING PRESIDENT KUHL: Senator

Stafford. Want to return to reports of standing committees. Chair recognizes Senator Stafford.

SENATOR STAFFORD: Thank you, Mr. President. I would ask, please, the Chair to read the nominations. We'd like to move Carlton E. Dewolff and Leslie M. Goldstein, please.

I believe there will be some people possibly to speak.

ACTING PRESIDENT KUHL: Secretary will read the report of the Finance Committee.

THE SECRETARY: Senator Stafford, from the Committee on Finance, offers up the following nominations:

Members of the Rochester-Genesee Regional Transportation Authority, Carlton E. Dewolff, of Fairport, Leslie M. Goldstein, of Rochester.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT KUHL: Soon as I get some quiet, Senator Dollinger. I'm just waiting. We can wait all afternoon for the members to quiet down, but I think you and other

members ought to have some quiet to debate these nominations if that's, in fact, what we're going to do.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I don't intend to speak out of line here. If someone was prepared to speak in favor of these nominees, I would gladly yield the floor. I had comments which I made in the Senate Finance Committee which I intended to repeat on the floor, but I'd be glad to yield the floor to anyone who was going to speak.

ACTING PRESIDENT KUHL: Senator, the floor is yours. The floor is yours.

SENATOR DOLLINGER: O.K.

Mr. President, I rise today to speak in opposition to the two nominations that are being placed before us, and I do so, Mr. Chairman, because I believe that in both cases there are serious questions that I raised in the Senate Finance Committee and asked as a matter of Senatorial courtesy be extended to me to allow them to appear before the Committee to

answer questions.

Carlton Dewolff has been an architect in the Rochester area community, has been involved in the community for many decades and, frankly, based on his resume he has a resume that would lend itself to perhaps being on the Greater Rochester or the Rochester Genesee Regional Transit Authority. However, I was particularly concerned because I went to Senator Levy's committee, to the Senate Transportation Committee.

SENATOR GOLD: Mr. President.

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

SENATOR GOLD: Because I think this is significant, as I know you appreciate, and I just wanted a little more quiet in the room so we could hear Senator Dollinger.

SENATOR DOLLINGER: Thank you, Senator Gold.

I went to the Senate Transportation Committee of which I'm not a member, Mr. President, and attended their

discussion with Mr. Dewolff. Mr. Dewolff, as best I recall it -- and I was present in the room -- when asked by the chairman of the Senate Transportation Committee, What do you know about the Regional Transit Authority, said in essence, "I don't know anything about it and I'm here, I've been an architect, I've been involved in regional planning, but I don't know anything about the activities of the Rochester-Genesee Regional Transit Authority."

I wasn't a member of the Committee. I didn't ask a question at that time. I was hoping that Mr. Dewolff would be present at the deliberations of the Senate Finance Committee so I could ask him why we were appointing him to an authority which he has publicly said he didn't know anything about.

My concerns about Mr. Goldstein are, frankly, much deeper.

SENATOR NOZZOLIO: Mr. President.

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

SENATOR NOZZOLIO: Would Senator

Dollinger yield?

SENATOR DOLLINGER: I'd be glad to, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger yields.

SENATOR NOZZOLIO: Thank you, Mr. President. Thank you, Senator Dollinger.

As you know, I am a member of the Senate Transportation Committee, and I saw you sit in the chamber when we discussed Carlton Dewolff's nomination, and hear you today -- I can't help but sit by without a great deal of anguish. Did you not hear, during the meeting of the Transportation Committee "Bud" Dewolff indicate his knowledge about urban planning?

SENATOR DOLLINGER: M-m h-m-m, I did.

SENATOR NOZZOLIO: Did you not hear that, Senator?

SENATOR DOLLINGER: I did.

SENATOR NOZZOLIO: Did you not hear, Senator, his comments relative to his par ticipation in a number of projects in the

Rochester area?

SENATOR DOLLINGER: I did.

SENATOR NOZZOLIO: Well, Senator -- Mr. President, if Senator Dollinger would continue to yield.

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

SENATOR DOLLINGER: I will.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR NOZZOLIO: I just can't sit by and hear you challenge "Bud" Dewolff without commenting that you appear to be, by taking his comment relative to his lack of par ticipation or understanding of the workings of the Authority out of context. I think that it is not fair to Mr. Dewolff, and my question to you is, Senator, if you heard these other comments relative to transportation -- to urban issues, other than the comments relative to Rochester, are you not taking his one comment about the Authority out of context?

SENATOR DOLLINGER: With all due

respect, Mr. President, I think that's a fair question. I had hoped that Mr. Dewolff would appear in front of the Senate Finance Committee so I could ask him what context he meant that statement, and I could have gotten a clarification in the deliberations of the Finance Committee as to exactly what his knowledge and understanding of the Transportation Authority was.

I just find it very unusual when there is lots of qualified candidates, I know the Senator knows them, in which -- who come before this body for confirmation so we can use our advise and consent powers, and who stand there and say, Yes, I'm familiar with the Transit Authority; yes, I know what it does.

This is a Transit Authority that I have a significant interest, as I know you do, Senator, because your constituency use this Transit Authority. About 50, my estimate is, and I have no professional basis for this but somewhere between 50 and 75 percent of the people who actually ride on this Transportation

Authority live in the 54th Senate District which I represent.

What I'm saying with respect to Mr. Dewolff is that I could have been convinced that he knew enough about transit issues and about the overall picture -- you said that in the Senate Finance Committee -- to vote in favor of him.

I'm voting against him today because I was disappointed he wasn't at the Senate Finance Committee and the opportunity that I would have had as a member of the Senate Finance Committee to ask him those questions in front of my colleagues in the Senate Finance Committee when I had the committee status to be able to ask him all the questions that I felt were relevant to a determination on my part as to whether he was a qualified nominee or not, so that's with respect to Mr. Dewolff.

With respect to Mr. Goldstein, I put on the record before the Senate Finance Committee my substantial concern about Mr. Goldstein. What I indicated at that time is

that published reports have suggested that MAPCO Parking, Limited, a parking entity, of which Mr. Goldstein is a vice-president, of which he claims in his resume executive decision-making with the president of this company, that this company had given $7,000 in political campaign contributions in 1995. $6,000 of that went to County -- Monroe County Executive -- the Republican candidate for County Executive, Jack Doyle, and $1,000 of it went to the Monroe County Republican Party.

What I intended to ask Mr. Goldstein at the time was about his involvement in those campaign contributions. They exceed the $5,000 limit that we imposed, that this Legislature imposed. In fact, not only did we impose a $5,000 limit, we made it a crime to give more than $5,000. It's a crime in this state. It's a misdemeanor, the same kind of misdemeanor that other people are prosecuted for. We made it a misdemeanor to give more than $5,000.

We never included in the

legislation a provision that said there's a "good faith" exception; if you give it in good faith and you don't know you're breaking the law that's O.K. That's not breaking the law. That's not in the law. Boldly and plainly, it says you give more than $5,000, it's a misdemeanor.

It's been the policy of the state Board of Elections to send a letter to everyone who gives more than $5,000, a letter that says, Oh, by the way, you're in violation of the law. You may have committed a misdemeanor. You should ask for refunds.

What I wanted to ask Mr. Gold stein is about how those campaign contributions were solicited, who asked him to give money that was -- exceeded the state amount, the state limitation, and whether his corporation -- how he was involved in the decision, did he partake of those decisions as his resume suggests. I wanted to know that.

In addition, I wanted to know what steps, if any, this corporation had taken

to obtain refunds of the illegally contributed amount. Seems to me before we put someone on this Authority who, at least based on published accounts, has said, "I seem to be on everyone's dance card; I can't figure out why I'm paying these extra funds," seems to me that Mr. Goldstein owed the public an explanation as to why his company -- if it isn't his company, a company of which he is the executive vice-president -- why it exceeded the state limitation, why he had given more in contributions than state law allows, and it seems to me that that explanation was owed to me as a member of the Finance Committee, to all of my colleagues and, frankly, to the people of this community.

I'm concerned about the future of the Transit Authority. I know, Senator, that you and other Senators have been working aggressively to come up with the money to fully fund the Transportation Authority, to continue to make it work. I applaud that effort on your part and the part of my other colleagues from

Monroe County, but the future of this agency is going to be determined by the next board of directors, and it seems to me we have to have people who can withstand some public scrutiny, answer some questions about their conduct, especially when, based on published reports, it appears as though that conduct, of which they may have played a part, violated the laws of this state.

I am concerned about the transit corporation. I have suggested to other people there is one other nominee awaiting confirmation who has been nominated by the city of Rochester. It has been sitting on the Governor's desk for the better part of six months. It doesn't seem to be able to come because, of course, that's the nominee that comes from my Democratic colleagues who happen to sit on the City Council in the city of Rochester, a reappointment to the board; but up come two nominees that come from a County Executive and a County Legislature to which contributions were made, and it seems to me that raises a question of public propriety

that Mr. Goldstein should have been here to testify and to discuss.

Mr. Goldstein lives around the corner from me. He may be entitled to be on this job, but it seems to me, based on the evidence that I have, the information that I have and the failure of the Senate Finance Committee to hold this nomination to allow these questions to be answered, that I would urge everyone to vote in the negative on both of these nominations.

ACTING PRESIDENT KUHL: The question is -- Senator Espada.

SENATOR ESPADA: Thank you, Mr. President.

I agree that there is a need for scrutiny and a need for analysis of conduct. This is important business, as important as my 17 students from District 7 in the South Bronx, Mr. President, who are here today in the gallery along with Desiree Sanchez, who has shepherded them here, a great educator in the South Bronx, stands for children, stands for education,

stands for our future, together with those children up there.

Thank you very much, Mr. President.

ACTING PRESIDENT KUHL: The question is on the resolution.

FROM THE GALLERY: Thank you, Senator Espada.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Class will tell!

ACTING PRESIDENT KUHL: Question is on the nomination of Carlton E. Dewolff, of Fairport, and Leslie M. Goldstein, of Rochester, to become members of the Rochester-Genesee Regional Transportation Authority.

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(Response of "Nay.")

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Nozzolio to explain his vote.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, my colleagues, it should be noted that these nominees were presented to this body by the Monroe County Legislature. It should also be noted that Rochester, almost 300 miles away from here, is a relative inconvenience to expect a nominee of this board which are -- which serves -- the nominees of this board serve as volunteers, are not paid a cent, are coming to this as a volunteer, and in the spirit of volunteerism on behalf of the community, that we can not expect three, four, five meetings, and I think Senator Dollinger, who happens to live around the corner from one of the nominees who we were scrutiniz ing would do better off by calling that nominee and seeking a meeting in Rochester.

This isn't casting aspersions on the question Senator Dollinger is raising, but

rather to seek a better, more convenient way to address the questions that he presents.

I do not know Mr. Goldstein, but I do know Mr. Dewolff. "Bud" Dewolff will pour his energies into this job, and I am proud to support his candidacy and to vote in favor of this nomination.

Thank you, Mr. President.

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

Senator Stafford to explain his vote.

SENATOR STAFFORD: I think I should explain my vote also.

Please let me point out and emphasize, there was a time here when many, many more candidates or nominees would appear before the Finance Committee, but we did not have the candidates or nominees appear before the standing committees that involved the subject that the person was being appointed to.

Now, in those days, they would appear, but frankly, week after week, time after

time, it was extremely superficial. Today, because the method was changed, the system was changed, without embarrassing the Senator from Nassau who is the chairman of the Transportation Committee, I assure you, anybody who gets through his committee, they're qualified. Believe me, they're qualified, and if there's anybody that takes care of his subject any better, you'll have to point he or she out to me because there isn't anyone any better.

Please let me emphasize that there was a public hearing, a public meeting where these two nominees were considered.

Thank you.

ACTING PRESIDENT KUHL: Senator Stachowski to explain his vote.

SENATOR STACHOWSKI: To explain my vote, Mr. President.

I'm joining Senator Dollinger in voting "no" on the nominees not because I have any problem with them. I have a problem with the way the process transpires.

I understand there was a public

hearing, but in the case of Senator Dollinger's questions, being a newer member of Finance, he didn't realize that, since they appeared in Transportation, they wouldn't appear in Finance and it didn't say would appear next to their name on the Committee notice.

The other problem is, according to Senator Dollinger, that when the public hearing took place, the questions on the probably easily cleared up question of campaign contributions, that that information wasn't available not even to Senator Dollinger, and I'm sure -- and since the committee recorder stated that it wasn't in the file that he overlooked to see that there was no problems with the candidate, there was just a couple of questions that Senator Dollinger wanted to ask.

I don't think it would have been a terrible imposition to hold these two until next week. Quite possibly Senator Dollinger could obtain the same answers going back to Rochester and talking to them off the record. I don't know, maybe that's possible, maybe it's

not. We'll never know, and I feel terrible that these two candidates, probably as well qualified as any we'll see, are going to have negative votes on their appointment because of the way the process took place.

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

Senator Gold to explain his vote.

SENATOR GOLD: Thank you very much, Mr. President. A lot of this has been said, but since it was in the committee and we're doing it out here, I just wanted to make a few remarks.

I really don't believe that when it comes to this Senate that every single thing we do has to be governed by procedure. What happens is that the Majority in this house uses procedure where it's conveniet, so Senator Bruno who has said that, you know, we've got to have rules and follow our rules also has a procedure where you hold a press conference on your side, go into Rules, report a bill out for immediate vote, you don't give the committee system a

chance, you don't give people in the public a chance to comment, and while "technically" - quotes/unquotes -- under the rules you can do anything, that's really a violation of the way people understand our rules and the legislative process. So you're not wedded to rules.

Senator Dollinger may or may not have dotted "i"s and crossed "t"s and my distinguished lawyer colleague, Senator Tully, who if I can't handle a case myself I'd certainly let him defend me, made some points in the committee as to technical matters and whether Senator Dollinger dotted "i"s or crossed "t"s. I just don't think it's relevant because if we as a body know that maybe there's a problem, I think it's more important that we clear the air than whether we worry about whether the Senator who brought up the subject was a Republican or a Democrat or dotted an "i" or crossed a "t".

Prior to the vote in the committee today, the Finance Committee, we had taken no action. There had been no prejudice to

this individual. The fact of the matter is, as I said in the committee, that most of the time years ago we really would respect each others' own dignity within our own Senate District and while Senator Stafford met that argument with some points about his relationship with the Adirondacks, and we all are very sensitive to that, the fact is that years ago we did pay more attention, and I respect the fact that Senator Nozzolio has an interest in Rochester. I respect the fact that Senator Dollinger also has an interest, and I don't understand why these two gentlemen have to be confirmed with negative votes and with local newspapers stories being written questioning why this Senate pooh-poohs allegations that there may have been in one case some wrongdoing and in the other one a lack of interest.

Now, I'm not suggesting that the individual who was involved with the corporate donation violated any laws, and I will concede to you that, if the law was violated, most instances of such an occurrence are remedied by

a refund being made. Nobody goes to jail; nobody gets prosecuted, but there's no reason why this record should not be clear on that and the individual's involvement should not be clear and, personally, I can tell you that, if the individual was involved in an illegal campaign contribution and made the comment that it was done by inadvertence and it was all corrected, that would scratch it off for me, but it would be nice to hear it. It would be nice to get some of the background and I don't know why we, as a Senate, try to protect people in situations where they may not even need the protection and where we wind up protecting them out of, in some cases, their own reputation.

I mean maybe if this individual was -- was consulted about this, he might say, Look, I know it's a pain in the neck but I'll come up. I certainly, if I'm working in government, want everybody to have complete confidence in me, and I'll make the trip. I know that's the way I would react. I can only imagine, since I've heard that these are non

paying jobs, but these individuals are prepared to do significant social work for their communities at no pay, so it's not a money motive and maybe not having a money motive they would come to Albany for one day to make sure that they can take this job without there being any question of their motivation.

I think Senator Dollinger is directly on point in what he's doing. I know these individuals appeared before Senator Levy and his committee, and that's fine, and I'm not suggesting that Senator Levy or his committee did anything wrong. I'm suggesting that time goes by and, if something comes up or somebody has a question past that committee meeting, we ought to be able to take care of it or change the process.

I don't see a bill by Senator Nozzolio, maybe it's in, that these particular people should not be confirmed by the New York State Senate because they're 300 miles away, but if we have that obligation, I don't see a bill by Senator Nozzolio that says we shouldn't take

the obligation seriously.

So I commend Senator Dollinger for trying to do what he's doing. I think that, if he was allowed to do what he's doing, it might very well clear the air.

I vote in the negative.

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

Senator Tully to explain his vote.

SENATOR TULLY: Yes, Mr. President, to explain my vote.

I think the question arises as to whether one of our colleagues had an opportun ity, a fair opportunity, to question the nominees before us and I think maybe if we review some of what Senator Gold said, it might be helpful to the rest of my colleagues.

Number one, I think Senator Nozzolio indicated that there was a local public hearing at which these nominees were considered in the area in which the colleague in question had an opportunity at that time to question

these folks.

Number two, Senator Levy, the chairman of the Transportation Committee, indicated at the Finance Committee today which I'm a member of, that there was an opportunity extended to the colleague in question to question these individuals at that time even though he was not a member of the Transportation Committee.

Further, I indicated at the hearing that, as with all members of the Finance Committee, we receive a copy of the appointees beforehand, in this case on last Thursday and, as is normally the custom, if someone is to appear it completely reflects that in parentheses. It says the words "to appear".

In answer to that, Senator Dollinger reflected that, as a new member of the committee, he was unaware of that and he was amply defended in that area by Senator Stachowski.

Now, that may well be the case but, beyond those three opportunities, assuming

arguendo that -- and I take him at his word - Senator Dollinger did not know of that procedure, Senator Levy further added that, in all cases of appointees of this type, unless they're the chairpersons, they do not appear before the Senate Finance Committee.

Again, Senator Dollinger said, as a new member of the committee, he didn't know that either. I would expect that some time between now and the next meeting of the Finance Committee that he might confer with some of his more mature members to ascertain if there is anything else he doesn't know about the workings of the Finance Committee.

But beyond that, Mr. Chairman, Senator Dollinger did have, as I had and every member had, an opportunity to look at the fact that there were appointees for confirmation and whether it was going to appear or not appear he did have the opportunity to call the chairman of the Finance Committee and/or one of his -- one of his employees and ask them whether or not he could ask these appointees to appear. He did

not, for whatever reason, choose to do that and that could have been done any day even up until this morning, and that was not done because I asked that at the Finance Committee hearing.

So I just don't understand how there was not ample opportunity for this individual to make his questioning if he desired to do so.

ACTING PRESIDENT KUHL: Senator Tully will be voting in the affirmative.

Senator Levy, did you want to explain your vote?

SENATOR LEVY: Yes. Thank you very much, Mr. President.

I'd just like to clarify something that Senator Tully said. The comment I made at Senate Finance was not that the chairs of the Regional Authority come before Finance because they don't. The only regional authority where a chair comes before Finance is the Metropolitan Transportation Authority. The up state chairs only come before the Transportation Committee and then go, as did these two

nominees, before the Finance Committee without a personal appearance.

Now, let me just say something in regard to "Bud" Dewolff. I had never met "Bud" Dewolff before he came before our committee. He was very impressive to me. He is a principal of county government in Monroe County. His area of expertise, if my recollection serves me correct, is urban planning, as -- and with this nominee, I asked him the question that I ask all involved busy people whether they be in the public sector or the private sector -- and you were there, Senator Dollinger -- I asked him: Given your demanding duties, are you going to have the time to devote to being a member of this Authority, and if my recollection likewise serves me correct, he said, "I never do anything other than one hundred percent of my time and my attention and, if I'm not going to provide that time and attention, I wouldn't be here and I wouldn't take on this responsibility."

And if my recollection also serves me correct, the ranking member of my

committee -- and I think they were all positive votes from every member of the committee on Mr. Dewolff's nomination as there was for the other nominee -- I think that somebody on your side of the aisle thanked Mr. Dewolff for making himself available and devoting the time that he was going to give to be a member of this Authority and said how lucky the people were who utilize this system and pay taxes in that region to have him as a member of the Authority.

I vote aye.

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

Announce the results.

SENATOR DOLLINGER: Mr. President, may I explain my vote?

ACTING PRESIDENT KUHL: Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: I appreciate Senator Levy's accurate summary of the Transportation discussion. I concur with that.

Senator Tully, I -- just to clarify, I was -- I'm not a member of the

Transportation Committee as you know. I'm not aware of any prior public hearing at which this was discussed either here or in Rochester.

I was present at the discussion with "Bud" Dewolff. I was not present at the discussion with Mr. Goldstein, and I don't know, perhaps Senator Levy can amplify by just shaking his head, whether that occurred off the floor or not, but I wasn't aware that Mr. Goldstein was in town.

In addition, I wasn't aware, I believe at the time that the Transportation Committee met with him, of the issue that was raised today; I wasn't aware of it. I found out through published reports last week, and it seems to me that the issue should have been broached now considering there's new information which was not in the original report conducted by the Senate Finance Committee staff when they did the evaluation of this nominee.

It seems to me, based on that new information as I sit here today, it's my obligation as someone whose constituents use

this transit authority in large numbers, to raise these issues and to have a result.

The other thing, frankly, that I would have asked Mr. Goldstein had I had the opportunity is whether or not his occupation as a parking lot operator was inconsistent with his obligations as a transit authority person because seems to me there's a logical question to be asked about whether someone who's in the business of selling parking lot space and administering parking lot space has an incentive to get people out of their cars, out of parking lots and into public transportation. Seems to me a critical issue that we face in Rochester. I know you face it throughout New York State, certainly in the metropolitan area as well, but the notion that a parking lot operator is going to sit on a transit authority is another area which I felt required Mr. Goldstein to at least comment on that seeming conflict between his role in his private life selling parking spaces and in his public life selling public transportation.

I'm not going to be able to do that. I'm not going to be able to ask him about the other issues relating to campaign contributions. I think that's a significant flaw in our process. I -- I'll apologize to the chairman of the Tran... chairman of the Finance Committee. I don't mean to impugn anything about the way the committee has handled this except I believe, based on new knowledge, based on new information, perhaps I should have called the Senate chairman, the chairman of the Finance Committee. I'm not used to doing that; maybe I should start, but it seems to me when I've got information that the public needs to have an answer to, it's not just a question of my calling Mr. Goldstein and saying, Can you explain to me what this is all about? Seems to me the broader issue is Mr. Goldstein owes an explanation to the public and that's what I sought here.

That's what I've been denied and so under these circumstances although -- and I will repeat what Senator Gold said -- had I had

the opportunity to talk to "Bud" Dewolff in a public meeting in the Senate Finance Committee, had I been able to get answers from Mr. Goldstein about the campaign contributions, there is a possibility -- I wouldn't rule it out -- that I would vote for both gentlemen, but without answers, without the opportunity to get them from the horses' mouth, I'm compelled to vote no.

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

Announce the results.

THE SECRETARY: Those recorded in the negative are Senators Dollinger, Gold, Leichter and Stachowski. Ayes 52, nays 4.

ACTING PRESIDENT KUHL: The nominees are confirmed.

Senator Stachowski, why do you rise?

SENATOR STACHOWSKI: Mr. President, I know it's unusual to introduce people, and I know I'm not going to get a standing rousing ovation back, but today we have

a guest in the chamber from California who is observing the proceedings. Normally, this would be something Senator Goodman would do because it's a person from the field of the arts and before him, Senator Lombardi was a close personal friend of our guest who is with us, but we have with us an actor from Hollywood, Peter Mark Richman, who happens to be a friend and, if you're wondering why it's I who's introducing him, he's also a member of the Philadelphia Football Hall of Fame as a football player.

And so I'd just like to take the time to introduce Peter Mark Richman, observing our proceedings today from California.

ACTING PRESIDENT KUHL: Welcome, appreciate your joining us in the chamber.

(Applause)

Senator Skelos.

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

ACTING PRESIDENT KUHL: Immediate meeting of the Rules Committee, immediate

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

SENATOR SKELOS: Mr. President, at this time could we adopt the Resolution Calendar.

ACTING PRESIDENT KUHL: Return to motions and resolutions. All those in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The Resolution Calendar is adopted.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I wish to call up Assembly Bill Number 5417.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 219.

THE SECRETARY: Calendar Number 219, by member of the Assembly Canestrari, Assembly Bill Number 5417, an act to amend the Economic Development Law.

ACTING PRESIDENT KUHL: Senator DeFrancisco.

SENATOR DeFRANCISCO: I move to reconsider the vote by which this Assembly bill was substituted for Senate Bill Number 3173 on February 19th.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: Senator DeFrancisco.

SENATOR DeFRANCISCO: I now move that Assembly Bill 5417 be recommitted to the Committee on Rules and the Senate bill be restored to the order of the Third Reading Calendar.

ACTING PRESIDENT KUHL: Assembly bill is recommitted and the Senate bill is restored.

SENATOR DeFRANCISCO: I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I request a sponsor's star be placed on on Senate Bill 833.

ACTING PRESIDENT KUHL: Senate Bill 833 is starred at the request of the sponsor.

Senator Marcellino, that brings us to the calendar.

SENATOR MARCELLINO: Mr. President, can we have the reading of the non controversial calendar.

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

THE SECRETARY: On page 4, Calendar Number 60, by Senator Larkin, Senate Print 69-A, an act to amend the Insurance Law and the Tax Law, in relation to supplemental health insurance.

SENATOR ONORATO: Lay the bill aside.

ACTING PRESIDENT KUHL: Lay the

bill aside.

THE SECRETARY: Calendar Number 286, by Senator Cook, Senate Print 258, an act to amend the Real Property Tax Law, in relation to making certain state lands subject to taxation.

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.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR ONORATO: Lay aside.

ACTING PRESIDENT KUHL: Lay the

bill aside.

THE SECRETARY: Calendar Number 430, by Senator Goodman, Senate Print 4632-C, an act to amend the General Business Law, in relation to additional civil penalties for consumer frauds.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 449, by Senator Marcellino, Senate Print 6213-A, an act to amend the Environmental Conservation Law, in relation to the drawing off of water from storage reservoirs.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: 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 ONORATO: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 520, by member of the Assembly DiNapoli, Assembly Print 8846-A, an act to amend the Environmental Conservation Law, in relation to the Central Pine Barrens comprehensive land use plan.

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.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

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.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator DiCarlo to explain his vote.

SENATOR DiCARLO: Yes, Mr.

President, just to explain my vote.

I'm going to vote in the negative. I did so last year and it's not because I don't think it's a good bill; it's just that I think this is something that should be done in the entire state of New York to stop the fraud that is rampant in terms of people who haven't voted in decades who are kept on the rolls and others vote for them, and it's prevalent throughout my county, and I just wish a good bill like this could be done statewide.

Vote in the negative.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 535 are Senators DiCarlo and Smith. Ayes 54, nays 2.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 662, by the Assembly Committee on Rules, Assembly Bill 8292, an act to amend the

Surrogate's Court Procedure Act, in relation to the commissions of trustees.

SENATOR MARCELLINO: Lay the bill aside for the day at the request of the sponsor, please.

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

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 ONORATO: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 717, by Senator Libous, Senate Print 6756, an act to amend the Mental Hygiene Law, in relation to charging fees for mental hygiene services.

SENATOR ONORATO: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 750, by Senator Larkin, Senate Print 6119, an

act to amend the Vehicle and Traffic Law, in relation to eliminating the additional annual service charge for Pearl Harbor survivors special number plates.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 789, by Senator Goodman, Senate Print 1921-A, an act to amend the Alcoholic Beverage Control Law, in relation to the information required in license or permit applications.

SENATOR ONORATO: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

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

SENATOR ONORATO: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 881, by Senator Padavan, Senate Print 2531, an act to amend the State Finance Law and the General Municipal Law, in relation to the authority of the state agencies.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 1st day of September.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 953, by Senator Maltese, Senate Print 6992, an act to amend the Election Law, in relation to cancelling military and special federal voters.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 958, by member of the Assembly Kaufman, Assembly Print 3875, an act to amend the Insurance Law, in relation to prohibiting insurers from refusing to renew an existing motor vehicle liability insurance.

ACTING PRESIDENT KUHL: 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 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 966, by Senator Trunzo, Senate Print 3027-A, an act to amend the Retirement and Social Security law, in relation to optional retirement.

ACTING PRESIDENT KUHL: 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 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1006, by Senator Hannon, Senate Print 6725-A, an

act to amend the Public Health Law, in relation to establishing the Alzheimer's Community Assistance Program.

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.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1008, by Senator DiCarlo, Senate Print Number 7291, an act to amend Chapter 841 of the Laws of 1987, relating to the combined senior citizen services.

ACTING PRESIDENT KUHL: 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 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1009, by Senator Maziarz, Senate Print 7312.

SENATOR MARCELLINO: Lay the bill aside for the day at the request of the sponsor.

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

THE SECRETARY: Calendar Number 1011, by Senator Cook, Senate Print 6274-A, an act to amend the General City Law, the Town Law and the Village Law, in relation to the filing of decisions.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1023, by Senator Present, Senate Print 767-A, an act to amend the County Law, in relation to the allocation of funds for Cooperative Extension Associations.

SENATOR ONORATO: Lay aside.

ACTING PRESIDENT KUHL: There is a local fiscal impact note at the desk. Lay the bill aside.

THE SECRETARY: Calendar Number 1025, by Senator Padavan, Senate Print 2692, an act to amend the General Municipal Law, in relation to powers of municipalities in urban renewal areas.

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.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1026, by Senator Wright, Senate Print 3184-A, an act to amend the Real Property Tax Law, in relation to subjecting lands within the Tug Hill region to taxation.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1028, by Senator Seward, Senate Print 4220, an act to amend the County Law, in relation to establishing county communications systems

improvement districts.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1042, by Senator Marcellino, Senate Print 7132 A, an act to amend the General Municipal Law, in relation to authorizing local governments to deposit public monies.

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.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1058, by Senator Levy, Senate Print 5207-A, an act to amend the Estates, Powers and Trusts Law, in relation to honorary trusts for pets.

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: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1061, by member of the Assembly Vitaliano, Assembly Print 9118, an act to amend the Lien Law, in relation to expanding the time periods for service of a copy of a notice of a lien.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1062, by Senator Skelos, Senate Print 6561.

SENATOR MARCELLINO: Lay it aside for the day at the request of the sponsor.

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

THE SECRETARY: Calendar Number 1064, by Senator Lack, Senate Bill 7014, an act to amend the Judiciary Law, in relation to providing an employee who is absent from employment to serve as a juror.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1068, by Senator Marcellino, Senate Print 7396, an act to amend the Environmental Conservation Law, in relation to exempting tires.

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.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1076, by Senator Goodman, Senate Print 6308, an act to amend the Tax Law, in relation to

providing for the disclosure of alcoholic beverage tax information.

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.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1083, by Senator LaValle, Senate Print 7095, an act to amend the Tax Law, in relation to exemption from the real property transfer tax.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of July.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1087, by Senator Volker, Senate Print 265-A, an act to amend the Civil Practice Law and Rules, in relation to requiring disclosure to courts.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1089, by Senator Sears, Senate Print 1177-B, an act to amend the Criminal Procedure Law and the Education Law, in relation to the appointment of security officers.

ACTING PRESIDENT KUHL: Secretary

will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 55, nays 1, Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1091, by Senator Volker, Senate Print Number 1479, an act to amend the Civil Practice Law and Rules, in relation to permitting the joinder of consumer credit transaction claims.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1095, by Senator DeFrancisco, Senate Bill 4230-A, an act to amend the Civil Practice Law and Rules, in relation to the confidentiality of certain privileged information.

ACTING PRESIDENT KUHL: 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 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1097, by Senator Volker, Senate Print Number 4453-A, an act to amend the Civil Practice Law and Rules, in relation to fees of certain

appellate courts.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect ten days after it shall have become a law.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1167, by Senator Holland, Senate Print 1468, an act to amend the Social Services Law, in relation to requiring an address as a condition of receiving assistance.

SENATOR ONORATO: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1182, by member of the Assembly Hochberg, Assembly Print 9098, an act to amend the

Personal Property Law, in relation to authorizing the White Plains Parking Authority to accept credit cards.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. 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 56.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino, that completes the non-controversial calendar.

SENATOR MARCELLINO: Mr. President, can we recognize Senator Libous for a moment, please.

ACTING PRESIDENT KUHL: Chair recognizes Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

Could I have unanimous consent to be recorded negative on Calendar Number 881, please.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Libous will be recorded in the negative on Calendar Number 881.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would like unanimous consent to be recorded in the negative on Calendar Number 1089.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Montgomery will be recorded in the negative on Calendar Number 1089.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Mr. President, I was excused yesterday from session, but if I had been present at yesterday's session, I would have voted in opposition to S. 4564, which was Calendar 895 yesterday.

ACTING PRESIDENT KUHL: Senator

Oppenheimer, the record will reflect that had you been in the chamber yesterday whenever the vote was taken on Calendar Number 895, Senate Print 4564, that you would have voted in the negative.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, may we please return to reports of standing committees. I believe there is a report from the Rules Committee at the desk.

ACTING PRESIDENT KUHL: There is a report of the Rules Committee at the desk. I'll ask the Secretary to read.

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

Senate Print 6669-B, by Senator Marchi, an act to amend the Environmental Conservation Law, in relation to solid waste management;

7164-A, by Senator Bruno, an act to amend the Workers' Compensation Law, the Civil Practice Law and the Labor Law, the State

Finance Law, the Volunteer Firemen's Law, in relation to expiration of Article 4 of such laws;

And Senate Print 7524, by Senator Wright, an act to amend Chapter 640 of the Laws of 1990, amending the Public Health Law.

All bills directly for third reading.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: I move to accept the report of the Rules Committee, please.

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The report is accepted. The bills are reported directly to third reading.

Senator Marcellino.

SENATOR MARCELLINO: Thank you,

Mr. President.

May we now return to the reading of the controversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar beginning with Calendar Number 60, Senate Bill 69-A, by Senator Larkin.

THE SECRETARY: Calendar Number 60, by Senator Larkin, Senate Print 69-A.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Larkin, an explanation of Calendar Number 60 has been asked for.

SENATOR LARKIN: Yes, Mr. President.

This bill will allow employers to establish supplemental insurance accounts for employees and their dependents when such coverage is combined with a catastrophic health insurance policy provided by the employer.

Under this legislation, individuals will be given a financial incentive to use health care services more wisely than

under a traditional indemnity plan and without the outside intrusion of a HMO.

By reducing inflation in the primary health care market, this legislation will encourage the state and health insurers to dedicate more resources to catastrophic coverage, reducing our reliance on Medicaid and Medicare to pay for chronic illness.

Finally, this legislation provides true portability by giving employees actual ownership of their own health care.

This has been adopted in nine other states across this nation.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

If you would yield to a question?

ACTING PRESIDENT KUHL: Senator Larkin, do you yield to a question from Senator Paterson?

SENATOR LARKIN: Yes, Mr.

President.

SENATOR PATERSON: Senator Larkin, the legislation from the point of view of the very young and the healthy, it would sound as if it would be a good idea and would certainly be very alluring to a person who feels that they're in good health; but the actual delineation of what catastrophic care is might be somewhat more complicated and might incur a great deal of responsibility on the victim when they find out what the limitations of catastrophic care might be and so, therefore, Senator, what I'd like you to explain in the chamber is, what is going to happen to an individual who buys into this plan who then, for some reason, contracts diabetes or the HIV virus or is in an accident and might want to pay for the hospitalization. There might be physical therapy or any long-term prescription drug medication that would be prescribed for an individual, in my opinion, would use up this plan immediately and put even the young and the healthy person that buys into this plan in what

would really be a catastrophe that would be endured without health insurance.

SENATOR LARKIN: Senator Paterson, two things we must remember. This bill requires an employer to purchase a catastrophic health plan for each employee. He cannot establish this plan without having first purchased the catastrophic -- without having -

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

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

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: I recognize what the catastrophic health plan is. What I'm telling you is what the catastrophic health plan isn't. There are a number of serious maladies an individual could incur and would not be covered by this plan and then they're left to only this medical savings plan which I'm

suggesting to you would run out in a matter of days, and then the person that thought that they had a good deal could find themselves without any health insurance.

SENATOR LARKIN: Well, Senator Paterson, in the other states -- and we've checked them -- there is no problem. You have to remember that the catastrophic plan would have to provide at a minimum the same long-term coverage as a conventional insurance or HMO policy.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

I think that in the nine other states this is something that's just been adopted and it's hard to determine what a problem is. In other words, there may be people who are suffering from this problem right now and it won't be until there's a great number of them that we start to realize how far-reaching the problem may be.

But if the Senator would continue to yield, I have another question.

SENATOR LARKIN: Yes, Senator.

ACTING PRESIDENT KUHL: Senator Larkin? Senator Larkin yields.

SENATOR PATERSON: Senator, my problems with this legislation are really far more dialectic than would have been described in the first question.

When you think about insurance, aren't we really setting up adverse selectivity in this particular situation where what you're going to do is victimize those individuals who can't get into this kind of medical savings plan, those individuals who are elderly, who are poor, who are more likely to become ill, and aren't we in a sense segregating out those individuals who would think that their health needs would be less and in a sense destroying the whole idea of community rating, in other words creating what would be almost an elite corps of insurers by the adoption of this kind of legislation and setting up what I would term

as almost a voucher system for those who would be afflicted, the end of it being that we now have, in a sense, a dualistic health care managed care system in our state?

SENATOR LARKIN: Senator, I think that a realistic look at this, you're really talking about the term that was used in this house in 1992 and '93 called "cherry picking" and "cherry picking" has not been established as a factual problem in the state of New York.

As you recall last year, the Blues were opposed to this legislation. The change that we have added in there corrected the problem that the Blues had with it. What we're seeing now is the effect in New York's health insurance market that the adverse selection has.

What we're saying here is that the healthier individuals choose, made a choice back in '92 and '-3 and they dropped out. Approximately 400,000 dropped out because of the community rating aspect, that's since 1993. The SIAs would encourage these individuals to

participate in the voluntary market while paying their premiums for catastrophic insurance.

This idea is to reduce unnecessary and inefficient primary costs in order to increase the quality that you said you were concerned about for the catastrophic coverage of all individuals.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: These supplemental insurance accounts are going to become a national issue and it's going to be something that we're going to hear a lot more about. At the federal level they're called medical savings accounts, and it's my opinion that they do destroy the concept of community rating. They do destroy the whole idea of all of us being in a single pool at which we will be insured. I think it does set up kind of an elite corps of insurers, and that was the position of Blue Cross and Blue Shield last

year.

They have changed their positions for reasons I wouldn't know because there hasn't been any change in the bill last year, and so we respect that they've changed their minds, but the argument that they were making last year is the argument I continue to aver right here in this chamber, which is that we're not giving an -- an equitable form of insurance to the largest mass of people and we are going to actually increase rates for those who are more sick and who are more affected by the adoption of this kind of plan which is not, in my opinion, what the whole concept or the whole theory of insurance would govern us to do.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Would Senator Larkin yield to just one question?

ACTING PRESIDENT KUHL: Senator Larkin, do you yield to Senator Dollinger?

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Senator, does the New York Association of Blue Cross and Blue Shield still oppose the bill for the reasons articulated -

SENATOR LARKIN: They have withdrawn it. Senator Dollinger, they had a question. It was a technical portion of the bill and because they were concerned -- like Senator Paterson had a question about it, and we amended that and made the corrections so that there's a clarification of it as to how this operates, how it functions -- they've withdrawn their objection.

SENATOR DOLLINGER: So again through you, Mr. President, based on that answer, if I could have just one more question.

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

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT KUHL: The

Senator continues to yield.

SENATOR DOLLINGER: The concern I had the last time this bill came forward was that it was a departure from community rating, that the Blues were concerned about the deterioration of the community-rated system because these special pools in the SIAs would be used as a way to take the good risks out of health care and shift them into a different account. Is it my understanding that that's been cured in this bill?

SENATOR LARKIN: It has been cured because what we're doing now -

SENATOR DOLLINGER: But again, so I understand it, the Blues have dropped their opposition?

ACTING PRESIDENT KUHL: Gentlemen, excuse me.

Senator Goodman -- Senator Goodman, you're right in the line of the discussion between the two gentlemen who are debating.

Senator Dollinger, you have the

floor.

SENATOR LARKIN: Senator, there's no one who has an objection to this bill. The objections that the Blues had interjected last year, they met with us and our counsel and we corrected what they thought was a problem. I would be more than happy to show you what they were specifically concerned with.

Michael?

SENATOR DOLLINGER: Mr. President, I don't need to see that. I'll take the word from my colleague that the Blues have cured whatever difficulties they had with this bill.

That was -- my concern last time was the impact on community rating. It was raised by the Blues. As you know, I come from the home of community rating, and I was concerned about an attrition of the community rating process that this bill might trigger.

SENATOR LARKIN: It's been taken care of, Senator.

SENATOR DOLLINGER: So I

appreciate it.

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

Senator Paterson.

SENATOR PATERSON: Mr. President, I don't know if Senator Dollinger would yield for a question, but I would just like him to be aware that the withdrawal of the objection by the insurance companies that are affected in this particular case, in my opinion, does not relate to the substance of the bill. The fact that they have withdrawn their objection does not mean that there's been any change in the status of community rating. I'm not exactly sure what their objection is, and I don't know that it's been made clear in this debate.

So just for my own clarification or just my own interpretation of what we have been discussing, we may disagree, but I just don't see where this legislation has been changed that would affect any of the memoranda that we received from the -- from Blue Cross or Blue Shield last year. They've changed their

position. I respect that they've changed it, but no one has given me any information relating to the substance of the legislation that would justify that change.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Yeah, Mr. President, briefly on the bill.

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: One of the problems I have with this bill is its fiscal impact because now there are going to be deductions up to the amounts that can be -- that are authorized by this bill that can be put into one of these accounts and that can be taken as a deduction from your -- from the income tax.

The fiscal impact statement which, with all due respect, Senator Larkin, I have a lot of problems accepting, it says no significant reduction in income tax receipts is expected due to the fact that most employers who would offer SIAs already receive a tax exemption

but, as I read the bill, it's not only employers. If you are an account holder who's an individual, whether you're employed or not, you're not going to be able to take a deduction for the amounts that you put in this account, whereas probably you could not take a deduction for medical expenses.

The memo then goes on to say, Well, in the long run, you know, this is going to make a lot of money for government because people will be covered and they're not going to go on Medicaid, and so on. I just think that's totally misleading.

You know, we get so many of these fiscal impact statements that -- things that obviously cost money, things that obviously are going to lose us revenue but we're told that in the long run this is going to bring so much money to government. Of course, as Cain said, in the long run we're all going to be dead, and I guess I won't see that day in the long run when as a result of all of these bills, there's going to be so much revenue and so much money

that the government, instead of collecting taxes, is going to be sending money to every individual. Obviously none of us will see that day nor will anybody ever see that day.

The fact is that this bill carries a definite fiscal adverse consequence for the state, and what we're really doing is giving a tax benefit generally to people who are more affluent. This will be used primarily by people who are more healthy, and it is going to result in a diminution of government funds and you ought to ask yourself, Do we want to subsidize, because that's what we're doing. We're subsidizing these particular -- those persons are going to take advantage of these accounts. I don't think that's a proper expenditure on the part of the state of New York. We just can't afford that.

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

THE SECRETARY: Section 6. This act shall take effect December 31st.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 60 are Senators Abate, Connor, Espada, Gold, Lachman, Leichter, Montgomery, Paterson, Smith, Seabrook. Also Senator Markowitz. Ayes 46, nays 11.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Yeah, Mr. President. I move we diverge from the calendar for a moment and take up Calendar Number 789, please.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: On page 25, Calendar Number 789, by Senator Goodman, Senate Print 1921-A, an act to amend the Alcoholic Beverage Control Law, in relation to the information required in license or permit applications.

ACTING PRESIDENT KUHL: Senator

Goodman, an explanation of Calendar Number 789 has been asked for by Senator Paterson.

SENATOR GOODMAN: Mr. President, this piece of legislation which has passed in the last two successive sessions of the Senate came about as a result of an investigation by the Senate Committee on Investigation and Taxation into the affairs of the State Liquor Authority. That investigation uncovered a very disturbing pattern of operations within the SLA which ran something like this:

An individual would make an investment in a new bar and grill. He would refurbish a building. He would furnish the new facility. He would require bank credit in order to do this and everything would be set to go but there were inordinate delays in the issuance of his liquor license and, therefore, the individual would be stretched out to a point where he might actually go into bankruptcy awaiting the approval of the liquor license and the permission to begin operations.

This very disturbing pattern not

only worked a great hardship upon many bar owners but it also induced a situation which involved corrupt practices and which involved the necessity for hiring expediters in order to permit the rapid handling of licenses by the SLA which was severely backed up and unfortunately in a state of incompetent inability to perform. The result was that this investigation strongly recommended that there be an overhaul of the SLA's procedures and that there be a means of, in effect, disciplining the SLA and forcing it to make a timely decision after reasonable periods had elapsed to determine that a liquor license could or could not be issued.

Specifically, the modus operandi of this bill when passed would provide that under -- that the Authority would have to notify an applicant within 45 business days that either the application is approved or denied or that the application is not complete, indicating the respects in which the application is not com plete.

In the event of an incomplete

application, final action would be taken within 60 business days of the original receipt of the application, not including the period during which the Authority awaits the applicant's supplying of additional information.

The bill further provides that, in the event that the Authority fails to take action within the specified time period, the applicant may send a notice to the Authority and if the Authority does not reach a decision, then the application will be deemed approved.

In other words, there is an automatic triggering of the application after careful due process has been complied with, and let me just say that I have within the past two hours been in touch with the chairman of the State Liquor Authority, Mr. Casale, with his chief counsel, both of whom have given their full approval of this procedure. They point out that the State Liquor Authority has recently become computerized, that its efficiency has been enhanced and that, therefore, the compliance with this particular piece of

legislation has been facilitated. They strongly approve of it. They would like very much to do everything within their power to stem the possibilities of corruption as it surrounds the attenuated granting of liquor authority -- of liquor license authority to open businesses, and we believe this is an imperative bit of relief that should be granted for the purpose of helping small business and averting the possibility of corrupt practices.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Thank you very much.

Mr. President, I am wholeheartedly endorsing Senator Goodman's bill. What has gone on at the State Liquor Authority over the years has literally been a disgrace, and I can tell you that I believe that under the new chairman, there is a change in attitude.

First of all, lest people think

differently, if the facts be told, probably 95 percent of the applications that are filed must be granted. There is no legal right not to grant them. So the discretion of the Liquor Authority is far more limited than people think.

In addition to that, while I supported legislation that requires that the local communities be informed and notified, some of what goes on with these communities is really an outrage. For example, there is one situation I know of where in the first analysis, a very reputable individual went to a board, was turned down. The same night they approved an individual who we now know from the arrests a few weeks ago has been involved in some of the biggest drug scams in night clubs that you can imagine, and he got a clean bill of health.

Now, I know that the community boards mean well and I know that they are not there to damage their communities, but I think as has been indicated, they are filled with local politics of a nature which sometimes has nothing to do with the merits or demerits of an

application, and if you had the opportunity to examine some of the goings on, you find some very, very big fish in little ponds who look at this as a -- as a power mechanism.

The boards -- the Liquor Authority, in my opinion, has gone through a number of changes over the years and now I think is getting to the right place where it ought to be. There are people violating the liquor laws and the Liquor Authority ought to be looking into that and protecting us and protecting us against violations of law.

When it comes to the applications, there have been over the years terrible, terrible obstructions placed in the way of honest people. There are applications I've seen where somebody was opening a small little neighborhood bar and grill and the investment was some perhaps 30- or $35,000 and they would drive the individual crazy to see where the last 50 bucks came from, and there were applications put in by certain ethnic groups who they decided didn't use banks and

kept money under the mattress and they would excuse 2-, $300,000 of unexplained money. It was a farce what went on.

I believe there is a sincere effort on the part of the present chairman to straighten this all out and to get this -- this Liquor Authority in a situation where we clamp down on people violating the liquor laws and make the application system such that legitimate business people can move forward.

If you are trying to open up a premises and you sign a lease and these leases are for big money and 30 days goes by, 60 days goes by, six months goes by and you are paying rent and you have some key employees who you are trying to keep and, therefore, you're paying them money and you have nothing coming in, that is not a business friendly atmosphere, believe me, and it seems to me something must be done.

I think that Senator Goodman's bill is a good compromise in this issue, and I'm certainly going to support it.

ACTING PRESIDENT KUHL: Senator

Abate.

SENATOR ABATE: Yes. Would Senator Goodman yield to a question?

ACTING PRESIDENT KUHL: Senator Goodman, do you yield to a question from Senator Abate?

SENATOR GOODMAN: Yes, I will.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR ABATE: Senator, last year we had a discussion on the floor around this bill, and I have not carefully reviewed the bill and I know you are more aware of the details of the bill than I am. Has this bill been amended in any way since last year, or does this bill reflect the same bill that was on the floor which we voted upon last year?

SENATOR GOODMAN: To the best of my knowledge, it's the same bill that we had last year, Senator.

SENATOR ABATE: Senator, would you -- would the -- Senator Goodman yield to a question?

ACTING PRESIDENT KUHL: Senator Goodman, do you yield?

SENATOR GOODMAN: Yes, I will.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR ABATE: One of the concerns that I had last year -- and I'm very glad to hear that Chairman Casale thinks he can, in fact, comply and make decisions within 45 days. What has changed between last year and this year, because it's my understanding even as of last week, it takes approximately six to eight months on average to decide these pending on-premise license applications. So why if we pass the law does he think he can expedite this decision-making process and shorten it to 45 days?

SENATOR GOODMAN: As I said earlier -- I'm not sure you were on the floor, Senator -- the Department has computerized its operation and it's working more efficiently.

SENATOR ABATE: And when does this computerization come on-line?

SENATOR GOODMAN: It's in place now.

SENATOR ABATE: And how long has it been in place?

SENATOR GOODMAN: I don't know.

SENATOR ABATE: Again, it's my understanding that the SLA has been working on this computerization, yet I have not seen recently any improvement in terms of timeliness in making these decisions. So my concern is are we, Senator, putting an arbitrarily -- time period of 45 days on the SLA to review these applications, and are we giving them any more resources to ensure it can be done within that time period?

SENATOR GOODMAN: Senator, I have the transcript of last year's debate in which you raised these same questions, so we took particular and meticulous care to determine whether your concerns had been satisfied, and the fact of the matter is, as I indicated earlier, they have.

SENATOR ABATE: The other issue,

if the Senator would continue to yield -

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

SENATOR GOODMAN: Yes, I will.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR ABATE: My concern is - and you're very well aware -- that the community boards approve of most of all of the on-premise licenses. '97 percent of them go through the community board, but then on occasion the community board raises issues under the 500-foot rule, which is the rule that says if there's three or more bars or discos within 500 feet of each other, they call upon the SLA to ensure that it's within the public interest before a fourth or fifth or thirtieth bar is placed and approved.

In issues of 500-foot rule and 200-foot rule, issues of zoning and safety, how can this legislation ensure the community they have opportunity for notice and sufficient opportunity to react and to have hearings and to

be heard before this license is granted?

SENATOR GOODMAN: Well, as you know, Senator, the community boards typically meet at least once a month and, therefore, a 60-day period is more than adequate for them to respond.

Let me just remind you, we're dealing with a serious problem which we unearthed as a result of our investigation. There is blatant corruption in a situation where there is a line from here to the Mississippi River, if I can use a simile or a metaphor, to indicate that there have been enormously - enormously extended delays. As Senator Gold just pointed out, this has resulted in serious problems of corruption and inadequate response by government to the need to give reasonably timely action to these types of applications.

The consequences of our failure to do this could be very, very great and we want to try to do what we can to stop the use of influence peddling, the use of bribery, the use of the need for special consultants to come in

as expediters. There's a whole profession which developed around these extraordinary delays. We've got to put a stop to this and the use of community boards as an objection to this, I think is utterly invalid since they have more than enough time to interpose objections if they have them. I hope you will not take a view that prevents us from recognizing that the over arching problem is corruption and it must be stopped.

SENATOR ABATE: Senator, would you continue to yield?

SENATOR GOODMAN: Yes, I will.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR ABATE: I absolutely agree that we need to reform the system. We need to dissolve the system of corruption. We need to streamline the process. My concern is how did you choose 45 days? Why not 90 days? We're now going from an average of eight months and now to 45 days. Shouldn't we take more realistic interim steps to ensure that we

expedite the process so we don't unfairly penalize good businesses but we also don't take out of the process needed community input?

SENATOR GOODMAN: Senator, if you will read the bill, you'll notice that the actual time span is 60 days which can be further extended if there's an incomplete application. The SLA has the right to announce to the applicant that you are, for example, not in possession of a certificate of occupancy and until that certificate is presented to the SLA, the clock stops. It does not incessantly go forward when the application does not have all of its necessary elements. So I think there's more than enough time, and we selected the time very deliberately and carefully after we examined the ways in which the law was failing to serve the public interests.

SENATOR ABATE: But I understand that if the SLA doesn't do anything within 40... it does not rule within 45 days, the license is granted unless -- who has to make an application for an additional 15-day extension?

SENATOR GOODMAN: The 15 days come into play, as I indicated earlier, in the event that there is a failure to provide an adequate response to the completion requirements of the SLA.

SENATOR ABATE: Now -- but then does the community have a right to say, "We don't have enough time. 44 days have elapsed. We need 15 more days"?

SENATOR GOODMAN: If there's an incomplete application, it does. If there's not, then it does not.

SENATOR ABATE: Let's envision a circumstance where it's not a question of an incomplete application. The community board meets once a month and maybe it's at the 29th or 30th day they meet and they decide there's some real issues here around the 500-foot rule, around zoning issues, and they say that 45 days is not enough. Where in the bill does it give the power to the community to object so they can get more time to be heard?

SENATOR GOODMAN: First of all,

as you know, the community board does not have the veto power on these matters. It has only a recommendatory power to the SLA, and it has ample time to find out the facts of any given case and to make its recommendation to the SLA. They're not a court of law. They do not -- they cannot bring down the curtain on an application. If they object and the SLA decides that their objection is without merit, they can go ahead and grant the license.

SENATOR ABATE: Senator, I agree that community boards should not have a veto power over the SLA. What I'm concerned about is that if they feel that they don't have enough time at least to be involved in the process so they in an advisory way can make recommendations to the SLA and they say that they want to stop the clock for a period of time so there can be a public hearing, like a 500-foot rule, where in the bill does it ensure that the community has an opportunity to stop the clock?

SENATOR GOODMAN: It is clearly in the bill if within the 60-day period there

are objections brought to the attention of the SLA which warrant the non-granting of the license, the SLA has that absolute discretion, and that's more than adequate time for the community to act. I don't know where you're coming up with the sense that it's not adequate. As I've explained to you, community boards meet monthly and, if there's a special problem, they can call a special meeting which they very rarely have to do. So I think everybody's interest is well protected.

SENATOR ABATE: Thank you, Senator.

On the bill.

ACTING PRESIDENT KUHL: Senator Abate, on the bill.

SENATOR ABATE: Last year I think we conducted the same debate. I was hoping that the bill could have been amended to extend the time periods. I agree with the Senator that there's a need for long overdue reform. I have set up a meeting with Chairman Casale, with some local businesses and restaurateurs to look at

what I call realistic reforms.

The point that I disagree with Senator Goodman is that the community boards would say that the 40-day rule where there would be an automatic approval and maybe a 15-day extension does not give them necessarily in every case, particularly those complex cases, the cases where they object to an unruly bar or where a 500- and 200-foot is applicable, they do not believe that the time periods as prescribed in this legislation are sufficient.

I think there's a middle ground. I think we should recognize that what we are doing is granting licenses by default. The SLA will be making -- will be approving these decisions without full community input and review or they won't have an opportunity to make these decisions and by default the licenses will be granted.

Rest assured, most of these licenses should be done on time. We should look at realistic reforms. I don't think this is going to provide the needed -- reforms that are

needed. I was hoping that this bill could be amended. I'm still going to hope that this does not become law, that we reach out to the community boards to see if we could find some middle ground. I believe, and I'm sure Senator Padavan is concerned, I believe this will eviscerate the intent of the 500-foot rule. It'll be a way to circumvent those public hearings. It'll be a way to ensure that the communities do not have adequate opportunity for input and review.

I think we should sit down, and I would invite the Senator to bring together the business people in our communities, the restaurateurs and the community people around realistic reforms. I think we can reach certain agreements. I'm trying to do that now with the SLA, bringing together businesses and communities. Rest assured that we should be doing as many reforms as possible to ensure that good businesses have the opportunity to get on line, to hire people, to open their businesses, but on the other hand, we have to have enough

community safeguards so that the businesses that are not willing to be good neighbors, not willing to abide by the laws, have the opportunity to confront their communities and we should not within a 45-day time frame give these businesses on-line premises. I think it will be detrimental to the good businesses who abide by the laws in the long run and certainly this bill will be detrimental to the communities.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, could we lay the present bill that we're discussing aside temporarily so that -- is that the end of the debate?

ACTING PRESIDENT KUHL: Senator Padavan had indicated a willingness to want to talk, so the debate has not ended at this point.

SENATOR BRUNO: We have some people who need to vote on Calendar Number 1225, and I would ask if we could lay this aside temporarily.

ACTING PRESIDENT KUHL: We'll lay Calendar Number 789 aside temporarily and bring up Calendar Number 1225.

I'll ask the Secretary to read the title.

THE SECRETARY: Calendar Number 1225, by Senator Bruno, Senate Print 7164-A, an act to amend the Workers' Compensation Law, in relation to extending the effectiveness of certain provisions, to repeal certain provisions of the Workers' Compensation Law.

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

THE SECRETARY: Section 91. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

SENATOR JOHNSON: Aye.

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

SENATOR BRUNO: And Senator Goodman.

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

SENATOR GOODMAN: Aye.

ACTING PRESIDENT KUHL: Senator Goodman will be recorded in the affirmative. The roll call is withdrawn.

SENATOR BRUNO: Thank you, Mr. President.

ACTING PRESIDENT KUHL: We'll return to Calendar Number 789.

SENATOR BRUNO: Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will read the title, put the bill before the house.

THE SECRETARY: Calendar Number 789, by Senator Goodman, Senate Print 1921-A, an act to amend the Alcoholic Beverage Control Law, in relation to the information required in license or permit applications.

ACTING PRESIDENT KUHL: The Chair

recognizes Senator Padavan on debate on Calendar Number 789.

SENATOR PADAVAN: Yes. Thank you, Mr. President.

I share many if not all of the observations that were made by Senator Abate, particularly with regard to this 45-day requirement that is specified in the bill.

As Senator Goodman is aware and I'm sure most of you are aware, there are businesses in the state, the city of New York and elsewhere, that require licenses from a variety of agencies, state Health Department as an example, the city of New York, the Building Department, the Department of Consumer Affairs, and on and on the list goes. Depending upon the nature of the business, the requirements of the licensure or the application, varying amounts of time will be required. In none of those instances am I aware of -- and you can correct me if I'm wrong -- is there an automatic license at a point-specific in whatever process must take place. This would be an exception in all

licenses issued by the state and by local governments to appropriate -- for appropriate purposes to various kinds of businesses or activities.

Now, we heard earlier from the sponsor and from others that the SLA has computerized its process, has done the things required to improve its efficiency and we applaud that. Now, if that is the case as the sponsor indicates, then why do we have to pass legislation imposing a time restriction?

Senator Abate mentioned a bill that passed which is now law of the last several years restricting the numbers of on-premises liquor consumption bars in those communities where there is a high density and where that density has produced problems that are adverse to the quality of life of residents and adversely affect the stability of those communities, and the bill indicates that if there are several bars within a 500-foot diameter, that a new application may not be considered or a new license may not be issued.

The key element, however, in that process is the objection or the reasons presented by local government. Now, we made frequent reference to community planning boards, but that's a statewide bill. Every town board, local government, village entity, whatever, from Huntington, Long Island to Buffalo, New York, those local governments are called upon or given the opportunity of exercising their responsibility by saying, We have a problem in this particular area and we really do not feel it's appropriate to have any more bars or taverns open up, and we ask you, the SLA, to apply the 500-foot rule.

Now, many of those local government bodies, including community planning boards -- I know the ones in my area do not meet in the month of August, and I assume local governments throughout the state will frequently take a hiatus in the summer and not have meetings, and community groups, civic organizations generally don't meet, and so what you have is a time gap, depending on the time of

the year we're talking about, where the desired inputs from local governments, from civic organizations, from others who have an interest would simply not be forthcoming.

Now, there are many parts of your bill that I find appropriate, but I do not feel that the exception to licensure which has an underlining component, what is desirable for the people who ought to be affected by that license, whatever the activity may be, that in this one instance, we say to an agency, in this case, the LSA -- SLA, that in a time specific, if all of the inputs that might potentially be forthcoming do not take place, you will issue that license, the people I represent would not be happy with that.

So, Mr. President, I will say to the sponsor that either change the 45 days or I and I'm sure others will feel disposed to vote against this bill.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Would Senator Padavan yield to a question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR GOLD: Senator, I heard your remarks, and I know of your sincerity and your concern with this issue, but I want to ask you a question.

Do you think in determining its responsibility to the community that a local community board should insist that an applicant to take over a restaurant, let's say, submit its menu and say to an applicant that we may or may not approve if you change some of your menu items?

SENATOR PADAVAN: Senator, I have never heard that taking place in my area, and you may have in yours. However, I would consider that not germane to the basic laws that we have generated and the responsibility of community planning boards who do have a very special responsibility in this area as they do

in many others. Now, if that does take place, it's an exception to the rule by any measure.

SENATOR GOLD: Will the Senator yield to one more question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR GOLD: Yes. The advantage of my asking you questions, Senator Padavan, is that you give honest answers and I can rely upon them, and I appreciate your last answer.

Senator, do you think that a local board, in determining whether they should approve or not approve, should have the right to say to an applicant that they think that maybe the tables should be a little bit to the right of the room when you come in the door rather than to the left, or maybe 15 feet from the bar rather than 12 feet from the bar?

SENATOR PADAVAN: Senator, I'll give you the same answer with this addendum. The fact remains that is irrelevant to the

issue.

If a planning board in any time frame would raise that kind of concern, the SLA has full authority to say, "This is nonsense. It's not really germane", but if that planning board said to the SLA, "We have a bar that's going to open up in an area that is over saturated, where we've had mayhem, we've had murders, we've had all kinds of problems, people pouring out of bars at 4:00 in the morning, dis turbing the neighborhood or in close proximity in terms of residential accommodations, private homes or apartments", those are the kinds of things that the planning boards in my area have raised from time to time relevant to the licensure of bars.

SENATOR GOLD: Thank you.

Mr. President, may I comment on the bill?

ACTING PRESIDENT KUHL: Senator Gold, on the bill.

SENATOR GOLD: Senator Padavan, the problems I'm addressing I think are what

Senator Goodman wants to address. If you have a computerization -- first of all, understand something. There's a lot of people out there whose applications for liquor licenses take six months because they don't know how to fill out a plain English piece of paper, and I've seen that and I know what goes on, but if people under this bill put in their numbers, put in their figures together with their letter that they address to the community board, there's no reason why that application can't be looked at and some determination made.

Now, Senator, what's happening today is that time is being used as a weapon by some people in community boards who I'm telling you are unscrupulous and, Senator Padavan, I know that you have had situations where you didn't think or your community didn't think something was proper and you wouldn't do what some of the boards have done, but I'm telling you what they do. They tell people to bring in their menus and they go in as if they were business geniuses and start telling people to

rearrange their tables. They tell them where the men's room should be and the women's room should be and, yes, the Liquor Authority today, I hope, which is Republican controlled as you know, has enough sense to say, "That's nonsense. We're not going to deal with that", but 45 days is enough time to do that.

First of all, understand that the vast majority of these applications are not for new places. They are people who sell a premises to somebody else. So you've got an Italian restaurant, a diner, a Chinese restaurant or whatever that somebody is buying from somebody else, and if the money is proper and valid, you don't have 500-foot rules. You don't have any of these rules. So a lot of these applications are just swept out of there because they just don't apply to the kind of things you're talking about, and when you get down to the two or three or five, believe me, that may be a question, there's enough time for the boards to deal with that, the local boards, and there's enough time for the Liquor Authority to deal with that, and

that's the philosophy behind the Goodman bill. There's too much time that other administrations have wasted of taxpayer money worrying about things which are nonsense.

The Liquor Authority, in my opinion -- and it's only my opinion -- should be an enforcement body that makes sure that they're not selling drugs in the discos.

I mean, it's interesting, there was this big scandal a few weeks ago and I'm laughing. I'm saying to myself, Everybody knows that these places were drug dens. Isn't it interesting if everybody knows that the local community boards approved that owner or that premises only maybe two months ago for a new premises even though they were told what was going on? Isn't it interesting when everybody knows that somebody is the owner of a premises, that their name isn't on the application? Isn't that interesting how everyone knows it?

So the bottom line here is that if you take the applications where they have no discretion and you just put them through the

computer and take them off the table, I'm telling you, 45 days is plenty of time to take a look at the others, and under the Goodman bill, as I read it, there's nothing that stops the Liquor Authority after 45 days or 60 days from saying no, from turning down the application, and then there is no automatic license. All you're saying is the Liquor Authority must act, and if the Liquor Authority says, "We can act within that time", I think that you're doing, without repeating it, what Senator Goodman said and you're eliminating an awful lot of time for fraud.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

If Senator Goodman would yield for a question.

ACTING PRESIDENT KUHL: Senator Goodman, do you yield to Senator Paterson? The Senator yields.

SENATOR PATERSON: Senator, last

year during the debate I made a suggestion to you and I wanted to know if you had given it any more thought. In terms of this whole process, the idea of having the agency, in a sense, mandated to respond in a seasonable period of time, is just something that just from a government perspective I have a problem with. This is a matter of public policy. Despite the fact that a number of things that Senator Gold said that I listened very attentively to were right -- in fact, I'm glad I listened. I never listened to Senator Gold before, but the point is that what I wanted to ask you is that if we established a different level of a license, in a sense a temporary license which would allow the business to continue but would give the Liquor Authority and any other dissenting party additional time to actually review it, I just wondered if that wouldn't be a way to solve this problem and yet address some of the issues that some who aren't supporting the bill are raising.

SENATOR GOODMAN: Senator, I appreciate your concern and that of my other

colleagues, but I just wanted to point out to you that this has been carefully thought out, has been through the crucible of debate twice in this house, I think twice has passed by signifi cant margins. One of your most distinguished leaders has spoken most eloquently and supported the bill. It's our judgment -- and I may say that I'm not a lawyer. I don't happen to have a practice before the SLA, but I believe some others who have spoken do and are quite familiar with it and other supporters of the bill are. It is a simple fact that there is more than adequate time for the SLA to make a -- to have due deliberation and to reach a reasonable conclusion and more than adequate time for the community to act, and that the impelling feature of all of this is we've got to put a stop to the corruption which has absolutely engulfed this area. That's a fact.

The rest of these problems are theoretical speculations to potential problems. In our judgment, they won't exist, but we know full well that there have been repeated

instances in which people have used this procedure, these inordinate ways to try to - they have used bribes to try to circumvent the process. They have a whole special group of people who are so-called expediters. This is a public outrage and it's imperative that we do something once and for all to stop it.

I have spoken to the Assembly sponsor, Assemblyman Denis Butler, on this matter. He assures me that he's going to put forth his best effort and once and for all, the corruption which is endemic in this must be put aside and we're giving assurances and great help to small business by allowing them to go to their banks and saying, I can now come to you with reasonable bureaucratic certainty that there will not be a dragged out delay. It makes them more creditworthy in every respect. It seems to me this is a reasonable, very carefully thought out proposal which will have a beneficial effect in all directions. I urge its passage.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: Thank you, Senator Goodman.

Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: I think that Senator Goodman has put a great deal of time and effort into this, and I can understand that he might not want to accept this idea that we're presenting, and I also think that Senator Gold pointed out quite eloquently that this whole process has been abused often by individuals whose job it is to protect the public, individuals who have thought of all kinds of ways to literally harass small business operators who are trying to open up their businesses, and so I think that it's absolutely correct. You have -- there's got to be a stop to it. It has a great deal of corruption, but what I'm saying is that this type of solution, by mandating a seasonable period on the actual agency, in my opinion, puts the agency in the

position of having to direct us, the Legislature, that it can answer in this period of time, and that sounds very nice, but I don't know if that's actually going to happen, and if that's the case, in those few areas where there may be some need for review or may be some need for further inspection or investigation, we're not going to have the time to actually do it, and so I'm just suggesting that what may have been the case that would still allow for the proprietor to make these assurances to the banks and that kind of thing is that there would be the granting of a -- of a license that would suffice for that period of time, allowing the State Liquor Authority, if it has any problems, to raise them in this period.

I realize that it may occur in only five to ten percent of the cases, that in most of the cases that there is pretty much a requirement that the State Liquor Authority allow for the license. I realize that there have been undue pressures put on small businesses and at times almost ridiculous

demands made of people who are trying to open up what are businesses that have integrity in this state, but I just think that this form of legislation opens up a public policy with respect to the administration of agencies that I think is going a little farther than we would want to.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Dollinger.

SENATOR DOLLINGER: Mr. President, will Senator Goodman yield for one question?

ACTING PRESIDENT KUHL: Senator Goodman, do you yield? The Senator yields.

SENATOR DOLLINGER: Senator, as I understand it, this bill would grant the license in the event that the SLA doesn't act within 45 days, correct?

SENATOR GOODMAN: Not entirely, Senator. I think you missed the earlier explanation which is -

SENATOR DOLLINGER: I may have and, if so, I apologize.

SENATOR GOODMAN: Would you like me to repeat it?

SENATOR DOLLINGER: Just in a succinct fashion, if you would, just so I make sure I understand it.

SENATOR GOODMAN: Pardon me, Senator? You're just asking about the 45 days? The answer is it's not 45 days. It's 60 days, and it can be much longer if an application is incomplete.

SENATOR DOLLINGER: My question is, Mr. President, do you support the notion that if the Governor submits a budget to the Legislature and we don't act by April 1st, within 90 days after the submission, that that budget ought to become law without further input?

SENATOR GOODMAN: No, I don't, but I'm perfectly clear that there's now incipient and proved corruption which enters into this process time and again and has been exposed by your Senate Investigations Committee and a bipartisan look at this problem in great

depth which resulted in the astonishing finding by that committee that this is shot through with corruption which has to be stopped. This is the attempt we're making to stop it and we think it'll work.

SENATOR DOLLINGER: Okay.

SENATOR GOODMAN: The analogy to the budget process, in my respectful opinion, is not quite applicable here.

SENATOR DOLLINGER: Okay. Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I addressed this bill last year and what I think are the deficiencies of creating a situation in which there would be a default provision that would remove the power of the SLA, restrict the power of the SLA in highly controverted applications. Although I understand Senator Goodman, I appreciate the investigation that his committee did, I'm concerned about corruption as well, I don't think this is the solution.

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

THE SECRETARY: Section 16. This act shall take effect on the 120th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Abate to explain her vote.

SENATOR ABATE: I would like to explain my vote.

ACTING PRESIDENT KUHL: Senator Abate to explain her vote.

SENATOR ABATE: Again, we had the opportunity to hear from two experts on the State Liquor Authority, Senator Goodman who has spent an enormous amount of time working on these issues, and Senator Padavan. However, I think Senator Padavan made one critical point that I would like to emphasize.

A year ago when we had this debate, there was no information from the State Liquor Authority that in the near future they

had any capacity to streamline their process and, in fact, expedite their decision-making and make certain rulings within 45 days or even 60 days. We now with Chairman Casale -- which I think -- who is providing some good leadership, he understands that the agency has to be reformed; it has to be brought up to new technology and new systems have to be put in place -- we're now hearing for the first time that on their own without legislation they can now make decisions in a more speedy fashion. So there's not a need for this legislation.

If we pass this legislation, what we're doing is putting inordinate reins on the SLA and taking away the flexibility they need so that on an occasional circumstance when there is an inordinately controversial issue or a complex zoning issue that needs to be investigated, they will be -- not have the sufficient time to do the investigation. Let's give SLA the opportunity.

Now, they say they can reform the system. They can make these decisions speedier

so they do not handicap good businesses. Let's give them an opportunity to do this and not take away the flexibility they need and the ability to hear from their community around some of these critical issues.

For these reasons, I oppose the legislation.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 789 are Senators Abate, Connor, Dollinger, Espada, Kruger, Lachman, Markowitz, Montgomery, Onorato, Padavan, Paterson, Seabrook, Smith and Stachowski. Ayes 43, nays 14.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will read Calendar Number 1225.

THE SECRETARY: Calendar Number 1225, by Senator Bruno, Senate Print 7164-A, an act to amend the Workers' Compensation Law, in

relation to extending the effectiveness of certain provisions, to repeal certain provisions of the Workers' Compensation Law.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President.

Mr. President, this bill deals with reforming the Workers' Compensation program in New York State.

Most people in this state recognize that the Workers' Comp' program in this state is a failure. It's a failure because we in New York State pay in business about 15 - a 57 percent higher premium than the average in the country, and the workers that Workers' Comp' is supposed to serve don't get the benefit of the increased premium. In fact, the average worker's benefit from premium in the state is about 40 -- 65 percent. In New York State, it's 47 percent, and that's wrong. We have the second highest premium in the country, $3.9

billion. So we have to deal with costs. We have to deal with safety, and we have to deal with the benefits.

This bill that we have before us, Mr. President, does those things. It deals with the costs by reducing the premiums by $800 million, a 25 percent reduction. It increases the benefits from 400 max. first year to 520, 540 second year, 560 third year, a substantial increase in benefits. At the same time, it deals with safety in the workplace. It creates incentives. First time credits against premium for those businesses that invest in making the workplace safer, and we punish rather severely those places that don't deal with proper, safe workplace.

We remove one of the expenses of double dipping in this bill so that workers can't collect unemployment benefits as well as Workers' Comp' benefits, and we conform the benefit payments for partial disability - permanent partial disability to the AMA standards, the Medical Association standards,

and those standards are used throughout the country by most states.

This bill also repeals Dole v. Dow, a court decision that goes back to '71. There is an indication from the studies that have been done by the agencies that rate premiums that Dole by itself accounts for about 6.4 percent of the premium and can account for the savings with that repeal, but while we repeal the Dole piece, we also protect the right of the worker to sue a manufacturer if the product is faulty or purported to be faulty. So that protection for the worker remains intact.

As I have moved around the state, I hear from business several things. We spend too much in this state. We tax too much in this state. We over-regulate too much in this state and we charge too much for Workers' Compensa tion, and the result is that we lose jobs. We keep companies from increasing their employment. We keep some companies from coming to New York because they can't afford the premiums in Workers' Compensation in this state.

We saw the Giants with their summer camp right here locally come into Albany, into the state, the training camp. They almost had to make a negative decision because of Workers' Comp' costs. They buy their Workers' Comp', as I understand it, and get their protections still out of New Jersey. New Jersey has changed. Other states are changing. We have to recognize that the Workers' Comp' premiums don't help. They hurt. They hurt the workers. They hurt the employers, and so since the system has failed, it's up to us in the Legislature to fix it. Now, we can posture. We can pretend, but we are passing real reform, meaningful reform.

So who are we looking after? We're looking after the employer in that they can afford to pay the premium and we're looking at the worker with substantial increases in benefits. Now, that is a win-win for the people of this state.

So, Mr. President, I'm hopeful that we will have the support for this

legislation in this chamber. I'm also hopeful that we will be relating to the Assembly so that we can reconcile whatever differences there are and that we can have one Workers' Comp' bill that we pass that will go to the Governor for his signature.

The Governor's office has done a lot of work to get us where we are, and the Governor's position has been to support what we have on this floor. So we have two-thirds of the triangle with the passage of this legislation this afternoon and, as I said, I am hopeful that the Assembly -- they have a different version -- that they will see fit to negotiate in good faith the differences that we have so that the workers of this state can benefit by the substantial increase in their benefits almost immediately with an improved workplace that will be safer and that employment in this state can continue to go up so that we can continue the turn from the downward spiral that we were in a few years ago to the growth that we have seen in this state last year with

the addition of over 100,000 jobs, with the Pataki administration in office cutting spending, with we as partners in this chamber and in the Assembly cutting spending, cutting taxes, cutting government regulations and now it's time for us to cut the costs of Workers' Comp' while we increase the benefits to the workers.

Thank you, Mr. President.

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

SENATOR ABATE: Yes.

ACTING PRESIDENT KUHL: Senator Abate.

SENATOR ABATE: Would Senator Bruno yield to a number of questions?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR ABATE: Thank you.

Since the passage of this bill, the Dole v. Dow in 1974, there was a sense -

and correct me if I'm wrong -- that there was a need to hold the wrongdoers, the tortfeasors accountable and if they contributed to their negligence, they should also contribute to the costs and contribute to the compensation for the medical bills commensurate with their negligence.

What has changed between 1994 and today? What has changed between the worker and employer relationship that would mandate the repeal of Dole v. Dow?

SENATOR BRUNO: Well, Senator, I'm certain that you know that New York State is the only state that has Dole v. Dow in its Workers' Comp' package, the only state in the United States. So I can answer by saying 49 other states don't see that as an inhibitor in any way to providing adequate benefits or adequate protection.

Senator Spano had eight hearings throughout the state as the chair of Labor and did a great job, spent a lot of time, a lot of effort, and discussed this issue at great length

with the vested interests that have an interest in that part of what we're discussing here, and our findings are that we're keeping the benefit because the intent is that a worker be able to sue a manufacturer if the product is at fault. We keep that. The difference is that that manufacturer then can't go back and sue the employer, creating an unnecessary expense, and that's really what we're correcting here, and I don't know how anyone could have a problem with that.

SENATOR ABATE: Senator Bruno, would you yield to a number of other questions?

SENATOR BRUNO: Yes.

SENATOR ABATE: Thank you.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR ABATE: Senator, it's my understanding that Illinois, California and North Carolina allow full contribution by the employers, and there are other states like Minnesota that also allow partial contribution. They allow third-party lawsuits. They allow

property owners, the contractors, the manufacturers to sue the employers. So, in fact, there are other states that do have Dole v. Dow legislation.

SENATOR BRUNO: Maybe as a separate issue in part of the ability of a citizen to sue, but to my knowledge, New York is the only state that has Dole v. Dow as we have it in our workers' program. It's part of the package.

SENATOR ABATE: It's not my understanding that that's the case, but let's go on to another issue. You talk about -- in a press conference, you talked about the savings that would be produced -

SENATOR BRUNO: Yes.

SENATOR ABATE: -- if there was a repeal of Dole v. Dow, and it's my understanding that the savings could be four cents, five cents on the dollar if we repeal Dole v. Dow.

SENATOR BRUNO: We estimate the costs out of the premium of about $350 million that would be saved to the premium payers in

this state with the repeal of Dole v. Dow.

SENATOR ABATE: But it's my understanding that 70 percent of the claims which are based on Dole v. Dow are under $250,000, and these are in cases where there have been severe injuries, and if we repeal Dole v. Dow, aren't we inviting greater Workers' Compensation claims against employers because we're going to be removing incentives from the employer to institute work safety mechanisms? We're going to be making the workplace less safe and, therefore, in the long run, employers will be paying more in traditional Worker Compensation cases. How are we saving money for the employer?

SENATOR BRUNO: Nope. We don't think that will be the case at all because premiums, as you know, are calculated on experience -- employers have a great incentive to improve their experience and consequently the premiums that they pay is the cost of doing business and as part of this package, we have a credit against premium for those employers that

go above and beyond to make their workplace safer, and we increase the penalties for those that don't do the normal things to make the workplace safer. So we think that we have dealt very fairly with the issue of safety.

SENATOR ABATE: But there - Senator, could you address two issues? This bill purports to produce greater equity and fairness, but there are two instances that produce, I think, greater inequity and unfairness. One is to the manufacturer, the property owner and contractor who is sued by the employee and says, "I delivered a good piece of machinery to the employer. I did everything that was safe. I did not conduct my business in a negligent manner" and now they may have - after a jury motion have to pay for the full amount of the negligence even though they know that the employer did not maintain the equipment in good order, did not provide safety equipment, did not take the necessary steps to maintain that equipment, to keep it in good order. We are now putting an undue burden on the

manufacturer in many instances. How does repeal of Dole v. Dow prevent that kind of inequity to manufacturers?

SENATOR BRUNO: That's what jury decisions are all about. That's what court cases are all about. That's what lawyers are all about in making their case as to what the injured parties deserve, and that's why judgments are made, and in the instance that you describe, if that equipment -- a jury -- I'd trust the jury system, and if they found that there was negligence or there was cause, they would then levy damages that would accrue to the person bringing that suit, and they could also apportion off and say that half of the liability belonged to the employer, half to the manufacturer. They could do that.

SENATOR ABATE: But if we repeal Dole v. Dow, a jury can't say, Let's proportion the damages. Let's make sure the manufacturer, if they are proportionally responsible, they pay some and that -- allow the manufacturer to sue the employer to pay their share of the

negligence. This would repeal Dole v. Dow and not allow that kind of equitable decision to be made by the jury.

SENATOR BRUNO: If, in this instance, Senator, a jury found that it was 50/50 negligence and they awarded $1 million and it would be 500,000 against the manufacturer, 500- against the employer, you are right. With the repeal of Dole, the 500- against the employer would not be paid. The 500- from the manufacturer would be paid.

SENATOR ABATE: But can you conceive of a circumstance, Senator Bruno, that -

SENATOR BRUNO: But to finish, the Workers' Comp' benefits that are improved here substantially would be paid. So the worker gets damages as the jury finds them from the manufacturer and gets a check, and the intent isn't that people get wealthy in collecting on Workers' Comp'.

The intent of Workers' Comp' was that, if someone's injured, they get compensated

for that injury commensurate with the injury. Unfortunately, things here in this state have been out of balance, and we've got to get it back together.

SENATOR ABATE: But let's - Senator Bruno, would you continue to yield to a number of other questions?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR ABATE: But let's envision a circumstance where the manufacturer is not negligent and the jury is faced with a situation where they see a severely injured employee, a worker. We're not talking about someone who misses three or four days from work, but we're talking about permanently disabled people who can never return to work. Their lives have been shattered, and the jury says, "I don't see the manufacturer as being negligent." They're now going to be faced with a situation of not giving any award to the worker because

they cannot reach the negligent employer. So the worker, in fact, will lose in that situation.

So again, my question is how does Dole v. Dow produce equity and fairness to the worker in that situation when the negligence is not on the part of the manufacturer but the negligence is on the part of the employer?

SENATOR BRUNO: Well, there are guidelines that are established and the worker would be compensated according to those guidelines, and I've seen enough ingenuity in my life by trial lawyers so that I believe that you would find that the rare case when they couldn't find some cause for action against that manufacturer.

SENATOR ABATE: Well, let's just -

SENATOR BRUNO: I would really be amazed to find that that would happen.

SENATOR ABATE: I know, Senator Bruno, there are many other people who will ask you questions, so I'm going to leave that

opportunity to them, and I would just like to speak on the bill as it relates -

SENATOR BRUNO: Thank you, Senator.

SENATOR ABATE: -- to Dole v. Dow.

ACTING PRESIDENT KUHL: Senator Abate, on the bill.

SENATOR ABATE: If you look at the whole history of Dole v. Dow and why there's a reason for it, just look at the injury that happened to Mr. Dole. He was employed in a grain manufacturing mill. Dow sold chemicals to the mill. In that case, Dow did everything correct. There was nothing wrong with the rat poisoning. They delivered to the employer the instructions. They told the employer how to utilize that poison, how to safeguard the worker. It was a case where the employer sent the worker into the mill to clean up the grain, knowing that there was rat poisoning in that mill and in the cleanup with just a broom and mop, the worker inhaled an enormous amount of -

of rat poisoning and was severely injured.

In that case, the employer did not do what he was supposed to do, which is give them special equipment, tell the employer - employees how to protect themselves. So that negligence in that case was not on the part of the manufacturer. It was clearly on the part of the employer. If we repeal Dole v. Dow, what we are saying is -- there are two scenarios -- the manufacturer at trial, they may be negligent. They can point to an empty chair and say to the jury, "Not my fault. It's this empty chair's fault. The wrong party is here. They are, in fact, the negligent party." So there's a way then to create lots of losers. It may be the manufacturer in some instances but in other instances, the loser in this case when we repeal Dole v. Dow will be the workers themselves.

Let's look at the wisdom of many people in this chamber. In 1974, we ensured that Dole v. Dow was the law of the land, and some very wise people voted for Dole v. Dow. It was enacted under law under a Republican

Governor, Malcolm Wilson.

Let's listen to the wisdom of Senator Goodman, Senator Johnson, Senator Levy, Senator Marchi, Senator Padavan, Senator Present, Stafford and Trunzo who were in this chamber as state Senators when they voted 58 to 0 in approval of Dole v. Dow. Let's look to our members who sat in the Assembly in 1974. At that time, Senator Cook, Sears, Velella and Volker were Assembly members. They too voted for it.

So there was a reason why Dole v. Dow was put in law. There were two goals. One was to ensure that employees receive awards commensurate with their injuries and that meant making sure that not only could employers sue manufactures -- employees sue manufacturers but in turn manufacturers, if there was an employer partially at fault, they also could be held liable, and the second very important goal of Dole v. Dow was to create an incentive for employers to properly maintain their equipment and to ensure there was sufficient safety

mechanisms at hand to protect their workers.

Dole acts as a very important watchdog over employers. Look at Alice Hayes, which is a recent case. If there was no Dole v. Dow, what would Alice Hayes receive from Workers' Compensation? She may have been considered partially disabled. The insurance company was willing to pay $50 a week, but Alice Hayes was an employer -- a worker who spent her lifetime at the Newburgh Molded Company. In the course of an accident, because the employer removed a safety guard, her hands were decapitated. She lost her hands. Now, can we say to that woman, "Forget about the employer's negligence. Just seek compensation through the Workers' Compensation Board and then go on your merry way"? This is a woman whose life was destroyed. Her life was shattered because her employer did not take the requisite steps to secure her safety.

So this is not about the fact that the guard did not work or the safety device was malfunctioning or the safety device was not

maintained in an adequate fashion. This is a case where an employer decided because of cost savings to remove the safety device altogether and a worker lost her hands. So in terms of equity and fairness, we should ensure that Dole v. Dow remains the law of the land.

I also -- we need to understand that we're creating an unfair burden, in certain cases, on manufacturers and property owners. If, in fact, they don't -- are not responsible for the total negligence, why should they be held 100 percent accountable? Also, we should avoid the situation where we do have a negligent manufacturer to get off the hook before a jury to argue that it's someone else's responsibility because -- and that responsibility lies within the employer's hands and they're not within the reach of the jury. That is wrong.

What I've heard today and Senator Bruno has said, we need to repeal Dole v. Dow because it'll save dollars, but if we look at the cost of the savings, it's actual pennies. If you look at the percentage of cases which

Dole v. Dow is asserted, it's a tiny percentage. Between 1982 and 1992, there were two million Worker Compensation cases. Only 11,000 of them were Dole v. Dow cases, and of those 11,000, 70 percent of those cases settled for $250,000 or under. That's an insignificant figure when we're talking about enormous injuries and life-shattering accidents resulting in -- because of the negligence of the employers.

If we need to save dollars -- and we all think it's important to ensure worker safety and ensure the safety of the workplace - there are better ways of reducing premiums and saving dollars. We can be pro-business and not anti-worker. We can be pro-business and pro-worker by looking at better solutions and not repealing Dole v. Dow. We can look at anti fraud packages, put more money into law enforcement. We need to computerize the Worker Compensation Board function, create a special compensation fund that creates incentives for the good workers that put in safety mechanisms

and penalize those employers that do neglect the safety of the workplace.

We have to look at the carrier profits. What we're doing now is a very shortsighted view. We don't understand the importance of Dole v. Dow. If we repeal it, we will be hurting workers. We will be taking away the incentives of employers to improve their workplace. The repeal of Dole v. Dow is bad policy. It is -- it appears to be pro business. In the long run, it won't be pro business. It will create greater costs to the system and clearly it is anti-worker. This body should stand on the side of business and also on the side of workers. Repealing Dole v. Dow does not do that.

I urge my colleagues to vote against the portion of this bill that would repeal Dole v. Dow.

ACTING PRESIDENT KUHL: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

Senator Abate, I want to welcome you to the Senate. That was a very passionate speech. Unfortunately, it's been given time and time again. I particularly like the part about why don't we computerize the Workers' Comp' Board.

You know, when I became chairman of the Senate Labor Committee in 1985, the first thing I said was "Why don't we computerize the Workers' Comp' Board?" There's a five-volume study, Senator Abate -- which I'll be glad to send you. It's been sitting on my bookshelves for many a year now -- on computerization of the Workers' Comp' Board which the prior Cuomo administration promised after a similar speech I gave on the floor in 1985 that, "You betcha, Senator. We're going to have that done, and here is the five-volume study that we paid for which is going to computerize that board." It still hasn't been done.

Now, let's wonder why. I heard your speech, and the reason it hasn't been done, Senator, is because there are 2,000 amendments

to the Workers' Comp' Law since it was first introduced, and the nice Bavarian system - because that's what it was -- that we picked up -- excuse me -- oppression system that we picked up from Bismarck who first put it into effect in 1870, of an in-out system of no-fault, in which an injured worker would get repaired - if you want to look at it in a fairly technical sense -- would be restored and he or she could go back to the workplace, doesn't exist. Why? Because there's a whole industry, a whole industry that's grown up that services poor, injured workers, and that's how they make their living. There's the doctor's mill. There's the government employees that's involved, and best of all there's the Workers' Comp' bar and the trial lawyers who make their living off of people in the system, in the system get paid per appearance, per visit to the doctor, and you know something, if you get them through faster, you computerize it, less appearances, less visits, less trying to bring everybody together, and when you do it manually -- and it gets so

screwed up all the time -- well, you've got to come back and do it again.

There isn't an attorney in this chamber -- indeed, there isn't an attorney in the state of New York who has ever had one Workers' Comp' case, any attorney in this chamber who has ever had one Workers' Comp' case and never taken another and only does one, please raise your hands, stand up now and talk about the Workers' -- one Workers' Comp' case. Every practicing attorney knows you only make money out of Workers' Comp' by lots of fires so you can go down there in the morning, adjourn 100 cases and get ten bucks an hour for each case and then come back again and adjourn them again.

That's not what the system was supposed to be, but be that as it may, there had to be a way to make more money out of the system and, indeed, after Dole v. Dow, we found it. I heard your wonderful defense of Dole v. Dow, your 11,000 cases here and a quarter of a million cases there and there isn't so much

money. You know, I really wish that was true.

The problem -- and there are a lot of people who eat off of Dole v. Dow. Obviously the trial attorneys, they eat big off of Dole v. Dow. So do the insurance companies. The one thing I don't think I heard you mention was Part B coverage in Workers' Comp' because one of the best things in addition to defending as an attorney or bringing as an attorney a Dole v. Dow case is insuring against Dole v. Dow.

So what we have from Part B Workers' Comp' case -- because those 11,000 cases, never can tell when one of them is going to be yours -- is we get to insure against it and we get to spend $350 million minimum. I personally believe the number is somewhere double that. $350 million minimum in this state insuring against Dole v. Dow, and for what; for a worker's paradise, a gold pot at the end of the rainbow?

You know, Senator Abate, what I didn't hear in your remarks is how you really believe that the labor movement in this country

is so naive and so unstudied and so neglectful of its tasks that it has failed to follow your advice, and I'm personally going to get a transcript of your remarks and mail it to every labor union I can find. Why? Because they haven't done what they should do.

Since 1972 when Dole v. Dow was decided by the Court of Appeals, my simple question is -- this is 1996, 24 years later - there are 50 states in this Union. There are 50 states in the Federation of Labor. In the United States, there is one national AFL-CIO - how come, if Dole v. Dow does what it's supposed to do to protect the injured workers of this state, the Empire State, that the other 49 federations of labor in the United States haven't ever tried to get Dole v. Dow enacted into law into those 49 other states? What happened? They don't -- they don't want to do it? It's not going to do things for the workers? I mean, this wonderful workers protection statute, why isn't it there? Why hasn't the national AFL-CIO seized upon the

initiative of the Court of Appeals for the state of New York attempting to get passed -- until a year ago, after all, they were all Democratic Congresses -- to try to get passed in the Congress of the United States national Dole v. Dow? Think of the worker protections that we could have in 50 states if Dole v. Dow was not the law of the state of New York but the law of the country?

Senator Abate, I really think that you should take your zeal, your wonderful understanding of Dole v. Dow, what it has done to the injured workers of this state and spread that as gospel in the 49 other states. If you would like, Senator, or any other person here who wants to defend Dole v. Dow, I can arrange for you to appear before the AFL-CIO any place you'd like in the country and spread that gospel.

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

SENATOR ABATE: Would Senator - would Senator Lack yield to a question?

SENATOR LACK: Oh, Senator, I'm always available, Mr. President, to answer a question.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR ABATE: Senator, could it be that we have more wisdom in New York State than in other states and that's why we have protected Dole v. Dow? But, also, there are other people who have equal wisdom. Are you aware that Illinois, California, North Carolina, have similar statutes, and there are other states that allow third-party contributions, maybe not to the extent of New York State, but we're not the only state with all this repository of wisdom.

So I look at it maybe we should educate the other states, not a weakness of labor but we should follow the wisdom we've had in place since 1994.

SENATOR LACK: Senator, you'd better check. Illinois repealed theirs. I've been in California visiting the California

Legislature four times since January, and you better check what their law is because it's not what you think it is. I forgot whatever the other state is.

But we're the only state that has -- if you read our 1972 decision, we're the only state that allows for this range of lawsuits and third-party lawsuits, which is Valhalla for any trial practitioner.

And to answer your question more generally, why don't we try this, you show me. You show me the statistics that show under OSHA standards that New York is a safer state because of Dole v. Dow than any of the other 49 states in this union. You show me the statistics that we have less accidents of any kind because of Dole v. Dow. My answer back to you would be very simple.

Take the smallest figure that everybody acknowledges to the cost of Dole v. Dow, $350 million. Take 10 percent of that, $35 million. Let's forget the medical practi tioners. Let's forget the trial attorneys.

Let's forget the litigation costs. Let's forget everything that eats upon the system and hurts the workers of this state. Let's take that $35 million -- $35 million in cash each year out of the Workers' Comp fund and let's appropriate that directly into worker safety programs in this state with every last dime of it going to the unions that need it for the protection of workers directly, not through lawyers, not through courts, not through judgments, not so they don't get a dime.

Take 10 percent. You don't like 10 percent? Take 15 percent. Take $52 million and give it to the workers of this state for worker protection, and then I'll start showing you some statistics of how safe you can get a workplace, and then $300 million that the businesses, the employers and the employees of this state can save because we're not spending money on Dole v. Dow, a paradise for everybody except the injured workers of this state.

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

SENATOR DOLLINGER: May I ask Senator Lack to yield to two questions?

ACTING PRESIDENT KUHL: Senator Lack, would you yield to a question from Senator Dollinger?

SENATOR DOLLINGER: Senator Lack, you have been in the Majority in this house for, I believe, 16 years.

SENATOR LACK: Going on 18, Senator. Thank you.

SENATOR DOLLINGER: Has any budget that's been approved by the Majority of this house included the 35 million for workers that you so passionately argued in favor of?

SENATOR LACK: Thank you, Senator, for the question. As a matter of fact, the answer is yes. In 1987 -- don't hold me on the year -- I began -- the last bill passed of the year, a security and OSHA protection fund within Workers' Comp. We started at 2 million. Right now, it's at approximately 6 million.

I have stood on this floor, before, saying that if we got rid of Dole v.

Dow, we should take a percentage of the savings in the Part B coverage of the $350-plus million that is saved and immediately start applying that towards increasing that fund up towards the standards I started talking about. Thirty-five million would be a great figure.

SENATOR DOLLINGER: Again, through you, Mr. President. How would we get our hands on that, since that is not our money? That's money paid by private companies to private insurance companies. Would you suggest we tax to get it?

SENATOR LACK: No. I just said -- it's very simple. We just take it out. It wouldn't be state money. You take it out of the Workers' Comp fund.

SENATOR DOLLINGER: Just one other question, Mr. President, for Senator Lack.

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

SENATOR DOLLINGER: I appreciate the vigor -

ACTING PRESIDENT KUHL: The

Senator yields.

SENATOR DOLLINGER: -- and it's great to hear you on the floor because I've always -

SENATOR LACK: Can you talk a little louder?

SENATOR DOLLINGER: Excuse me.

SENATOR LACK: A little louder.

SENATOR DOLLINGER: My question is this: Suppose you were working for Senator Bruno and Senator Bruno's scaffold company, and he said to you, "Senator Lack, see that scaffold? I want you to go up four floors and repair the windows up there."

You said to Senator Bruno, "Gee, Joe, is it a safe scaffold?"

He said, "I don't know. I bought it 30 years ago. The company that manufactured it is now bankrupt. But go up and do that, would you?" and you said, "Well, what do I get if I get hurt?"

He said, "Well, we'll pay your medical and we will pay something for lost

wages, but if you fall and you are permanently disabled and you have a head injury and you can't think again, you can't be a lawyer again because you lose that mental functioning, if you lose your enjoyment of life -- you lose your enjoyment of life with your family, we can't compensate you for that."

So you are left just with medical benefits and something for lost wages. What do you tell Senator Bruno, as your employer?

SENATOR LACK: Thank you, Senator Dollinger. First of all, half my side would think that's a perfect time to be a lawyer. In addition to that, if I worked for Senator Bruno, I wouldn't call him Joe; I would call him Senator Bruno.

But, in any event, if I were climbing that scaffolding, I would refer you to Sections 240, et al., of the Labor Law of this state, which is not in this bill and not in this bill on purpose because it predates the Workers' Comp laws of this state and has nothing to do with Workers' Comp, the so-called "scaffolding

acts" which established an absolute liability for falling off that four-story scaffolding, as they properly should, and it is the law of this state, and the company that didn't build the scaffolding, the company that you were working for, whomever, would be absolutely liable for your falling off the scaffolding.

SENATOR DOLLINGER: And suppose, Senator, that that company has no insurance - the scaffolding company that built it has no insurance and there's no way for anybody to recover against them. What do you tell the worker then?

SENATOR LACK: Well, I would want to know why he was working for that company.

SENATOR DOLLINGER: What you would tell them is, unfortunately, "Sorry. You're out of luck. We don't have anything to give you except Workers' Comp benefits. The loss of enjoyment of life that you sustained by falling, we give you nothing for." Isn't that correct?

SENATOR LACK: Mr. President.

Senator, I don't know where you practice law. But, you know, Dole v. Dow is only good when there is a pot to go after. Under the circumstances that you gave, you couldn't find a trial attorney in this state who would take your so-called Dole v. Dow case under the circumstances that you just gave, a scaffolding company that doesn't exist and a contractor who isn't worth a plug nickel. Who are they going to sue?

SENATOR DOLLINGER: You can sue -- as you know, under Dole v. Dow, you can sue the employer under his Part B coverage -

SENATOR LACK: You told me the contractor had no money.

SENATOR DOLLINGER: Excuse me.

SENATOR LACK: Excuse me, Senator. Under your scenario, nobody had any money. If you are now adding that the contractor has money, under the scaffolding sections, 240 -- I suggest you read them, 240 of the Labor Law -

SENATOR DOLLINGER: I'm very

familiar with them.

SENATOR LACK: -- nothing whatsoever to do with this bill. It's an absolute liability. Sue the contractor.

SENATOR DOLLINGER: The contractor -- let's say Senator Bruno is your employer, and the scaffold has been erected by Senator Connor. Senator Connor's company is bankrupt. There is no scaffolding company that will pay for it. You can't get access to Senator Bruno's Part B coverage.

SENATOR LACK: Senator, there are thousands of such cases in litigation all over, and that includes in Dole v. Dow cases. There ain't anybody to pay. Nothing new about it.

SENATOR DOLLINGER: The answer is they get nothing.

Mr. President, can I ask Senator Bruno just a couple of quick questions?

ACTING PRESIDENT KUHL: Senator Dollinger, you don't have the floor.

SENATOR DOLLINGER: Excuse me. I apologize, Mr. President.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I, too, want to rise to compliment Senator Bruno and the Majority for putting this bill on the floor.

Over the course of the last couple of years, as I have often talked about, I have had the pleasure of visiting a number of businesses not only throughout this state but particularly in my Senate district; and when I walk into those businesses and I ask them, "What are the three -- top three issues that affect your business that we could help you with in New York State?" it doesn't matter where I go, they say Workers' Comp, utility rates, taxes and regulations, and they say it in that order, and I would challenge any of my colleagues, even if you disagree with the bill that's on the floor, to go back home, take a walking tour of your district, walk into the businesses, look the owners in the eye and ask them, "What three

major issues in New York State government have a negative impact on your business?" and, while I won't guarantee each and every one of them will say Workers' Comp first, I would bet you that Workers' Comp will fall in the top three.

This legislation that is before us seems to be quite balanced. You know, since I was elected to the Senate in 1988, every year they talked about Workers' Comp reform, whether it be the Governor's office, this chamber, the Assembly chamber, and each year nothing happened. Yes, a couple of years ago, we played with a managed care piece that really did very little to help workers, did very little to help businesses in the state.

This legislation is real. This legislation will reduce rates by 25 percent. The 25 percent is significant. It also increases benefits for workers, which is very, very important. If you go out and talk to businesses, they will tell you, because Workers' Comp' premiums have gone up over the years, they've had to lay people off. So I see the

positive side of this legislation. It is actually a bill that is going to put people back to work.

And, you know, it's funny when you talk to union leaders. I guess it depends where those leaders are in the hierarchy of the union. Because when you talk to the upper echelon of the union leaders, they will tell you, "This is a bad bill; it hurts our workers." But if you talk to the rank and file in the union, they see this legislation as something that's realistic, something that's doable. They recognize -- because they talk - every day, they interface with the management of their company and with the owners of their company, and they recognize that they have had to lay union workers off over the past ten years because of the high cost of Workers' Compensation in this state.

The issue was brought up about fraud. Certainly, there are some provisions to address fraud in this legislation, but at the same time we can do that now. The administra

tion is going after fraud. They have set up units in various areas of the state to address Workers' Compensation fraud.

And I'll tell you a funny story. There was an individual who worked for the Workers' Compensation Board and was asked a question by another employee of that board one day about fraud, and they said, "Yeah, we go after fraud; we go after the businesses for fraud." The person was then asked, "How about worker fraud?"

"Well, we don't address that issue."

So you have to have a balanced approach, and that balanced approach has been put into effect by this administration.

Mr. President, this is real legislation to address the Workers' Compensation problem that we have in New York State. This is the first time in the eight years that I have been in the New York State Senate that we have a real issue before us to address Workers' Compensation. I can only stress that we pass

the legislation today. As Senator Bruno said, the Governor is on board. We have only one other step, and that's to bring the Assembly forward.

If we in this Legislature really care about business and if you really care about putting workers back to work, you will vote yes for this bill.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Will Senator Bruno yield for a couple of quick questions, Mr. President?

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

SENATOR BRUNO: Mr. President, I believe there are some other members in the chamber that have some emergency conditions and would like to vote on this legislation before they leave.

SENATOR DOLLINGER: I would yield.

SENATOR BRUNO: So if you wouldn't mind.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 91. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

SENATOR KRUGER: No.

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

SENATOR MENDEZ: No.

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

SENATOR MENDEZ: Mr. President, I am also requesting unanimous consent to be -

ACTING PRESIDENT KUHL: Let me get off of this bill first. Okay, Senator Mendez?

Senator Mendez will be recorded

in the negative.

Senator Lachman.

SENATOR LACHMAN: No.

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

Senator Waldon.

SENATOR WALDON: No.

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

SENATOR GONZALEZ: No.

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

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: In the negative, Mr. President.

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

Is that the extent of the Senators who you wish to provide the opportunities to vote, Senator Bruno?

Would you like the roll call

withdrawn now, Senator Bruno?

SENATOR BRUNO: Yes.

ACTING PRESIDENT KUHL: Roll call is withdrawn. We're back on debate.

SENATOR BRUNO: And, Mr. President, I believe Senator Mendez would also like to vote on Calendar Number 381, so we might call that up.

And then 1167 for Senator Mendez, and I would caution the members that remain in the chamber to be careful. If you don't have places you've got to be, stay with us. We have lots of work to do.

ACTING PRESIDENT KUHL: We'll lay Calendar 1225 aside temporarily.

Ask the Secretary to read the title to Calendar Number 381.

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.

ACTING PRESIDENT KUHL: Read the

last section.

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

ACTING PRESIDENT KUHL: Senator Mendez, how do you vote on Calendar Number 381?

SENATOR MENDEZ: No.

ACTING PRESIDENT KUHL: Excuse me. Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Mendez in the negative on Calendar Number 381.

The roll call is withdrawn. The bill is laid aside.

SENATOR MENDEZ: And 1167.

SENATOR WALDON: I was trying to get my vote in on 381 and 1167.

ACTING PRESIDENT KUHL: Senator Waldon, how do you want to be recorded on Calendar Number 381?

SENATOR WALDON: Negative, no.

ACTING PRESIDENT KUHL: Senator Waldon in the negative on Calendar Number 381.

Senator Gonzalez?

SENATOR GONZALEZ: In the negative.

ACTING PRESIDENT KUHL: Senator Gonzalez in the negative on Calendar Number 381.

Roll call is withdrawn. The bill is laid aside.

Secretary will read the title to Calendar Number 1167.

THE SECRETARY: Calendar Number 1167, by Senator Holland, Senate Print 1468, an act to amend the Social Services Law, in relation to requiring an address as a condition of receiving assistance.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Mendez, how do you vote on Calendar Number 1167?

SENATOR MENDEZ: No.

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

Senator Waldon, how do you vote?

SENATOR WALDON: In the negative.

ACTING PRESIDENT KUHL: Senator Waldon will be recorded in the negative on Calendar Number 1167.

Senator Gonzalez?

SENATOR GONZALEZ: (Indicating he does not wish to vote.)

ACTING PRESIDENT KUHL: Okay. The roll call is withdrawn.

Secretary will read the title to Calendar Number 1225.

THE SECRETARY: Calendar Number 1225, by Senator Bruno, Senate Print 7164A, an act to amend the Workers' Compensation Law, in relation to extending the effectiveness of certain provisions to repeal certain provisions of the Workers' Compensation Law.

ACTING PRESIDENT KUHL: We're back on debate on Calendar Number 1225.

Chair recognizes Senator

Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President. I asked Senator Bruno if he would yield to just a couple quick questions.

ACTING PRESIDENT KUHL: Senator Bruno, would you yield to a question from Senator Dollinger on Calendar Number 1225?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Senator, has the New York State Insurance Rating Board, the independent organization that actually calculates and sets Workers' Compensation rates, has it evaluated the savings associated with this bill?

SENATOR BRUNO: Not yet and not to my knowledge.

SENATOR DOLLINGER: The Business Council of the State of New York and, I think, with the Rochester Chamber of Commerce has suggested that there was a benchmark of 25

percent reduction in rates before they would support a bill of this type.

Without the scoring of this savings from the Insurance Rating Board, how can we tell that this bill meets that requirement?

SENATOR BRUNO: The analysis that was done by people who have an expertise in these matters have given me a conclusion that there are 25 percent savings in the premiums in the legislation that's on the floor before us.

SENATOR DOLLINGER: Again, through you, Mr. President.

SENATOR BRUNO: It's about an $800 million savings on a $3.9 billion premium.

SENATOR DOLLINGER: Through you, Mr. President.

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

SENATOR BRUNO: Yes, I will, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR DOLLINGER: That would

actually be less than 25 percent?

SENATOR BRUNO: Well, what is it less?

SENATOR DOLLINGER: Well, I don't know.

SENATOR BRUNO: Well, I don't either.

SENATOR DOLLINGER: Okay.

SENATOR BRUNO: It's 24.5. We're rounding it out, and we're saying that it's 25 percent.

SENATOR DOLLINGER: Okay.

Through you, Mr. President. Has the Business Council issued a memorandum in support of this legislation?

SENATOR BRUNO: Not that I've seen.

SENATOR DOLLINGER: If Senator Bruno will continue to yield to just two more questions.

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The

Senator continues to yield.

SENATOR DOLLINGER: One of the factors in this bill is to substitute the American Medical Association's impairment guidelines for the current schedule of disability guidelines that occurs in New York law.

Are you aware that, in 1994, consistent with the concept of states' rights and local control of compensation, the New York State Workers' Compensation Board compiled a "Medical Guidelines for Disability" booklet less than two years ago which sets forth the standards for disabilities in this state? Are you aware of that?

SENATOR BRUNO: Are you asking me if I'm aware that there is such a booklet?

SENATOR DOLLINGER: Yes.

SENATOR BRUNO: Yes, I am aware.

SENATOR DOLLINGER: Are you aware that it was promulgated within the last two years to set the standards for determining disability?

SENATOR BRUNO: I didn't know what the time frame was, but I knew it was a comparably short period of time.

SENATOR DOLLINGER: Again, through you, Mr. President. Are you aware that this was a compilation of experts in the field, labor and business, that everyone got together and put this together? This is a home-grown product to determine disability in New York State.

SENATOR BRUNO: Senator, what I'm aware of is that we in New York State for some reason or other pay 57 percent more than the national average in premiums, $3.9 billion, and there's some reason why we pay 57 percent more, and since we pay the second highest premium in the country, we feel that we have to do a total reform of a failed system of compensating workers in this state. The recommendations that are being made through this legislation, the substitution, is part of a total package to get us to a reduction in premiums.

SENATOR DOLLINGER: But for the

record -- Mr. President, through you -- you don't know whether the disabilities that are contained and described, the guidelines for disabilities, are a cause or what portion of that extra cost is a result of this book; is that correct?

SENATOR BRUNO: The Governor's bill was rated, and it is my information that that accounts for about 24 percent of the costs represented in the premium, 24 percent.

SENATOR DOLLINGER: Again, through you, Mr. President, just one more question. The analysis that I have seen of this bill, which talks about the cost savings, projects about $900 million in cost savings which I think is within the range that you discuss. It says that 64 percent, more than three-fifths of the savings will be due to the use of the AMA guidelines for impairment rather than the state standard of disability.

What that means is that about $600 million less will be paid to disabled workers under the guidelines rather than under

the current system. Could you tell me what evidence you have that the workers who got that $600 million didn't need it or didn't deserve it or weren't disabled?

SENATOR BRUNO: The intent in what is being done here is that those that are more seriously injured will be compensated more while those that are less seriously injured will get less; and we, Senator -- and you may not be aware of this, so I'm happy to enlighten you. We're joining, through this legislation, 38 other states that use the AMA guidelines instead of the booklet you have in your hand.

SENATOR DOLLINGER: Mr. President, just for a point of clarification, if I could ask Senator Bruno one other question.

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

SENATOR DOLLINGER: Isn't it a fact, Senator, that only two states in the Union use the AMA guidelines as the sole basis for determining disability and that, in fact, there are 38 states that use the AMA guidelines to

determine the extent of impairment but also use other factors such as age, occupation, skills basis, retraining capability, to determine the extent of disability?

So I agree with you, Senator. There are 38 states that use them, but we will become one of only three states that use them as the sole and exclusive way for determining disability. Isn't that correct, Senator?

SENATOR BRUNO: I believe you need the AMA guidelines to get to the point that you're describing.

SENATOR DOLLINGER: That's correct, Senator. You need the AMA guidelines, because what they show is the extent of impairment. Disability under our law and under the laws of the other 36 states that use the AMA guidelines is not just a function of impairment; it's a function of the extent of disability and the effect on a person.

For example, you can have an impairment in your finger. You lose your finger. That is a minor disability for someone

who is a practicing lawyer. It may be fatal if you are a flutist or a trombone player. That's the difference between impairment and disability, but under this proposal, the AMA guidelines would become the sole factor. There would be no other consideration other than the impairments listed by AMA. Isn't that correct, Senator?

SENATOR BRUNO: No, I don't believe that's entirely correct, Senator, but let's give some credit to the medical profession when they are making their judgments in making these awards that they are taking into consideration all of the things that are important to that injured person so that they are being treated equitably.

They are not dealing in isolation. They look at age. They look at the circumstance. They look at the ability or disability that's involved. That's all part of -- and what we're really trying to do is prevent what goes on now, where judgments are made, where workers with the same injury get

substantially different amounts of compensation, and that's unfair to the worker.

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

SENATOR TULLY: Yes, Mr. President. Point of information.

Is my recollection correct that Senator Dollinger originally asked if he could ask two questions to the Majority Leader, and then he asked again a point of clarification, and he asked one last question. Is that correct?

ACTING PRESIDENT KUHL: Well, Senator Tully, I'm over 40 and I don't remember what happened just two minutes ago.

Senator Dollinger, you have the floor.

SENATOR DOLLINGER: Mr. President, I appreciate the chiding.

I have looked in great detail at the issue relating to the AMA guidelines and their use as the sole basis for determining disability in this state and, frankly, I'm

astounded that anyone would stand here and suggest that we have misspent $600 million on paying disabled workers in this state disability that they are entitled to because, make no bones about it, the way the Governor scores and evaluates the savings in this bill, the largest component of savings -- the largest component is to take disabled workers in this state, workers who have sustained loss of fingers, loss of hands, loss of cognitive ability, loss of the ability, frankly, to speak, loss of the ability to walk, loss of the ability to sit, loss of the ability to bend over, loss of the ability to bend their thumb, loss of the ability to bend their arm, all of those workplace injuries, those people who have given their heart and their soul to their employer and given their lives to their employer, and Senator Bruno stands here and says they are not disabled enough of being worthy of being paid. I can't believe it.

Senator Bruno is standing here today and saying we're going to take $600

million that we now pay to those people who have back injuries, who have elbow injuries, who have carpel tunnel syndrome, who have wrist injuries, who have neck injuries, all of those people who may not meet the 15 percent requirement in this bill, and we're going to tell them, Do you know how much you get from the State of New York? Do you know how much you get from your employer for all you have done over the last thirty years in bending over to pick up things, in reaching up to put things on shelves and rolling over patients in our nursing homes and pushing carts in our hospitals, in typing at your desk for lawyers? Do you know what you get for Workers' Compensation benefits? You get nothing because your permanent partial disability doesn't amount to 15 percent and, therefore, the message from this body today is we don't care.

We ought to be astounded that we're going to take $600 million that goes to disabled workers in this state and say, you don't get it any more because we're going to change the guidelines. We're now going to have

a simple, single set of impairment guidelines for everybody, regardless of your age, regardless of what you did, regardless of your ability to train. We're going to treat everybody like that little single part that we put into the big cog that we call our industrial machine, and we'll get away from the notion that people are different, that they have different skills, and that the system ought to treat them differently and recognize that a loss of a finger for a lawyer is not a big deal. If you are a horn player or a typist, it could be your future.

I'd ask everybody in this room, if you had an I.Q. of 120 and you lost 15 points on your I.Q. and you couldn't think and you couldn't enjoy reading and didn't have the cognitive ability to read a balance sheet and understand it again, would you be disabled? Of course, you'd be disabled. But under these guidelines, you wouldn't meet the 15 percent test. So what would we give you in terms of a permanent partial disability? Nothing, zero,

because that's the way the system will work if we use the AMA guidelines in conjunction with a limitation that says you have to be disabled more than 15 percent. I can't believe that that $600 million being paid to disabled people in this state is now going to be washed clean by this bill.

The final point that I want to make is that -

ACTING PRESIDENT MARCELLINO: Senator Velella, why do you rise?

SENATOR VELELLA: I'm trying to follow your train of thought, and I want to just ask a question.

ACTING PRESIDENT MARCELLINO: Senator Velella, are you asking the Senator to yield in the chair?

SENATOR DOLLINGER: I will yield to a question, Mr. President.

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR VELELLA: Senator, I'm trying to follow your train of thought here, and

I'm just getting a little lost now. You're talking about this 15 percent rule in the AMA guidelines. Can I ask you, if you walked out of the chamber and fell down and banged your head and you were slightly incapacitated, who would you go to for assistance?

SENATOR DOLLINGER: Who would I go to?

SENATOR VELELLA: Yes. Would you go to a doctor to help you with the medical problem?

SENATOR DOLLINGER: Sure, I would.

SENATOR VELELLA: If your finger couldn't bend all the way and you wanted to try to get it to bend the rest of the way, who would you go to?

SENATOR DOLLINGER: I would go to a doctor, of course.

SENATOR VELELLA: Who writes the AMA standards?

SENATOR DOLLINGER: The American Medical Society.

SENATOR VELELLA: What are they comprised of?

SENATOR DOLLINGER: Physicians, I assume.

SENATOR VELELLA: Doctors?

SENATOR DOLLINGER: Of course.

SENATOR VELELLA: Okay. Thank you. I just wanted to get that straight.

SENATOR DOLLINGER: Well, I think Senator Velella brings up a good point. The most interesting part about it is, Senator Velella, do you know what the AMA says about using its guidelines for impairments as a tool to determine the extent of disability? Do you know what they say? "Don't use our guidelines to determine disability; they are not a practical tool to be used for that because disability is a term that applies to an individual." Disability is the difference between the loss of a finger on the part of a typist and the loss of a finger on the part of a member of the state Legislature. There is a difference in the extent of disability.

Our system now recognizes that difference by allowing partial disability to permanent disability to be paid to the two of them potentially at different rates because of the extent that the disability has on their ability to earn income and their ability to be retrained.

So sure enough, Senator Velella, I abide by the wisdom of physicians. I think the physicians have done a good job by coming up with a system of physical impairments to try to quantify physical impairments, but the most interesting part about it is, the physicians say, if you have a chance to put our guidelines to work as the sole determinant in your Workers' Compensation system for determining the extent of disability, do you know what those physicians say? "Don't do it. It's not the right thing to do." I would take the advice of those doctors.

I would say to the people of this state, if you've got a permanent partial disability and we're paying you $600 million now because we're convinced that you have been

disabled, that that disabling condition, a bad back, a bad wrist, carpal tunnel syndrome -- run through the whole gamut of those minor injuries, and you stand up and tell everybody in this state that has a bad back, that can't lift more than five pounds, "You are not disabled, you don't get anything from your Workers' Compensation system," again it's an outrage.

The whole idea that we would substitute this for our system of disability makes no sense at all and taking $600 million from the disabled workers in this state, we ought to be ashamed of that.

ACTING PRESIDENT MARCELLINO: Senator Stachowski.

SENATOR STACHOWSKI: Will Senator Bruno yield for a couple of questions?

ACTING PRESIDENT MARCELLINO: Senator Bruno, do you yield to Senator Stachowski?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: The

Senator yields.

SENATOR STACHOWSKI: Senator, in the bill, the part that I'm going to deal with is the managed care section and, in particular, the bill eliminates the requirements under the managed care pilot program that is currently in effect that says workers -- it eliminates when workers should have 60-day notice of the employer's intention to use a managed care program, that the employers may not use managed care unless they have collectively bargained with the union to allow its use, and also that the bill would now increase from 15 percent to 50 percent of the work force would now be covered by managed care.

Since we passed this program in 1993, in December, and it hasn't run its course and it would run out in 1997, why are we eliminating these provisions now in your bill?

SENATOR BRUNO: I'm told that hardly anyone used the system.

SENATOR STACHOWSKI: Also, in the bill, the bill eliminates the authority of the

Commissioner of Health to decertify a managed care provider who fails to comply with statutory criteria. Why would we be doing this?

SENATOR BRUNO: If they had failed to comply?

SENATOR STACHOWSKI: If the Commissioner wants to decertify them, that's no longer allowed -- the Commissioner of Health - in your bill.

SENATOR BRUNO: Sorry. Repeat that, Senator.

SENATOR STACHOWSKI: In your bill, you eliminate the authority of the Commissioner of Health to decertify a managed care provider who fails to comply with statutory criteria. Why do we do that? What does that accomplish?

SENATOR BRUNO: Well, to my knowledge, it is the employer that makes available the provider with the worker, and we feel that that's a negotiated agreement between the parties.

SENATOR STACHOWSKI: The last

question, and then I will speak on the bill, is last year we passed an alternate dispute resolution bill for Workers' Comp' claims in the construction industry, and some of the unions didn't like that idea. In your bill, we're extending this to the public employees, rather than waiting to see if it works even in the area where we have it covered now. Why are we doing that extension into public employees when we're not even sure how this is going to work in the private sector?

SENATOR BRUNO: We think there are dollar savings. It expedites the process and it relates to the City, which is self-insured.

SENATOR STACHOWSKI: Thank you. On the bill.

ACTING PRESIDENT MARCELLINO: Senator Stachowski, on the bill.

SENATOR STACHOWSKI: When asking the question about why we eliminate the Commissioner of Health from having the ability to decertify managed care providers, the Senator

with the help of his counsel said it's because the employer would negotiate that with the employee and that's how they would come to what the provider would be, except that, in another section, we don't have any place for them to negotiate that. That's eliminated, and the 60-day notice is eliminated, and we're going back pretty much to the company doctor, as far as the working people are concerned; and, that is, that you go to this managed care provider, and that's the end of it.

And the reason we got away from having company doctors is because it wasn't working for the working people, and so we're going back to that old system, and it doesn't seem to make sense.

We had a rather loud and impassioned presentation by Senator Lack, the former chairman of the Labor Committee, beating up Dole v. Dow and saying that it's a terrible idea and all the states -- 49 states don't like it, and it's a shame that the working men and women in New York are just not quick enough to

comprehend that they ought to get rid of it, and they would save money and be better off if we got rid of it and we put the money into other areas. We would love to put the money into other areas, but there's nothing in this bill that says where the money would go.

I happen to think that if it was such a good idea and since the Senator spoke about it for so many years as chairman, you would think he would be able to sell the unions on it if it's such a good idea because he had a constant open door with AFL-CIO statewide and never was able to convince them it's such a good idea.

I don't think, although trial lawyers benefited from it, that the union people keep it for the benefit of their friends that are trial lawyers. I don't think that's how that works. I think that there would be a bill. If there was a way to do this coverage and cover the safety of these workers, I think that bill would fly right through here.

The problem we have is, if there

still exists in the state bad employers, those employers that would take a machine and remove safety covers for the sake of better production at the expense of workers' safety, that we have a concern and we have a problem and, if we know it exists, why would we do something that makes that problem and make sure that the person that causes that problem is not guilty of any kind of liability? That doesn't make sense to me.

The reason the AFL-CIO had that what some people considered horrible pamphlet, at least the picture part -- the explanation wasn't so horrible. It was the lady that lost her hands -- was because her boss came to one of Senator Spano's hearings and said we should eliminate Dole v. Dow. This woman that took that machine and took the safety guards off, this lady lost her hands. She got rid of the machine before it could become part of the trial. It's an amazing story. Another interesting epilogue to that story was that when they sewed a thumb on her arm, the insurance company then said she should go back to work for

light duty, which I thought was incredible.

And there you see that there is an exposure there which we just can't ignore, and I don't understand why we are not looking for some kind of alternative rather than just eliminating protection for workers. That means the protection that there's a real effort on the part of employers to have a safe workplace because of this threat, and most employers don't need that threat but, unfortunately, there are still some in this state that do, and because of that, we have trouble with that part.

I think it's incredible that in the bill we all are aware that there is some fraud on every side of this, and nobody here is condoning a worker beating the system by faking an injury, but it's kind of harsh to make somebody who is legitimately hurt sign a check every time they get one that says, "My condition has not changed." I'm sure if their condition changed, they'd be happy to go back to work. I don't think they want to be home, or they don't want to be crippled if they happen to be

crippled. I don't think that's a choice. I think it's something that happens to injured workers.

I think it's also interesting to stand here -- and I think people are going to get up and say, "This bill is reality. Two-thirds of the triumvirate necessary to make this bill law are in favor of it."

Well, I must have missed something because in the last administration two-thirds of triumvirate were for a bias related crime bill, and that's not real, and two-thirds of the triumvirate, with the Governor and the Majority in one house, was for an assault weapons bill, and that didn't make that real. The same is true now. Because the Governor and the Majority in this house are for this particular bill, it doesn't make this any more real. The fact is the Assembly is not for this bill. They are not supporting a lot of part of this bill, and so this bill also is not real.

The sad part is that it's late in

the session. We had bills out there, and how I answered my mail on Workmen's Comp' is I thought with the big push right from the beginning of the year by all the parties involved -- and everybody had a bill at one point with the exception of our conference because we were looking, and my answer was, "I'm going to vote for the bill that's the agreed-upon bill between all parties." Well, we know for sure -- one thing we know, that this is not the agreed-upon bill.

Senator Bruno announced when he had his press conference announcing this bill that he had the compromise bill; he was going to solve the impasse. It was just after the Assembly passed their bill that wasn't acceptable to this house and to the Governor that he had the bill that would bring the Governor together with the Assembly Speaker, and, unfortunately, when this bill came out and the press conference went, the Speaker said this is not the bill that I'm agreeing to.

So what I'd like to see is us

continue to go along -- not necessarily pass this bill. Because it's not real, I'm not voting for it. I hope that before the session ends -- and if Senator Bruno, as always, keeps to his schedule, it's going to end soon -- that in one of his meetings with the Speaker, which he seems to be having, according to what I've been reading in the paper, they can talk about this particular issue also, with the same intensity that they seem to be moving along with the other issues they've been talking about, and that some time in the near future, when Senator Bruno will get up proudly in this house and say, "I have the bill that is the compromise bill; it is the real bill on Workers' Comp'; it is the bill acceptable to everybody; it may not do everything everybody wants, but it's a large step forward; we're finally going to have some real reform in Workmen's Comp'," and then we can vote yes on a bill that everybody can support and doesn't act so one-sided to the detriment of the working people, men and women, in New York State that happen to find themselves injured.

For that reason, I'm recommending that we vote no on this bill.

ACTING PRESIDENT MARCELLINO: Senator Onorato.

SENATOR ONORATO: Mr. President. Will Senator Bruno yield to two questions?

ACTING PRESIDENT MARCELLINO: Senator Bruno, will you yield to two questions from Senator Onorato?

SENATOR BRUNO: Two questions, yes.

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR ONORATO: I am a little concerned. The bill targets the workers for the high premium costs and it would make a worker prove that he did not intentionally hurt himself intentionally, and it also requires him to sign the check, and then every six months again ratify that he is not capable of going back to work again.

Do we have any statistics to prove that, you know, there is such an

outlandish condition that exists that would require us to make such a provision?

SENATOR BRUNO: Yes.

SENATOR ONORATO: That's a good answer. Okay.

Now the other part of the bill that I'm really concerned with, the bill that you have before us right now, would deny unemployment benefits to an injured worker, and the truth of the matter is that the unemployment benefits are currently -- depending on the individual, would be higher than the disability benefits. I think this would go up to $560 for a person who was injured, but the same individual who becomes unemployed can get $600 a month -- a week in benefits. Why would we reduce an injured worker's benefits by $40? What rationale can we use to justify the diminishing of the benefits of an injured worker as against an unemployed worker?

SENATOR BRUNO: Senator, you're right to be concerned, and we were concerned, as well and, if you recognize that with the 560 -

and, by the way, the Assembly wasn't as generous with the workers' benefits as this bill. With this bill, when they get the 560, they also continue the benefits that the employer provides, and a benefit package can be worth 30 percent of the check. So you can add another $200 to that, for instance, and you are up to $760 versus the 600 you just mentioned.

We think this is very fair to the workers -- more than fair to the worker, and it really deserves your support, and I am surprised when I hear people saying they are going to vote in the negative for this, that, and the other reason.

The fact of the matter is increased workers' benefits substantially give them more protection, which is what this is about, and you reduce the premium by a good 25 percent which helps create jobs.

It deserves your support.

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

SENATOR PATERSON: Mr. President,

would the distinguished Majority Leader yield to me the option of asking two questions with an option to ask a third?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: I'm not sure of the conditions, but we'll go -

SENATOR BRUNO: We're flexible with the good Senator.

SENATOR PATERSON: Thank you.

Mr. President, the New York State Compensation Insurance Rating Board has recommended a 12 percent reduction in rates for this year, that is, pending the approval of the Insurance Superintendent. Last year, the Superintendent allowed for a reduction in rates of 5 percent. So if you take the 5 percent away and then you take 12 percent of 95 percent, that would be 11.4 percent. What you really have is a resulting, if this is approved, 16.4 percent of rate reductions. So while individuals are getting 83.6 percent of the benefits they were getting before, yet the premiums have not gone

down and, therefore, there would at least seem to be some indication that the carriers are receiving a greater profit, that there is greater profit going to the insurance companies.

Why is there not in this bill, Mr. Majority Leader, any determination of what the carrier profits are in determining why the benefits should be decreased?

SENATOR BRUNO: One of the things that happens presently is that, when there is a lawsuit under Dole, the insurance company immediately sets up a reserve, and on that reserve, very few of the cases end up producing a result and, consequently, on that reserve, the insurance companies make a lot of money.

So we're trying to get at the premium reduction and keeping the benefits intact or increasing, and this is a package proposal, and when you talk about the temporary reduction that was built in, that was not structural reform in the system to permanentize what you describe as a reduction, and we hope

that that goes forward, but that could change next year or the year after.

So what we're trying to do through this legislation is structural reform so you won't have a fluctuation from year to year, escalating up -- back up to the 57 percent that we are above the national average presently.

SENATOR PATERSON: Thank you, Senator Bruno.

Mr. President, if the Majority Leader would continue to yield?

ACTING PRESIDENT MARCELLINO: Senator Bruno, do you continue to yield?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR PATERSON: Speaking of Dole v. Dow, one of the issues that the AFL-CIO has been raising is where the other 50 cents goes off the premium dollar after the first 50 cents goes to cover benefits and also Workers' Compensation administrative board costs. The

feeling, again, is that the other 50 cents on the dollar may be going in the direction of profits and what we're trying to determine is why, in this legislation, we are not analyzing where the other 50 cents is going before making the determination somehow that Dole v. Dow is the reason and, in a sense, rewarding companies who have ignored safety standards, who have contributed to injuries in the workplace, who have ignored manufacturers' directions and, therefore, are being sustained to some degree by a perception that that's where the waste is going, when, in fact, I don't see analyses of where the other 50 cents on the dollar does go?

SENATOR BRUNO: Senator, a lot of the work has been done and a lot of the analysis has been done that you are referring to, and the indication is that there is something like 29 percent of the premium that goes into administration. A lot of the dollar in that premium goes to lawyers who are working in the process, and we agree there are inefficiencies and there is waste, and that's really what we're

trying to get to in this approach, which we think is a pretty comprehensive approach to increase the worker's benefit and reduce the premium.

SENATOR PATERSON: Thank you, Mr. President.

SENATOR BRUNO: And it gets them paid quicker. We want the worker to get their check quicker, and this bill will do that.

SENATOR PATERSON: Thank you, Mr. President. The Majority Leader has been most forthright. I'm actually going to spare him the option of hearing a final question and speak on the bill.

ACTING PRESIDENT MARCELLINO: Senator Paterson, on the bill.

SENATOR PATERSON: Mr. President, one of the issues that arose in this discussion that is of great concern to me is whether or not the unions are supporting this piece of legislation. The statement was made that the union leadership may be making these allegations but, when you talk to the rank and file, they

want coverage under the regulations that would be put forth in this legislation. I disagree with that virulently. I can't find anybody in the labor movement who is in support of this piece of legislation.

I agree with Senator Stachowski that whenever the time comes that we really address Workers' Compensation issues and, if there is any waste that's caused on the part of the fraud of workers, we certainly need to address that, but we already know that the reason that Dole v. Dow was upheld by the Court of Appeals in 1972 was because of the terrible tragedies that existed in this state in which workers suffered, in which individuals not only lost their livelihoods but also lost their dignity as a result of these types of accidents and no coverage.

And so it's my recommendation that when we really look for some workable, sensible, achievable goals and coalesce to reform Workers' Compensation in a way that will inure to the benefit of all involved,

particularly the workers, that's the bill that I will work for.

Thank you.

ACTING PRESIDENT MARCELLINO: Read the last section.

SENATOR CONNOR: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President, if I may rise to close debate.

You know, what I've thought is fascinating these past years, as we have clearly heard the political debate swirling around the issue of Workers' Compensation, is how little appreciated the origins of this system are by the public-at-large.

The fact is, before there was Workers' Compensation, there was still negligence law, the great common law of torts, and the underlying principle was that people should be compensated when others who have a duty toward them, whether a duty of care or a duty to refrain from harming them, have, in

fact, injured that person.

As this law evolved, because it was based in feudal England in a class-based society with a class-based judicial system, other doctrines were handed down by the courts, and that's what common law means, "court made law," and ordinary workers, the plain folk, found that when they were injured in the course of their employ, the courts conjured up doctrines.

The master/servant doctrine: A servant can't sue his or her master and recover, the implication being that by the mere fact of being a servant, one had, in effect, waived his or her rights to pursue the master when the master was, in fact, negligent.

Another doctrine that evolved in the Industrial Revolution was the fellow servant doctrine, and what that said is, well, when a worker on the job is injured because of the negligence of a fellow employee, a fellow servant, you can't hold the master responsible for the conduct of its employee, your fellow

servant.

So while in other spheres of society, people who were injured through negligence could recover in the courts, even common folks, thanks to that wonderful invention of Anglo-American law, the contingent fee which allowed people who had nothing to get the services on speculation of a competent attorney to right their wrong and, today, that's much maligned.

The press talks about, "Oh, contingent fees, that's terrible; the lawyer is going to get a third." Well, that made possible access to lawyers on the part of people who had no money for retainers or hourly fees. That was a great democratization of the civil courts and access to the courts. It meant you didn't need money when you were wronged and injured to get a lawyer and pursue the party whose negligence caused the injury.

But for workers -- and at the turn of the century with rapid industrial ization, naturally, in the workplace there were

many injuries. Workers couldn't avail themselves because the obstacle in their way was the master/servant doctrine and the fellow servant doctrine that prevented recovery because of who they were, because they were working people.

But they did have a right to sue. Those were defenses. They had a right to sue, and if those defenses didn't apply and they were injured in the workplace, they could recover, but, obviously, it was a situation that was unsatisfactory to the large majority of workers, and it was unfair. It was clearly seen as unfair. People who lost limbs, people who were rendered unemployable, couldn't recover because it happened in the workplace, and their families suffered and starved.

So the great system of Workers' Compensation came in, and it was a trade. It was a compromise. In return for limited liability -- limited liability -- the employers were put into a system that guaranteed the worker some compensation notwithstanding all of

those doctrines of tort law like the master/servant rule and the fellow servant rule, but it was a trade. Workers gave up something. They gave up their right to sue. They gave up their right to sue even where those two doctrines couldn't be interposed as a defense, and employers gave up the right to interpose those defenses in return for a system of compensation rather than liability.

ACTING PRESIDENT MARCELLINO: Excuse me, Senator Connor.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Will Senator Connor yield to a question?

SENATOR CONNOR: Certainly.

ACTING PRESIDENT MARCELLINO: Senator yields.

SENATOR DeFRANCISCO: You just mentioned that when the Workers' Compensation system came into effect, it was a quid pro quo.

SENATOR CONNOR: Right.

SENATOR DeFRANCISCO: The worker gave up the right to sue in return for various

benefits, and the benefit to the employer was freedom from a lawsuit?

SENATOR CONNOR: No, it was limited liability. You could give somebody $500 a week instead of having somebody say, "Look at that injury." If you are run over by a bus and your leg is injured and all, they put a value on that and the bus company's insurer might have to give you $150,000, but if you are the employer, you can say, "Okay. Well, I'll pay, but I'm only going to pay the 400-and-some dollars or $500 a week compensation."

So the real important financial part of the trade for the employer was their liability was limited to the rate schedule in the compensation statute as opposed to the wide open -- whatever a jury says you have to pay, of negligence law.

SENATOR DeFRANCISCO: And employers were also free from lawsuits by employees.

SENATOR CONNOR: Well, they could interpose in lawsuits the defense that the

injury was covered by Workers' Compensation. Pleading Workers' Compensation is a defense to a negligence suit.

SENATOR DeFRANCISCO: And if it was proven that it was a Workers' Compensation claim, the employer would be free from liability other than what was in the Workers' Compensation law.

SENATOR CONNOR: Right.

SENATOR DeFRANCISCO: So isn't it true, when Dole v. Dow came into effect in the 1970s, that that quid pro quo that the employer recognized by being part of the Workers' Compensation system was set aside?

SENATOR CONNOR: Senator, are you reading my notes? Because that's what I was about to come to. If you will suffer me, I will get to that.

Now, what I was just describing dealt with torts, negligence, plain old negligence, a failure to exercise a duty where it was imposed of care towards someone.

Ordinary negligence,

carelessness: "Oops, yep, you got hurt; I wasn't thinking; I was careless." Maybe I didn't do anything affirmative. I could be careless because I forgot to sweep up this morning. That was careless of me. I forgot the guys on the night shift were eating bananas, and the guy dropped a banana peel, and if I had had somebody sweep up as soon as the day shift began, you wouldn't have slipped on the banana peel; but, geez, I didn't put the banana peel there to trip you up, and I didn't really foresee that there would be a banana peel there. The only thing I did is I failed to get the cleanup crew to sweep up this morning, and that's negligence.

What Dole v. Dow deals with is a different category that the tort law has always recognized, and it's variously called gross negligence or intentional negligence, where an affirmative action is taken with a foreseeable consequence that someone could be injured as a result of it. That was never just plain old common law. It evolved into common law, the

concept of gross negligence or intentional tort or a negligence that was the result of an intentional act, not a failure to act, not a failure to act or take care but an intentional action with a foreseeable consequence that could jeopardize someone, and that was always available to people in the tort law.

I was privileged once upon a time in law school to have a Professor I'll never forget, Vernon X. Miller. He's been dean of various law schools. He wrote a book. He just entitled it Torts, and he used to use concepts like "smart" money. You know, when we'd say "What's punitive damages? Why do you have to pay so much there?" he'd say that's smart money. We'd ask, "What's smart money?" He'd say, "That's where the person who committed the tort was so bad that you want extra money so it smarts so they don't do it again."

And that's what Dole v. Dow is about, smart money. It's about the employer that buys equipment with safety guards to protect the workers, and the workers don't fall

on a banana peel because someone didn't sweep up the plant, even though they ought to have swept up the plant. That is negligence. What the employer does is go around or order someone to go around with a screwdriver and remove the safety guards, an action that's foreseeable and intentional. They did something affirmative, intentional, and the foreseeable consequences are that someone could be injured. Why else? Why else safety guards on a machine?

So it's a different -- you know, all this argument, why should we have Dole v. Dow? You always had a distinction in tort law of gross negligence, of the intentional tort or, if you want to analogize it to the statutes, the reckless disregard for someone's safety by an affirmative action as opposed to just plain old negligence. Hey, he slipped on the plant floor on a banana peel the guy on the night shift left there; we didn't have the sweeper come around and sweep in the morning. We were negligent. We didn't do it on purpose. We didn't litter the floor with banana peels knowing full well

someone could slip and hurt themselves. That's what Workers' Comp addresses.

Dole v. Dow is a whole different category, and you want it to smart. You want the employer to hurt. Part of it is punitive not just compensatory, and it always was in tort law. It was always designed to punish that kind of tortfeaser because they did something intentional and you want to deter others. As well as that person doing it, you want to deter others, and that's what Dole v. Dow is. It was always there.

The Workers' Compensation Law was designed to deal with plain negligence, common negligence and its consequences, both limited liability for the employer and assured compensation for the worker, assured -- assured because this bill attacks that too -- assured compensation for people injured on the job, because they gave up something too, their right to sue for plain ordinary negligence, not for intentional negligence, not for gross negligence, for plain old negligence, and that

was the trade.

And do we have a problem in Workers' Compensation? Sure. It costs a lot. That's a problem. It does cost a lot. It's an insurance problem, first and foremost, an insurance problem. These are insurance premiums and when the evidence is that more than half or at least half of the premium goes to something other than compensation for the workers, then I say we have an insurance problem, and we ought to approach it that way. How can we make it less expensive? How can we make administrative costs less expensive?

And when people just pointed up that little -- and it's a small percentage of cases under Dow v. Dole. You still have to prove them. Senator Bruno explained about the reserves against Dow. Very few of these cases end up resulting in a judgment, and the insurance company makes a profit on the reserve, and then they get the money back, but it's a very small percentage of cases where there is a real recovery. That's not driving the cost.

Insurance profits are driving the costs. Administrative costs are driving the costs. I say let's go back to the original deal. On negligence, the workers gave up something; the employers gave up something. But that deal never had anything to do with gross negligence. It never had anything to do with intentional actions.

And, you know, what are we talking about when you remove safety guards? None would say it would be unfair to let the family of a worker recover against the company, say a sole proprietorship, where the sole proprietor walked in -- I won't get into semi automatics -- but with any kind of gun and blew away the employee, okay, an intentional tort besides being a crime. Would you really let that company set up Workers' Compensation as a defense when the family sued to recover everything they could for their loss? They would say, "No, that was an intentional criminal act." It was intentional.

That's what Dole v. Dow deals

with, actions that are either intentional or so clearly, grossly irresponsible -- not just careless, not just negligent -- and the idea to somehow seek protection from those kinds of actions under the framework of a Workers' Compensation Law that was designed to deal merely with plain, ordinary garden variety negligence and overcome the obstacles and injustices caused by the master/servant doctrine or the fellow servant doctrine misses the mark. It misses the mark on this one-house bill because this bill is dead on arrival in the Assembly, I believe.

I would urge both majorities to sit down and negotiate on a Workers' Compensation bill that focuses on the real problem, the insurance costs. Why does it cost so much as a matter of insurance? It's not the benefits. If it should be, oh, there's a big fraud problem, go after the fraud. Stop the fraud. Nobody argues with that. If people are running mills and filing fraudulent Workers' Compensation claims prosecute them. Get them

out of there. Put them where they belong, if that's the problem.

But the problem is not the injured worker who is injured by negligence, and the problem is not the worker that's injured by intentional gross negligence on the part of the employer.

Mr. President, on this bill, I urge a no vote.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

THE SECRETARY: Section 91. This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

Negative votes, please raise your hands.

Senator Smith to explain her vote.

SENATOR SMITH: Thank you, Mr. President. I'm greatly concerned that this bill is just a sham, and that it really goes after

injured workers rather than where it should be placed.

I am also concerned that we didn't wait until we had finished, completed the Workmen Comp' study, but we could have possibly had a better understanding of what should have been in the bill.

And, not only does this bill hurt injured workers but it also goes ahead to reduce the state work force by replacing hearing re porters, those that have to hear -- be there by law, and it sets up a system which will put in place a tape recorder or be done electronically. We don't even use the electronic methods because it's not a proven method. Most times, it is imprecise, and you can't go back to a recorder and ask it what someone said. That's why we need to have those reporters in place.

And, therefore, I vote no.

ACTING PRESIDENT MARCELLINO: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President. Just to explain my vote.

I believe that the workers and the employers of this state deserve a meaningful solution to address the terrible problem that has been described in great length by my colleagues, but this is not a sincere effort at coming up with a solution. This smacks of political posturing. It will be regarded as such by many people.

Obviously, there will be people who gloat over having established a baseline from which to operate for the future, but I would hope that we can put aside some of the rhetoric and address some of the really serious issues that have not been covered in this. The run-away cost of insurance has not been the primary focus of this measure, and it was presented out to the public and presented in this chamber as a Republican solution to a problem that should, in fact, be an issue for people of all political persuasions, in all walks of life, in all aspects of the economy.

This is a state that is losing jobs, that is losing employers. Capital is

moving out of this state because people don't trust us. This type of cynical measure is one of the reasons why they don't trust us.

I will vote nay.

ACTING PRESIDENT MARCELLINO: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: I'm going to vote yes to this bill. I don't agree with every line and every part of the bill, and I certainly don't agree with the characterization that this bill is cynical in any way. Everybody wants a solution, but no one seems to want to get to the middle ground where a solution is really possible.

The Governor is at one extreme of this issue and the Assembly is at the other extreme. I have to commend Senator Bruno and the rest of this body for coming up with a solution that's trying to bridge that gap. We've been talking about Workers' Compensation reform as long as I've been in the Senate, and unless we start acting responsibly by trying to bridge the gap, like this bill tries to do, then

we're never going to get the reform.

Yesterday, we had the small business people that we all honored. We all clapped. We all voted yes. These are the people that are trying to create jobs and trying to have a economic climate that makes some sense. Ask any one of them. I didn't have to. They told me when I went to the reception later, "You got to do something about Workers' Comp'."

So what do you do? Do you just bicker about it? Do you just complain about it? Do you just have one extreme, the other extreme, or do you try to bridge the gap? This bill bridges the gap as far as we can go without any meaningful negotiation.

So I think it's a good move passing this bill. I think it's a responsible thing to do. It's an effort to try to get a bill that both sides of this issue will agree to, and it's a major, major step forward, and I would hope that that step forward does result this year in a true Workers' Comp' reform bill that meets the middle ground, more benefits for

workers as this bill does and cutting costs which this bill does, as well.

So I vote yes.

ACTING PRESIDENT MARCELLINO: Results, please.

THE SECRETARY: Those recorded in the negative on Calendar Number 1225 are Senators Abate, Connor, Dollinger, Espada, Gold, Gonzalez, Kruger, Lachman, Leichter, Markowitz, Mendez, Montgomery, Nanula, Onorato, Oppenheimer, Paterson, Santiago, Seabrook, Smith, Stachowski and Waldon. Ayes 37. Nays 21.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Spano, why do you rise?

SENATOR SPANO: Please recognize Senator Santiago.

ACTING PRESIDENT MARCELLINO: Senator Santiago.

SENATOR SANTIAGO: Mr. President, I would like the record to show that if I had been in the chamber when the vote was taken on

Calendar Number 60, I would have been recorded in the negative.

ACTING PRESIDENT MARCELLINO: You can be recorded in the negative, without objection.

Senator Spano.

SENATOR SPANO: Can you ask the Secretary to please call Calendar 1224.

ACTING PRESIDENT MARCELLINO: Secretary will read.

THE SECRETARY: Calendar number 1224, by Senator Marchi, Senate Print 6669B, an act to amend the Environmental Conservation Law, in relation to solid waste management.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO: Explanation has been asked for.

Senator Marchi.

SENATOR MARCHI: Mr. President. This bill addresses the problem -

ACTING PRESIDENT MARCELLINO: Excuse me. May we have some order, please.

Thank you.

SENATOR MARCHI: Thank you, Mr. President.

This bill addresses the problem of 2200 acres on Staten Island which is the site of a landfill which is a euphemistic expression for the disposal of solid waste, the largest in the world.

Mr. President, we've been - since the first prayer, we were gathered in prayer at 3:00 o'clock. It is now 7:00 o'clock, four hours later. During that period there were 2400 tons -- 2,400 tons -- of solid waste deposited on Staten Island. When you go to sleep at night, these figures don't change. It's 600 tons an hour. If you sleep eight hours, that's almost 5,000 tons of solid waste deposited on Staten Island. It is more than half of all the solid waste deposited in the state of New York.

It's a very serious problem. Some of the statistics that come out of this circumstance: The landfill releases 2 percent of the methane gas -- this is not the potential

for it, but the actual emanation over the period of -- over a period -- produced in the world. Two percent of all the methane gas that is generated in this world is generated by this land dump. It's almost 6 percent of all the methane gas produced in the United States. This goes up in the air and floats over Staten Island and, statistically, Dr. Oppenheimer and others and the Interstate Sanitation Commission have been gathering statistics indicating a higher rate of respiratory illness, a very, very serious problem.

It currently produces levels of volatile organic compounds known as benzene, xylene, toluene, and other carcinogens in excess of EPA standards. Xylene, Freshkills emits 5600 pounds which is almost twice that which is emitted by Bayway Exxon Refinery.

This bill would put a terminus on dumping on Staten Island by the year 2002. You might say you are utterly unreasonable, Marchi. 2002? Can you stand it up to then? There is a serious problem. How are we going to implement

this? Where is the solution to the generation of almost 14,000 tons a day? We are fortunate by some of the developments that have taken place already.

Today, I was with the Governor on Staten Island, where he announced a plan to implement, with the Mayor, but he announced a plan where a multiple level of officialdom will constitute a task force to produce a solution, and there is a very definite commitment to do this by the date, one day before the date of this bill, a serious commitment.

We are very grateful to the Governor for implementing, in anticipation, recognizing the problem that we have, and for this I am very grateful and very appreciative. Because sometimes we say we're going to put a building up, we're going to build a school, we're going to put teachers in it. The process already begins, has already begun on his initiative to constitute a task force to have a solution with -- in consultation, and the work that he has already done will assure us that it

will be accomplished in the time frame.

I am also mindful, however, and in this I have the support of all of the Staten Island officialdom, be they in the City Council, my valued colleague Senator DiCarlo, I think Senator Montgomery -- I know Senator Montgomery, and in the Assembly, Assemblyman Vitaliano, Assemblywoman Connelly, and Assemblyman Straniere, are in full support of this legislation and they are all cosponsors.

I also give great credit especially to Senator Bruno, who has pledged his support to the enactment of this legislation, and Speaker Silver. So I believe that we have sensitized many, many people. So the commitment is there.

The question I was asked, of course, by some reporters, "Well, if you have such confidence in the implementation, why have a bill?" It's obvious, Mr. President, that you may have cataclysms. You may have natural disasters. There are many circumstances that are attendant in the business of living and

surviving.

I don't know whether I will be here to see it happen, but I do know if it's part of the public policy of this state that it will have the attention because it then will be in our statutes and, if there are natural disasters or whatever the circumstances are, that will be addressed as it must if it is the law of this state.

I might add, Mr. President, I have had a little experience in this. I passed a bill back in 1958 -- in 1958 -- which was vetoed at that time, and I cast no blame or aspersion on him, because I think he acted in good faith. My bill at that time would have terminated garbage dumping in Staten Island not in 1958 to 1959 but in 1965, and the veto message said this:

"In view of the fact that the provisions of this bill will not become effective until 1965, seven years hence, consideration of this proposal at this time is unnecessary. Long before 1965, the city of New

York should have progressed substantially with its $75 million program of incinerator construction which ultimately should solve the problems which this measure seeks to meet."

You know, it happened. I had a bill vetoed 38 years ago. This time, I have the feeling that this statute will be enacted. Furthermore, I have the satisfaction, something which I haven't had -- none of us have really had. We legislate, but then we wait for the enactment. We have in place the serious effort and commitment to the creation of this task force, and we have confidence in this. It also provides relief, Senator Montgomery, to your district, which would have an incinerator in a heavily populated center.

This bill has no other provision in it except to do exactly that. So I ask you -- you know, while I'm talking, I don't know how many hundreds of tons just while I've been speaking here tonight, but these are the circumstances that we have. The magnitude of the problem that we have in my county, none of

you have had the experience in your own areas even if you have had a landfill problem. It's minuscule by comparison to what we have.

I don't deserve any medals for speaking. I have been trying hard, but it's a very difficult problem to produce the solution. We have in place now the commitment and the organics of a solution for implementation as we speak of enactment, but we need this assurance, and the people of Staten Island, 400,000 of them, they are Republicans, Democrats, Liberals, Conservatives, whatever, all of these people are human beings, men, women and children, who are condemned to live with this toxic disaster.

So I ask you your vote, your unanimous vote I hope, in support of this legislation because it means so much to each and every individual. There is nothing partisan about this bill. I speak something which is in the hearts and souls of -

ACTING PRESIDENT MARCELLINO: Excuse me, Senator.

Senator Paterson, why do you

rise?

SENATOR PATERSON: Well, Mr. President, I don't want to tell you why I rose, but I just wanted to tell Senator Marchi that his explanation is so convincing and so satisfactory that if he could just yield for this one question, I think this will sum up this whole issue.

ACTING PRESIDENT MARCELLINO: Senator Marchi, would you yield to just one summary question?

SENATOR MARCHI: From a Senator who shares a birthday with me, how can I say no?

SENATOR PATERSON: I just wanted to know what the City's alternative was in order to dispose of this waste now that the Navy Yard and Fresh Kills are being -

SENATOR MARCHI: At that -- at that meeting that we had the Mayor made, or joined in the total commitment in the implementation and the task force goes forward and will be constructed to provide the method of disposal. There are already people in informal

discussions that have -- that have already been examining resources for the disposal of this - this waste, so the progress has already begun, but I don't want to -- I don't want to leave it there unaided by the public policy of this state which will -- which will then be the law of this state, and I hope I have your support on this, Senator.

SENATOR PATERSON: You do, Senator, and we are most satisfied with your answer.

SENATOR MARCHI: I rest my case.

SENATOR SPANO: Last section.

ACTING PRESIDENT MARCELLINO: We have -- I'm sorry. We have a couple of people. Senator DiCarlo.

SENATOR DiCARLO: Thank you, Mr. President, and I don't know if many people here realize what Senator Marchi and I realize, this is probably the most important piece of legislation that the people on Staten Island have ever received from Albany, and I want to thank a couple of individuals who have worked to

make this happen, one being the Governor, who made a promise to our constituents on Staten Island to support the closure, and he lived up to that promise; the other the Mayor who told us that he would close the dump. The other is our leader, Joe Bruno, for making and allowing this to happen here this evening.

Another is a legend who I - every time I rise I speak about him, but he is truly a legend on Staten Island and out of all the legislators that I know on Staten Island the most respected individual by far.

And this legislation is not only wonderful for Staten Island but this bill is also wonderful for the people of New York City and even the people in my Brooklyn part of the district in Brooklyn where the incinerator is not going to spew its poison onto our citizens.

This is a real bill, ladies and gentlemen; this isn't an one-house bill. This bill, it is my understanding, is going to pass the Assembly and is going to go to the Governor, and I firmly believe the Governor is going to

sign this. This is actually saying that the dump will be closed, no matter what happens between now and the year 2002, January 1.

This is not just a promise; this is the force of law. I am so proud to be a small part in this bill. I live in Brooklyn, but I represent almost a hundred thousand Staten Islanders, Staten Islanders who have probably one of the highest rates of cancer in the country. We talk about what we can do for other areas of the state with high incidence of breast cancer, but look at the facts of breast cancer in Staten Island and Bay Ridge, Brooklyn. Look at the incidence of cancer in Staten Island and my end in Brooklyn, Bay Ridge and Bensonhurst, the highest in the country, and I believe one of the reasons is the dump on Staten Island and this is such an incredible thing for us to be doing.

This is one of the reasons you get into government, to do good for your constituency, and the people on Staten Island have been hearing about the closing of this dump

from before John Marchi was a Senator. I have a copy of an article here where promise was made by Mayor O'Dwyer who said he would close the dump in 1949. 1949 we've been promised by politicians that that dump would be closed.

There was a meeting in New York City today with the Governor and the Mayor and other elected officials, and we thank them for that, where they promised that they would close the dump, and the question was asked why are we here doing this legislation if everyone has promised that the dump will be closed.

Well, ladies and gentlemen, we need to give a guarantee to the people of Staten Island, to the people of Brooklyn that no matter what happens between now and the closure date, they will be closed, the dump will be closed, and for the people of Staten Island you have somebody to thank in John Marchi, because if not for John Marchi, I don't believe this would have happened. I don't believe the guarantee of a closing of that dump would have occurred, and I don't believe that probably thousands and

thousands of lives of kids today would be saved if not for this legislation.

This is probably the most important piece of legislation that I've ever been associated with, and it has the force of law. That's the importance of it. It's not just a promise. We're going to enact this into statute. So on behalf of myself and my constituents, again I thank the Governor for his support, the Mayor, and John Marchi for this most valued piece of legislation.

ACTING PRESIDENT MARCELLINO: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President.

Let me say, Senator Marchi, you were as eloquent as I've ever heard you, and that's quite a goal to achieve because I've often heard you on this floor speaking in ways that I could only wonder and say, Why can't I get up and express myself so well, and also it's a wonderful record to be able to say that I passed a bill that was vetoed 38 years ago. So

it -- it really is and, Senator, you certainly describe in glowing terms the benefits that would accrue to Staten Island and Senator DiCarlo similarly voiced -- he said it was the most important bill he's ever been -- he's ever voted on. I mean it's a wonderful thing to close a landfill. Who wants a landfill? They're terrible to have in your back yard. Maybe we could even make the bill better and say there should be no more landfills in New York State, not only Staten Island, but Orange County and Conadago, any county. Why should those people have landfills? Granted they're not as big as the Staten Island landfill, but nobody wants a landfill, and then you make the bill even better because you also provide there shouldn't be any incineration. So we're not going to have an incinerator which could get rid of the garbage that's now not going to go to Staten Island. That's great. Maybe we ought to ban incinerators throughout the whole state, make sure that everybody has got clean air, and so on.

In fact, maybe what you really ought to do in this bill provide there should be no more garbage. That would really be -- be even better. Then we wouldn't have to worry about disposing of it. You know, I guess I'm being sort of foolish here, because I'm thinking, you know, this is so wonderful and then I think, Gee, we have 20,000 tons of garbage a day in New York City. Maybe it's a little less now. I think we were up to 22- and maybe recycling, which has somewhat worked in New York City, so that the tonnage may be even less, and I think how are we going to get rid of it?

So when I saw your bill, I right away wanted to embrace it, because I could go back to my community also. They don't -- they don't like the incinerator because actually the people who might be poisoned, if anybody was going to be poisoned are not Senator DiCarlo's constituents. The air blows towards the West Side of Manhattan so I can say, Listen, I was against incinerators. All the environmentalists

like it. NYPIRG will say, That's great, Leichter, because they don't like the incinerator. They don't like the landfills but for a moment I had this very negative thought and maybe I shouldn't be so pessimistic. What are we going to do with 20,000 tons of garbage?

So I figured the Mayor would say, you know, "Wait a second, guys, what am I going to do with all this garbage? I can't -- I'm probably not going to be able to ship it out of the state. I can't dump it. Now, you say I can't burn it, and I can't landfill it. One day I'll just put up a notice saying, please don't put any more garbage outside in New York City."

But no, lo and behold, the Mayor says, "This is a wonderful thing," and he shows up with the Governor, I understand, and you were there and Staten Island, everybody in Staten Island is very happy about it tonight. Of course, in the year 2002 it's not going to be Mayor Giuliani. It may be Mayor Paterson who will have that problem or Mayor Abate or Mayor Onorato. They'll come to this Legislature and

say, "What do you want me to do with 20,000 tons of garbage?"

I'm also interested, you know, every time this Legislature tells New York City what to do and, you know, is that really our role? But when you achieve something as glowingly good as to get rid of a landfill in your back yard, you know, then home rule really shouldn't stand in the way, or to get rid of an incinerator that might bother people on the West Side or other parts of New York.

So everybody seems to think it's so wonderful and it's an easy solution, and the Mayor says, "That's a piece of cake; I can get rid of 20,000 tons," and everybody seems to think it's going to work out so gloriously far be it from me to rain on anybody's parade, least of all yours, Senator Marchi, because I really love you. So I'm going to vote for the bill.

ACTING PRESIDENT MARCELLINO: Senator Oppenheimer.

SENATOR OPPENHEIMER: I -- I assume I will be reiterating a bit, but if

Senator DiCarlo would just yield for a question.

ACTING PRESIDENT MARCELLINO: Senator DiCarlo, do you yield?

SENATOR OPPENHEIMER: He's supposed to stand up.

SENATOR DiCARLO: I'm tired.

ACTING PRESIDENT MARCELLINO: He's tired.

SENATOR OPPENHEIMER: You're tired, you're sitting.

I remember talking about this perhaps 10, 12 years ago. Indeed we went out to look at the site, maybe a decade ago, and at that time I was told that it was slated to be terminated as a landfill, and we -- we saw the gas that was passed from that and used by Brooklyn Union Gas. It was a very interesting trip, and I learned a lot; but I have been told that alternatives were going to be put in place. What are the alternatives that have been discussed so far?

SENATOR DiCARLO: Senator, one of

the things that was announced today by the Mayor and the Governor was the setting up a task force whose responsibility it will be to come up with the answers to your questions. They are being given with this legislation seven years -- six, seven years -- five years more, five years to come up with those answers.

With all the great minds that are involved that are going to be on this task force, I firmly believe they'll be able to come up with the answers, whether it be increased recycling or taking the garbage outside of New York City so that it doesn't sit in people's back yards and poison children in close proximity, there are answers that they can come up with.

SENATOR OPPENHEIMER: Thank you, Senator.

It just seems a bit bizarre that with all these years that were, you know, potentially the problem could potentially have been solved, that it got to this -- this juncture.

Also, while I am very, very concerned about -- about pesticide use and the occurrence -- the rapid occurrence, the rate of cancer in our state, I -- I do not think that it has much to do with the -- the fumes that come from garbage. If -- if I am incorrect, you can disabuse me of that, Senator DiCarlo. You mentioned it.

SENATOR DiCARLO: If you could just repeat the last part of your question.

ACTING PRESIDENT MARCELLINO: Before you do, Senator, could we have a little order, please. Thank you.

SENATOR OPPENHEIMER: No, I just want clarification. I just want clarification. You seem to indicate that the high occurrence of breast cancer was somehow related to the -- the landfill and the odors, and that is not my understanding.

SENATOR DiCARLO: Well, that - there are two studies, I'm told right now, that are ongoing to make determinations on that, but I think, and this is just my own thought on it,

that when you've got a situation with a dump of this size, with the gases that are emitted, there has got to be a reason for the higher incidences. Do I know for a fact that they are? No, I don't. No, I don't.

And to answer a little bit of your other question, why did we wait so long? All right? If this was such a deadly thing. I think, and I give tribute to those people who are now in office that this was the first time that we've had agreement by almost everybody in government from the city level to the state level with the Governor, to the Senate and to the Assembly, so this is the first time in many, many years that we've been able, and Senator Marchi has been able to put everybody together to come to agreement to finally close the dump and the reason that this is going to work is that it's not just a promise. This is the first time that now all of the elected officials, it's a wonderful thing for us to stand here today and talk about what a great day it is. Now, we have to act and the fact of the matter is there is a

gun to the head of the city of New York and the state of New York and the politicians now that a time-definite closure has occurred.

So we had better come up with ways to get rid of the garbage because it will not be permitted in Staten Island any longer. So there's a countdown, and we've got to move on it.

SENATOR OPPENHEIMER: Thank you, Senator.

VOICE: Read the last section.

SENATOR MARCHI: If I could just -

ACTING PRESIDENT MARCELLINO: Senator Marchi.

SENATOR MARCHI: Just as a note of reassurance, Senator, you raise a point. Recycling is going to materially reduce -- on Staten Island, we've had a very high level of cooperation by people in the recycling process. It's been slower than the rest of the City but it's coming on line, and a good recycling policy will enable us to recapture an awful lot of that

and achieve material reduction.

There was a lot of discourse on this on possible sources. Commissioner Dougherty was there, and also federal interests in this because of environmental standards that now become a national factor for consideration. So I feel confident on the basis of a growing knowledge alluded to by Senator DiCarlo, that - and the point you make is, what do you do with it? This is the big problem. I don't think people were just mean and hated Staten Island so that they delivered all this garbage, but the technology is developing where we can mitigate and reduce it to more manageable proportions, and we commit ourselves to a program of action.

So I'm very -- I'm very pleased with the -- with the enthusiasm that I've seen on a bi-partisan basis joined in by the Assembly and the Speaker as well. I'm very much encouraged by the fact that we enjoy such unanimity. If we had it in so many other areas it might be -- it might augur even other developments that we'd all enjoy.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO: Senator Montgomery to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President. I want to explain my vote.

Certainly I'm voting for this legislation, and I vote on behalf and thank Senator Marchi especially on behalf of the constituents in my district and Senator Connor's district and Senator Lentol. All of us share the area in Brooklyn where the Brooklyn Navy Yard is located, and this will -- will satisfy the -- the real urgency of the people in that area, not to have that incinerator built, because there are schools and public housing developments and private homes and it is an area that is very highly concentrated in terms of its

population.

So we thank you too, and I guess here I just must say that I don't know of anyone else who would be able to have such resolve and such commitment over such a long period of time, other than Nelson Mandela, than Senator Marchi. So we thank you for that too, Senator.

I'm voting yes.

ACTING PRESIDENT MARCELLINO: Read the results, please.

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Spano.

SENATOR SPANO: Have the Secretary call Calendar 1226.

ACTING PRESIDENT MARCELLINO: Secretary will read Calendar Number 1246 please -- '26, I'm sorry.

THE SECRETARY: Calendar Number 1226, by Senator Wright, Senate Print 7524, an act to Chapter 640 of the Laws of 1990, amending the Public Health Law, relating to anabolic

steroids.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: The results. Call the roll. I'm sorry.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Spano.

SENATOR SPANO: Mr. President, go back to the controversial calendar regular order.

ACTING PRESIDENT MARCELLINO: Secretary will read.

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

ACTING PRESIDENT MARCELLINO:

Read the last section.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Mr. President, I offer you this option. I could talk and ask questions on the bill for 45 minutes or I could tell you that last year Senators Abate, Connor, Espada, Gonzalez, Gold, Kruger, Leichter, Markowitz, Mendez, Montgomery, Nanula, Paterson, Smith and Waldon voted against this bill with great integrity.

ACTING PRESIDENT MARCELLINO: Senator Paterson, I personally would love to hear you for 45 minutes on this bill, but in that case I think we'll call the -- read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO:

Results, please.

THE SECRETARY: Those recorded in the negative on Calendar Number 381 are Senators Abate, Connor, Gonzalez, Markowitz, Mendez, Montgomery, Nanula, Paterson, Santiago, Smith and Waldon. Ayes 48, nays 11.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Leichter, why do you rise?

SENATOR LEICHTER: May I have unanimous consent to be recorded in the negative on Calendar Number 789 and Calendar 1023? We didn't do 1023?

ACTING PRESIDENT KUHL: Calendar 1023 has not been called yet, Senator Leichter.

SENATOR LEICHTER: But you did 789.

ACTING PRESIDENT KUHL: 789 has passed. Without objection, hearing no objection, Senator Leichter will be recorded in the negative on Calendar Number 789.

Secretary will continue to call

the controversial calendar.

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.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of December.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR VOLKER: Leichter wants an explanation.

ACTING PRESIDENT KUHL: Senator Leichter, do you wish an explanation?

SENATOR VOLKER: Yes, he wishes an explanation.

ACTING PRESIDENT KUHL: Senator Volker, for an explanation.

SENATOR VOLKER: Yes, very quickly, this bill resulted or came out of a

problem that occurred at the Erie County Board of Elections, became known as an incident called "ballgate".

What happened was allegedly a - somebody connected with the local board was picking the balls -- the numbers out of a hat to decide on ballot positions. One person in particular who did some picking was incredibly accurate in his picking. In other words, all three of the candidates that he supported for the number one position got the number one position. This was a Democratic primary, by the way.

What happened was that someone did some checking of the -- they're like tennis balls that were in the -- if you know how people do the bingo games, you pull out balls with numbers on them, and so forth. Anyway to make a long story short, there seemed to be some little grooves on the side of one particular numbered ball, and this went -- became quite a celebrated case. It went to court, the whole thing.

What ended up was that the judge

finally threw out the drawing, authorized a new drawing. At the new drawing basically two of the three people who were drawn first in the first place still ended up number one.

What this bill really does is authorize the state Board of Elections to set up several methods for drawing ballot positions that would avoid the possibility of improper conduct at the local level. This bill, by the way, has been agreed on by the -- all, both Democrats, Republicans, everyone involved with the Board of Elections. Paul Tokasz, the chairman of the Elections Committee, has already passed it in the Assembly. This is an agreed upon bill.

Senator.

SENATOR LEICHTER: Mr. President.

SENATOR VOLKER: Sure.

SENATOR LEICHTER: With such a pedigree to the bill, it's with some trepidation that I rise, but I'll tell you why I do, Senator, and I know the hour is late and

everybody is scowling of the few people that are left.

SENATOR VOLKER: That's true.

SENATOR LEICHTER: But it raises a very serious problem as far as I'm concerned. It seems to me that the only fair way of dealing with ballot position is to have rotation of names, because I know that when I first got into elective office, you would draw and if you ended up and you got the first spot on the ballot, that was worth 20, 30 points.

SENATOR VOLKER: M-m h-m-m.

SENATOR LEICHTER: And really the election itself became a lottery. I'd like you to provide in this bill that the only way of doing this is rotating, which we now do in the city of New York and it seems to me -- and correct me if I'm wrong, Senator -- that under this bill, if the Board of Elections, the state Board of Elections now sets forth various systems -- one of them may be picking balls out of a -- out of a drum or however.

SENATOR VOLKER: Yes.

SENATOR LEICHTER: One of them may be rotations, and then each county can choose whatever system it wants. I think we ought to get away from this sheer blind picking of positions and do it by rotation. Is there any reason that we can't do it statewide by rotation and deal with the problem that way? It's really the fairest way.

SENATOR VOLKER: Well, I don't know. I guess I don't know exactly what you mean by "rotation." You mean one year the challenger gets on the top and the next year the non-challenger.

SENATOR LEICHTER: Well, see, I don't know the machines you use but in New York, when I say "rotation," we rotate by E.D. So I may be first, my name may be on top in E.D. 1; in E.D. 2 my opponent is the first name.

SENATOR VOLKER: I -- I don't know. That's an interesting idea.

SENATOR LEICHTER: Well, that's what we do in New York City.

SENATOR VOLKER: Well, I -- I

think, Senator, in all due respect, I think what we're trying to do here is do it fairly. I'm not sure exactly if that is the fairest way. You may think it is. I might have some question about whether that is. It seems to me that the fairest way is to allow a drawing whereby every one has the -- an equal chance, and by a drawing, I mean some sort of lot or lottery or whatever. That's traditionally been the way it's done throughout the state and I think, frankly, it would represent the fairest way. No one seems to disagree with that in the rest of the state, and what we're just trying to do here is establish some fair procedures, and I really think that's the best way.

SENATOR LEICHTER: Mr. President, just one final question.

How can you say, Senator Volker, and maybe I'm missing something, that it's fairer to have positions drawn by random choice, by lot, and I think you'll agree with me that if you get the number one position it's a great advantage or you get the first line. Why isn't

it fairer to rotate?

SENATOR VOLKER: By the way, the guy that got the number one position in this case in Erie County got blown out, which happens on a regular basis. The truth is it can be helpful, I suppose, in a close election but the truth is in many elections where people pay attention -- the reason I think it's an advantage in New York City is so few people vote, but in all honesty, I don't think it's - it's offering a huge advantage. It's some advantage, but I just don't exactly see where rotation is a just -- is really a just way to do it in all honesty. I just think the best way to do it is just have a drawing and allow the person who draws the top line get it and the one who has the second line get that.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of December.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 58, nays one, Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Continue to read the controversial calendar.

THE SECRETARY: Calendar Number 681, by Senator DeFrancisco, Senate Print Number 6375, an act to amend the Highway Law, in relation to components of the state scenic byways system.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: We just feel that the -

SENATOR SPANO: Will you read the last section for Senator Levy?

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Levy, how do you vote? In the negative? Senator Levy in the negative. Roll call is withdrawn.

Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. We just feel that the Department of Transportation, while it serves a vital function in the state, is not really -- that between the Department of Environmental Conservation and the Department of Transportation, we would assume the former to be the more expert in the areas of highway beautification and preserving the cultural value of New York State.

We feel that by passing this legislation we shift the balance to the agency

of Department of Transportation who is really involved more in transportation issues and would not really be the most appropriate agency to - to deal with issues of highway beautification.

As I've said to you before, Mr. President, I could elaborate on this in a far more detailed, more euphemistic and detailed fashion, but I won't.

ACTING PRESIDENT KUHL: Secretary will read the last section.

Senator Oppenheimer.

SENATOR OPPENHEIMER: If Senator DeFrancisco would just yield for one question?

ACTING PRESIDENT KUHL: Senator DeFrancisco, do you yield for one question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator yields for one question.

SENATOR OPPENHEIMER: I guess the question is, why -- why do we need this bill? Why are we doing this?

SENATOR DeFRANCISCO: Well, this is a departmental bill that was requested by the

Department, but that's why it came here, but why we're doing it: Presently the EnCon's program for scenic roadways is inoperative. They haven't been doing it. They've been sending requests for such designation over to the Transportation Department anyway, and those requests have been reviewed by the Scenic By ways Advisory Board, which has different departments and private industry involved in the review process including EnCon, including private tourism agencies and people that are familiar with the scenic byways program in our state.

So right now, EnCon hasn't been designating any roads, scenic roads or -- and they've been sending them to the advisory group for their recommendation, to the Department of Transportation anyway and this eliminate the duplication of services.

SENATOR OPPENHEIMER: O.K. Thank you, Senator.

ACTING PRESIDENT KUHL: Senator Oppenheimer, on the bill?

SENATOR OPPENHEIMER: I would like to speak on the bill.

If there is a problem, then I would like to see it solved within the appropri ate, to my way of thinking, jurisdictions. In 1985, the DEC was given the power to preserve the scenic and natural beauty of our state highways and to designate the sites.

Perhaps due to staff cutbacks, there are not enough people to do the essential work here. Terminating their oversight of the scenic roads program, I -- I don't think would enhance the number of scenic roadways that would exist in our state. It wasn't until 1992 that the Department of Transportation established the scenic byway program, and that was to coordinate the state actions for development and promotion touristwise, and also for management, but not specifically for maintenance of natural resources and for scenic beauty.

The bill just removes the DEC from its historic role, which is to designate and protect our scenic roadways. The DOT does

not have experience in -- in this arena, and their primary focus, after all, is transporta tion, and I think the DEC has always been charged with protecting our natural resources and DOT charged with transportation oversight.

I think tipping the balance towards transportation takes away the emphasis on scenic beauty, and, therefore, I will be opposing the bill. There are other ways to improve the performance of the DEC, and I would suggest going that route.

I'll be voting no.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 681: Senators

Abate, Hoblock, LaValle, Leibell, Leichter, Levy, Maltese, Marcellino, Markowitz, Montgomery, Nanula, Onorato, Oppenheimer, Padavan, Paterson, Santiago, Smith, Stachowski, Tully, also Senator Connor, also Senator Dollinger. Ayes 38, nays 21.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 717, by Senator Libous, Senate Print Number 6756, an act to amend the Mental Hygiene Law, in relation to charging fees for mental hygiene services.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT KUHL: Call the roll.

Senator Libous, Senator Leichter

has asked for an explanation.

SENATOR LIBOUS: Senator Leichter, those who receive mental health services and can afford to pay and receive SSI will have to reimburse the state for those services, but again it will only reflect on those folks who can afford to pay. Those who cannot afford to pay and receive SSI, those services will be provided by the state as they are now.

SENATOR LEICHTER: Senator Libous -

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

SENATOR LIBOUS: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: Senator, what I'm concerned about is who makes the determination that the patient is able to pay a fee?

SENATOR LIBOUS: SSI.

SENATOR LEICHTER: Well, the

determination isn't made by SSI.

SENATOR LIBOUS: OMH, I'm sorry, OMH.

SENATOR LEICHTER: OMH. And how is that determination made?

SENATOR LIBOUS: How is that determination made?

SENATOR LEICHTER: Right. I'm concerned. Let me give you an example. A person comes, obviously seems to be a little schizophrenic or -

SENATOR LIBOUS: Oh, no, these are people -- O.K. Senator, I can answer that question.

Anyone who receives their own check are those individuals who are deemed responsible for taking care of their own personal -- their own personal -

VOICE: Care.

SENATOR LIBOUS: -- care, thank you, and basically these are the only people we are dealing with. Anyone who is not responsible for taking care of their own personal needs will

not be included in this program.

SENATOR LEICHTER: But -- I'm sorry, Senator, if you continue to yield.

SENATOR LIBOUS: Yeah.

SENATOR LEICHTER: Somebody comes, I mean they've been receiving SSI checks, they're receiving their checks because up to now they've acted fairly well. Now, they've had an episode.

SENATOR LIBOUS: Sure.

SENATOR LEICHTER: They have a problem. They show up. They may be receiving SSI. How does the mental hygiene officials make that determination? Do they even have the ability to make the determination?

SENATOR LIBOUS: The determina tion, Senator, is with the individual because that individual is now taking care of their own personal needs, whether they go to a doctor, whether they go to a mental health clinic, whether they buy a car, whether they get a hair cut, these are individuals who are taking care of their own responsibility and needs who are on

SSI, only right now the Department of Mental Health Services says that about $4 million a year is lost in services to clients who can afford to pay but don't, and that's the only cases that they're looking at here.

SENATOR LEICHTER: Well, Senator Libous, I've no problem in saying that people who are determined by some objective standard that they're able to pay should be able to pay. I am concerned that this provision will lead to the Department turning down people who need help.

SENATOR LIBOUS: No.

SENATOR LEICHTER: Well, you shake your head and you say it can never happen. How is that; where does that assurance come from?

SENATOR LIBOUS: The assurance is within the Department that they cannot turn down anybody who needs help. They will not turn down anyone that needs help. We have -- right now we treat anyone who needs help and we receive no payment for it. The only thing this is saying

is, if that individual is receiving SSI and they are responsible for their own needs, then they are going to ask to reimburse for the services. They will not be turned down, Senator, absolutely not.

SENATOR LEICHTER: Senator, maybe it's the lateness of the hour and we've labored long and hard here, and we've passed so much significant legislation, most important bill that Senator DiCarlo ever voted on among it, but if you take a look at your bill, it says that only -- only the -- only if the person is dangerous, only if the person is dangerous will that person be de... will that person not be denied services, and the point that I'm trying to make to you is the fact that somebody receives SSI they may have been fine until last week.

Now, they have an episode; they need help. I don't know whether they -- the fact that they receive SSI establishes that they're able to pay for the services.

SENATOR LIBOUS: Senator, if you

look at the provisions of the bill, it says when a person is able to pay a fee, but the person or his or her legal authorized representative refuses to do so.

SENATOR LEICHTER: Well -

SENATOR LIBOUS: So they're not going to refuse. If your concern is refusing treatment, that's not going to happen.

SENATOR LEICHTER: No. No.

SENATOR LIBOUS: It doesn't happen now, and it won't happen under this.

SENATOR LEICHTER: Mr. President, we -- Senator Libous and I have failed to clarify the bill, so I -- I appreciate, Senator, your attempt to explain it to me and maybe it's, you know, past my bedtime or something but I - I -- your -- your answers have failed to give me that assurance although they were given with so much force when you shook your head like it can never happen, and so on.

But, Mr. President, in all seriousness and briefly, my concern is that without establishing some clear standards and

criteria that the department will deny services to people who need the services. I don't know how you make the determination that somebody's able to pay. It then becomes a very easy way of saying to somebody, We're not going to provide services unless you pay, and that person may be unwilling to pay because he doesn't have the money, they don't know how to handle their affairs because they've had an episode. They've had a problem.

I don't want us to do something here which is going to be harmful to people who are really in need, people who are mentally ill. As it is, we're doing far too little for that community and, Senator Libous, I know you're concerned with those people, but I really think that written as this bill is, that it opens the door to denial of services to people who need it.

ACTING PRESIDENT KUHL: Senator Padavan.

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT KUHL: Senator

Libous, do you yield to Senator Padavan?

SENATOR LIBOUS: Yes.

SENATOR PADAVAN: I agree with you that if someone is receiving SSI, they should pay a fee. However, where in the bill in the phrase "able to pay" do we find that ability to pay relevant to receiving a check from SSI? Is it in some section that we're amending or, in other words, it says "able to pay". It doesn't say as a resulty of receiving SSI.

SENATOR LIBOUS: I believe that's the section we're amending because that's what it refers directly to SSI.

SENATOR PADAVAN: In Section 4301, my recollection, and, of course, I don't have the book here, the law to refer to to be able to say that. Again I repeat, if they are receiving SSI, then obviously they should pay a fee, but I'm not sure the wording of the bill, the "able to pay" phrase relates to that ability. Perhaps your counsel can clarify that. You see why also, Senator, in that same vein, you say "or their legally authorized

representative."

Now, that person obviously generally would not be -- let's say it's a parent. That person wouldn't be receiving the SSI, so this kind of confuses me in terms of what we're really trying to do.

SENATOR LIBOUS: Mr. President, since both Senator Leichter and Senator Padavan bring up some good points and seeing that this is a department bill, I think we'll take it back, lay it aside and we'll take it back to the department and see if we can't get these questions answered.

ACTING PRESIDENT KUHL: Lay Calendar Number 717 aside at the request of the sponsor.

Secretary continue to call the controversial calendar.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR PATERSON: Explanation.

SENATOR DeFRANCISCO: This bill would permit the Thruway Authority to abandon canal lands directly without going through OGS. When the canal system was operated by DOT, OGS handled the abandonments since they didn't - since DOT did not have the staff nor the desire to do that.

For a two-year period after the transfer, special legislation was required for an abandonment, but that provision sunsetted, so now we have a situation where the Thruway Authority has the responsibility over canal lands, plus they have been doing their own abandonments for highway purposes for years and years and years, so they have the expertise to do it in their own department, and this would allow them to do it without involvement of OGS.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: If Senator

DeFrancisco would yield for a question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR OPPENHEIMER: Could you tell me approximately how much land is involved in this?

SENATOR DeFRANCISCO: I can't tell you the exact amount of land, but it's land along the canal. The theory that is being proposed now is to use much of that land for tourism purposes and to try to sell various parcels to groups that are willing to develop it along the canal for tourism purposes, but I can't tell you precisely. I can't even tell you approximately how much land we're talking about.

SENATOR OPPENHEIMER: And are we talking about a variety of smaller parcels along the water?

SENATOR DeFRANCISCO: Yes, yes.

SENATOR OPPENHEIMER: Thank you, Senator.

On the bill, please. On the bill.

ACTING PRESIDENT KUHL: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: Well, I want to thank Senator DeFrancisco. I had suggested an amendment which, while it won't be an amendment, will be probably in the rules that are being -- will be made up by the Department of Transportation, and that is to offer prior to the announcement in the newspapers of this property being offered, the abandoned property being offered for sale, that it be offered ten days prior, to the municipality because municipalities very often have municipal needs and if they have the advance knowledge of this abandoned property being offered for sale, they could utilize it for their own economic development for their own number of purposes. Could be recreation, could be -- let's hope not -- a site for dumping, but it is, I think, an important addition to be able to inform the municipality in which the land lies that this is

going to be offered for sale ten days prior to its offering.

So I thank Senator DeFrancisco for putting that in, and I will be supporting this bill.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: One quick question for Senator DeFrancisco.

ACTING PRESIDENT KUHL: Senator DeFrancisco, you yield to Senator Dollinger?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: Through you, Mr. President, does this in any way alter the process for abandonment, that is, it would be declared to be abandoned and then there would be bids made available, the same process as though it was the right-of-way for a road?

SENATOR DeFRANCISCO: That's right. It's the same process that we're abandoning canal lands when DOT had the

authority over the canal property. The process is no different. The lands we're talking about is exactly what Senator Oppenheimer said, small parcels that would not be usable for big projects, but small parcels we're dealing with.

SENATOR DOLLINGER: Mr. President, I think this is also a good bill. I think what this would do is give the incentive for these lands to be declared abandoned and then we'll find out how much private capital will find its way to the canal. I think it's probably a critical ingredient in trying to figure out whether private industry will really invest in lands near the canal, of which there is quite a bunch in my district, so I will be voting in favor. It's the right thing to do.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: If Senator DeFrancisco would yield.

ACTING PRESIDENT KUHL: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: Senator, there was a second part to Senator Dollinger's question which I'm not sure you answered.

Will all the rules as to competitive bidding and accepting the highest bid still apply?

SENATOR DeFRANCISCO: Let me be sure about that. The first part is correct. It's the same system that DOT used when they had authority over the canal. Whether it's the same -- no change to the Public Authorities Law. I thought so. It's the same process. I didn't want to say it without being sure.

SENATOR DOLLINGER: My understanding is that's done by auction. They put it on the block. They auction the property and it's sold to the highest bidder. That's what's happened in the right-of-ways in the Department of Transportation in my region.

SENATOR DeFRANCISCO: It could be

by sealed bid or auction. Same process though; it's the high bidder.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 1023, by Senator Present, Senate Print 767-A, an act to amend the County Law, in relation to the allocation of funds to cooperative extension.

ACTING PRESIDENT KUHL: There's a local fiscal impact note at the desk.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: And an explanation has been asked for, Senator

Present.

SENATOR PRESENT: Mr. President, the purpose of this legislation is to revise the formula for the allocation of state money to cooperative extensions.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

If the Senator would yield for one very brief question.

SENATOR PRESENT: Sure.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: And that question is that I notice that there's almost an increase of 40 percent which is actually great, the monies that would go back to the counties. I just wanted to know where the money is coming from.

SENATOR PRESENT: Out of the state funds, Senator, and they won't go back to the counties. It will go to the cooperative

extension.

SENATOR PATERSON: Thank you, Senator.

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: Announce the results when tabulated.

THE SECRETARY: Ayes 57, nays 2, Senators Dollinger and Leichter recorded in the negative.

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

SENATOR DOLLINGER: If you wouldn't mind, Calendar Number 1009, did I miss that or -

ACTING PRESIDENT KUHL: 1009 you're asking about? That was laid aside for the day.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 1167, by Senator Holland, Senate Print 1468, an acted to amend the Social Services Law, in relation to requiring an address as a condition of receiving assistance.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT KUHL: Explanation has been asked for, Senator Holland, of Calendar Number 1167, by Senator Paterson.

SENATOR HOLLAND: Mr. President, this bill would require an address as a condition of receiving assistance under the Social Services Law, whether the address be a residence, a public shelter or such site as the District Commissioner shall deem appropriate,

and the purpose of the legislation is to stop applicants from using post office boxes because we've found that many of the people were double dipping from other states that they were using post office boxes.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, I'd just like the record to reflect that Senators Abate, Connor, Espada, Gold, Mendez, Markowitz, Montgomery, Paterson, Smith, Stavisky and Waldon voted against this bill, and Senators Mendez and Waldon have already voted against it today.

Thank you.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 1167: Senators Abate, Connor, Leichter, Mendez, Montgomery, Nanula, Paterson, Santiago, Smith, Waldon. Ayes 49, nays 10.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Nanula.

SENATOR NANULA: Thank you, Mr. President.

I'd like to ask unanimous consent to be recorded in the negative on Calendar Number 835.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Nanula will be recorded in the negative on Calendar Number 835.

SENATOR NANULA: Thank you.

ACTING PRESIDENT KUHL: Senator Spano. Defer to Senator Paterson. Senator Paterson.

SENATOR PATERSON: Mr. President, tomorrow at 10:00 a.m., there will be a meeting of the Minority in the Minority Leader's Conference Room, Room 314 in the Capitol.

ACTING PRESIDENT KUHL: There will be a Minority Conference tomorrow morning at 10:00 a.m..

SENATOR PATERSON: 10:00 a.m.

ACTING PRESIDENT KUHL: 10:00 a.m. tomorrow morning, Minority Conference in the Minority Conference Room.

Senator Paterson -- excuse me. Senator Spano.

SENATOR SPANO: Can you return to the order of motions and resolutions? I believe there is a resolution from Senator Hoffmann. Can you read the title?

ACTING PRESIDENT KUHL: We'll return to the order of motions and resolutions. There is a privileged resolution at the desk.

Ask the Secretary to read the title.

THE SECRETARY: By Senator Hoffmann, Legislative Resolution commending Laverne Williams upon the occasion of his designation for special honor on Saturday, June 1st, 1996.

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Spano.

SENATOR SPANO: Under housekeeping, on behalf of Senator Volker, page 66, Calendar 618, Senate Print 3863-A, please remove the star.

ACTING PRESIDENT KUHL: Star is removed.

Senator Spano.

SENATOR SPANO: On behalf of Senator Velella, on page 22, I offer the

following amendments to Calendar 734, Senate Print 6729-A, ask the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 732 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Spano.

SENATOR SPANO: Any other house keeping?

ACTING PRESIDENT KUHL: That's it.

SENATOR SPANO: There being no further business, I move that we adjourn until Thursday, May 30th, at 11:00 a.m.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, May 30th, at 11:00 a.m.

(Whereupon, at 8:05 p.m., the Senate adjourned.)