ALBANY, NEW YORK

June 11, 1996

10:00 a.m.

REGULAR SESSION

SENATOR JOHN A. DeFRANCISCO, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT DeFRANCISCO: I'd like to call the Senate to order. Would you please join with me in the Pledge of Allegiance to the Flag.

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

In the absence of clergy, could we please have a moment of silent prayer.

(A moment of silence was observed.)

Reading of the Journal.

THE SECRETARY: In Senate, Monday, June 10. The Senate met pursuant to adjournment, Senator Kuhl in the Chair upon designation of the Temporary President. The prayer by the Reverend Jerry Arduini, Pastor, Ossining Gospel Assembly, Ossining. The Journal of Sunday, June 9, was read and approved. On motion, the Senate adjourned.

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

Presentations of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos, we have two substitutions.

SENATOR SKELOS: Please make the substitutions.

ACTING PRESIDENT DeFRANCISCO: The Secretary will read.

THE SECRETARY: On page 22, Senator Saland moves to discharge from the Committee on Rules, Assembly Bill Number 10538-B and substitute it for the identical Third Reading Calendar 858.

On page 47, Senator Farley moves to discharge from the Committee on Rules, Assembly Bill Number 9537 and substitute it for identical Third Reading Calendar 1382.

ACTING PRESIDENT DeFRANCISCO: The substitutions are ordered.

Senator Skelos, are you ready for the calendar?

SENATOR SKELOS: Yes. If we could take up the -

ACTING PRESIDENT DeFRANCISCO: Excuse me.

SENATOR SKELOS: Please recognize Senator Libous.

ACTING PRESIDENT DeFRANCISCO: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

On behalf of Senator Levy, please remove the sponsor's star from Calendar Number 108.

ACTING PRESIDENT DeFRANCISCO: The sponsor's star will be removed.

SENATOR SKELOS: Take up the non-controversial calendar.

ACTING PRESIDENT DeFRANCISCO: The Secretary will read.

THE SECRETARY: On page 4, Calendar Number 130, by Senator Trunzo, Senate Print 3314-A, an act to amend the Real Property Tax Law, in relation to exemption.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 298, by Senator Tully, Senate Print 178, an act to amend the Vehicle and Traffic Law, in relation to authorizing towns.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 375, by Senator Cook, Senate Print 3153-A, an act to amend the Highway Law, in relation to creating a farm and business transportation program.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 422, by Member of the Assembly Lafayette, Assembly Print 8807, an act to amend the

Personal Property Law, in relation to the exclusion of certain transactions.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 570, by Senator Lack, Senate Print 6301-A, an act in relation to granting the Department of Transportation.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 581, by Senator Libous, Senate Print 6197-A -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 740, by Senator Tully, Senate Print 6871-B, an act to amend the Soil and Water Conservation Districts Law.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number

746, by Senator Hoblock, Senate Print 5358 -

ACTING PRESIDENT DeFRANCISCO: Read the last section.

THE SECRETARY: Excuse me. - Senate Print 3558, an act to amend the Real Property Tax Law, in relation to establishing the dates.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 845, by Senator Levy, Senate Print 7341-A, an act to amend the Highway Law, in relation to the power of the commissioner.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 862, by Senator Skelos, Senate Print 6775, an act to amend the Civil Practice Law and Rules, in relation to causes.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 991, by Senator Farley, Senate Print 7374-A, an act to amend the State Finance Law, in relation to filing authorization.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1039, by Senator Wright, Senate Print 6870-A, an act to amend the General Municipal Law, in relation to the effectiveness.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1088, by Senator Johnson, Senate Print 575, an act to amend the Penal Law, in relation to the administrative provisions.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 1102, by Senator Maziarz, Senate Print 6332-B, an act to amend the Criminal Procedure Law, in relation to firearms.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1117, by Senator Skelos, Senate Print 5732-A, an act to amend the Family Court Act, in relation to proof of a neglected or abused child.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 1136, by Senator Goodman, Senate Print 1696, an act to amend the Transportation Law, in relation to mandating that the commissioner.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT DeFRANCISCO:

The bill is passed.

THE SECRETARY: Calendar Number 1137, by Senator Marchi, Senate Print 1753, an act to amend the Vehicle and Traffic Law, in relation to eliminating the additional annual service charge.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 1148, by Senator Stafford, Senate Print 55...

SENATOR SKELOS: Star the bill at the request of the sponsor.

ACTING PRESIDENT DeFRANCISCO: The bill is starred.

THE SECRETARY: Calendar Number 1153, by Senator Levy, Senate Print 6494-A, an act to amend the Vehicle and Traffic Law, in relation to aggravated unlicensed operation.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

November.

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1181, by Senator Nozzolio, Senate Print 6114, an act to amend the Public Authorities Law and the Real Property Tax Law.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1187, by Senator Marchi, Senate Print 6801-A, an

act to amend the Limited Liability Company Law.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1312, by Senator Padavan, Senate Print 701 -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 1314, by Senator Padavan, Senate Print 3092 -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 1318, by Senator DeFrancisco, Senate Print

4231 -

SENATOR PATERSON: Lay that aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 1320, by the Assembly Committee on Rules, Assembly Print 7839, an act to amend the Executive Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 1324, by Senator Hoblock, Senate Print 5299-A, an act to amend the Vehicle and Traffic Law, in relation to authorizing.

ACTING PRESIDENT DeFRANCISCO: There's a home rule message at the desk. Please read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1333, by Senator Marchi, Senate Print 6638-B, an act to amend the Vehicle and Traffic Law, in relation to distinctive license plates.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1345, by Senator DiCarlo, Senate Print 7494, an act to amend the Public Authorities Law, in relation to providing.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 1361, by Senator Padavan, Senate Print 2238-A, an act to amend the Vehicle and Traffic Law, in relation to driver education.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1362, by Senator Hoblock, Senate Print 2278, an act to amend the Labor Law, in relation to excluding.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT DeFRANCISCO:

Lay the bill aside.

THE SECRETARY: Calendar Number 1363, by Senator Velella, Senate Print 2586, an act to amend Chapter 576 of the Laws of 1975.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 1364, by Senator Leibell, Senate Print 2743-A, an act to amend the Penal Law, in relation to increasing the penalty.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number

1365, by Senator DiCarlo, Senate Print 2835-C, an act to amend the Civil Service Law and the Civil Practice Law and Rules.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1366, by Senator Stafford, Senate Print 3538-A, an act to amend the Soil and Water Conservation Districts Law.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1367, by Senator Hoblock, Senate Print 3891, an act to amend the Labor Law, in relation to providing for eligibility.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36, nays 1, Senator Wright recorded in the negative.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Ayes 35, nays 2, Senators Saland and Wright recorded in the negative.

ACTING PRESIDENT DeFRANCISCO:

The bill is still passed.

THE SECRETARY: Calendar Number 1368, by Senator Marchi, Senate Print 4160-B, an authorizing the city of New York to release its interest in certain real property.

ACTING PRESIDENT DeFRANCISCO: There's a home rule message at the desk. Please read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1369, by Senator Tully, Senate Print 4672-C, an act to amend the Environmental Conservation Law, in relation to the leasing of state owned lands.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1370, by Senator Smith, Senate Print 5749, an act authorizing the city of New York to reconvey its interest in certain real property.

ACTING PRESIDENT DeFRANCISCO: There's a home rule message at the desk. Please read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number

1371, by Senator Marchi, Senate Print 5806, an act authorizing the city of New York to reconvey its interest in certain real property.

ACTING PRESIDENT DeFRANCISCO: There's a home rule message at the desk. Please read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1372, by Senator Maltese, Senate Print 5827, an act authorizing the city of New York to reconvey its interest in certain real property.

ACTING PRESIDENT DeFRANCISCO: There's a home rule message at the desk. Please read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1373, by Senator Present, Senate Print 5908, an act to amend the Penal Law, in relation to antique slot machines.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT DeFRANCISCO: Excuse me. Lay the bill aside.

THE SECRETARY: Calendar Number 1374, by Senator Babbush, Senate Print 6058, an

act authorizing the city of New York to reconvey its interest in certain real property.

ACTING PRESIDENT DeFRANCISCO: There's a home rule message at the desk. Please read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1375, by Senator DeFrancisco, Senate Print 6185-A -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 1377, by Senator Spano, Senate Print 63 -- 6483, an act to amend the Labor Law, in relation to the transfer of employer accounts.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 60 days.

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1378, by Senator Volker, Senate Print 6540, an act to amend the Executive Law, in relation to the entry of arrest warrants.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first day of November.

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1379, by Senator Spano, Senate Print 6575, an act to amend the Labor Law, the Tax Law and the Administrative Code of the city of New York.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1381, by Senator Nozzolio, Senate Print 6618, an act to amend the Correction Law, in relation to the retaking of absconders.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1382, substituted earlier today by Member of the Assembly Vitaliano, Assembly Print 9537, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1384, by Senator Larkin, Senate Print 7091, an

act to amend the General Municipal Law, in relation to environmental facilities.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1385, by Senator Maltese, Senate Print 7158, an act authorizing the city of New York to reconvey its interest in certain real property.

ACTING PRESIDENT DeFRANCISCO: There is a home rule message at the desk. Please read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1386, by Senator Seward, Senate Print 7194-A -

SENATOR SKELOS: Star the bill.

ACTING PRESIDENT DeFRANCISCO: The bill is starred.

THE SECRETARY: Calendar Number 1387, by Senator Saland, Senate Print 7242, an act to amend the Vehicle and Traffic Law, in relation to authorizing a permit.

ACTING PRESIDENT DeFRANCISCO: There's a home rule message at the desk. Please read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT DeFRANCISCO:

The bill is passed.

THE SECRETARY: Calendar Number 1388, by Senator Saland, Senate Print 7248, an act to amend the Labor Law, in relation to disqualification.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 1389, by Senator Skelos, Senate Print 7303-A, an act to amend the General Municipal Law and the General Obligations Law.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1390, by Senator Marcellino, Senate Print 7328-A -

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 1392, by Senator Larkin, Senate Print 7376-B, an act to amend the General Municipal Law, in relation to bell jar game regulations.

SENATOR STACHOWSKI: Lay the bill aside.

ACTING PRESIDENT DeFRANCISCO: Lay the bill aside.

THE SECRETARY: Calendar Number 1393, by Senator Volker, Senate Print 7423-A, an act relating to permitting non-bargaining unit salaried employees.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1394, by Senator Marchi, Senate Print 7465, an act authorizing the city of New York to reconvey its interest in certain real property.

ACTING PRESIDENT DeFRANCISCO: There's a home rule message at the desk. Please read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1395, by Senator Volker, Senate Print 7472-A, an

act to amend the Town Law, in relation to absentee ballots.

ACTING PRESIDENT DeFRANCISCO: Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1396, by Senator Spano, Senate Print 7518, an act to amend the Vehicle and Traffic Law, in relation to establishing a residential parking system.

ACTING PRESIDENT DeFRANCISCO: There's a home rule message at the desk. Please read the last section.

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

ACTING PRESIDENT DeFRANCISCO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1397, by Senator Marchi, Senate Print 7535 -

SENATOR SKELOS: Lay the bill aside for the day.

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

THE SECRETARY: Calendar Number 1398, by Senator Hoblock, Senate Print 7623, an act authorizing the city of Albany.

ACTING PRESIDENT DeFRANCISCO: There's a home rule message at the desk. Please read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

THE SECRETARY: Calendar Number 1399, by Senator Hoblock, Senate Print 7631 -

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT DeFRANCISCO: Lay that bill aside for the day.

That completes the reading of the non-controversial calendar.

SENATOR SKELOS: Stand at ease for a moment.

ACTING PRESIDENT DeFRANCISCO: The Senate will stand at ease.

(The Senate stood at ease.)

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

ACTING PRESIDENT DeFRANCISCO: The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the

following nominations: Judge, New York State Court of Claims: Phyllis Skloot Bamberger of New York City.

ACTING PRESIDENT DeFRANCISCO: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

It's my privilege this morning to rise to move the nomination of Phyllis Skloot Bamberger as a judge of the New York State Court of Claims.

Judge Bamberger is being reconfirmed. She currently sits in New York Supreme Court in Bronx County on criminal cases. She is and was attorney in charge of the federal defender service for the Legal Aid Society from 1972 to 1988, associate attorney in charge of the Legal Aid Society of the Criminal Appeals Bureau from 1967 to 1972 and before that was an associate attorney in the Legal Aid Society. She's very well known within the New York City legal community for her good and scholarly work with respect to criminal matters

that are in New York Supreme county, and it is my privilege at this time to yield to Senator Goodman.

Senator Goodman, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Goodman.

SENATOR GOODMAN: Mr. President, it is always a particular privilege to be able, Mr. President, to rise in support of names of distinguished jurists who are coming before this body for approval and in this case, my pleasure is to speak to the merits of Phyllis Skloot Bamberger.

The judge's record is very extensive and she is noted as a true intellectual of the court with enormous jurisprudential scholarship and capacity.

She has had a distinguished record starting in 1980 -- 1963 to '67, during which time she was an associate attorney with the Legal Aid Society and the Criminal Appeals Bureau.

From 1967 to '72, she was an

associate attorney in charge of the Legal Aid Society Criminal Appeals Bureau in charge of federal -- the federal appeals office.

From 1972 to 1988, she was the attorney in charge of the Federal Defender Services Unit of the Legal Aid Society, and in 1988 she became a judge of the New York State Court of Claims designated to sit in the New York Supreme Court of Bronx County.

Her professional and civic activities are extensive and time does not permit me to give you the full catalog of these, but she has been involved with the Office of Court Administration, Committee on Alternatives to Incarceration and she chairs the Subcommittee on Access to Information. She is also an OCA advisory committee member on criminal law to the chief administrative judge. She also serves in the Bronx Supreme Court anti-discrimination panel and a variety of other highly responsible positions with the Office of Court Administration.

Mr. President, it is very

reassuring to know that a person of this quality will be sitting on this bench and to say that we are very pleased, indeed, to have the opportunity for this body to give her what I trust will be its unanimous approval.

ACTING PRESIDENT DeFRANCISCO: Senator Abate.

SENATOR ABATE: Yes. I too rise in support of this reappointment.

Judge Bamberger deserves the excellent reputation that she's earned over the years. As I described her in the Judiciary Committee, she really is a judge's judge. She's a student of the law and a student of the criminal justice system. Not only is she fair on the bench, but she does everything she can when she's not on the bench, whether it's through Bar Association committees or the chief judge's committees, to look to see how the court can improve its delivery of justice, whether it's improving information systems or whether it's just improving the information that's available to the judge so they can make informed

decisions.

I've had the opportunity over the course of a decade to work with Judge Bamberger. She's a delight. She's informed. She's intelligent. She's fair. She has all the qualities that we need in terms of what I think is an extraordinary addition to the bench.

I hope my colleagues will join with me. She has a wonderful, extraordinary record and we're lucky to have her for another ten years.

ACTING PRESIDENT DeFRANCISCO: Senator Dollinger.

SENATOR DOLLINGER: It's Judge Bamberger we're doing, Judge Bamberger?

Mr. President, I just rise to reiterate a point that I made in the Judiciary Committee, and I have to admit that I was extremely gratified to hear Judge Bamberger's answer to a question that I posed about the dispute about judges that has occurred in this state and frankly in this nation in the last six months when judges who have been called on to

make decisions have been criticized for them at length by other public officials.

I've said before in this chamber that judges are not above criticism, that they deserve in the marketplace of ideas to be a part of our process, that criticism, fair criticism of a judge at times can be appropriate, but at the same time, I'm very concerned that criticism of the judiciary could be interpreted by the judiciary as sending them a message that we want them to change the delivery of justice and the fairness that this state and this nation have long held in a revered place, and I was pleased when I asked Judge Bamberger whether this controversy, these criticisms, these comments had affected her or whether they had affected other members of the judiciary. She said that, although it livened the coffee table conversation among the judiciary, it was not and would not impact their delivery of justice.

I believe that's an important message that we send to the people of this state, that the judiciary sends to all the

people in this state, that although there may be controversy and debate, our system of justice and fairness in applying the Constitution that we all hold in a high place and the laws that we pass for the good of the public will be fairly and evenly administered in our courts and that judges will continue to do what they believe is the right thing. I guess the whole term "judge" means someone who's called upon to apply law and facts and come up with an equitable and fair result.

I'm glad that the judiciary is thinking that way. I'm glad that Judge Bamberger is thinking that way, and I'm pleased that all of these nominees today will continue to deliver the high quality of justice that New York has always been known for.

So I congratulate Judge Bamberger and the rest of the members who are being nominated today. They are high quality. They will give Judge Mega tools to continue to provide a high quality justice in this state.

I will be voting in the

affirmative, Mr. President.

ACTING PRESIDENT DeFRANCISCO: The question is on the nomination of Phyllis Skloot Bamberger to be a judge of the New York State Court of Claims. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Phyllis Skloot Bamberger is hereby confirmed as a judge of the New York State Court of Claims.

Judge Bamberger is here with her husband, Michael Bamberger. We welcome both of you to the chambers and we congratulate you on your confirmation, and on behalf of Senator Bruno and all the members of the state Senate, we thank you for serving and are appreciative of all your prior service and your continued service. Thank you.

(Applause)

The Secretary will read.

THE SECRETARY: Senator Lack,

from the Committee on Judiciary, reports the following nomination: Judge of the New York State Court of Claims: Antonio I. Brandveen of New York City.

ACTING PRESIDENT DeFRANCISCO: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

It's my pleasure once again to rise to move the nomination of Judge Antonio Brandveen of New York City who appeared earlier today before the Judiciary Committee, was found eminently satisfactory in all respects, unanimously confirmed by the Committee and moved to the floor.

I'm going to yield once again to Senator Goodman, but before I do, since I come from the town of Huntington and Judge Brandveen is a part-time professor at Touro Law School whose advisory board I sit on, I'm particularly pleased to be able to rise today to join in his confirmation and move his nomination, but I will yield to Senator Goodman from New York City.

Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Goodman.

SENATOR GOODMAN: Mr. President, I'm delighted to speak on behalf of Justice Antonio I. Brandveen whose experiences really mirrors the remarkable qualities that New York can make available to its citizens when they are diligent and conscientious in the pursuit of their profession.

First of all, I take special note of the fact that Judge Brandveen has not always spent his time on the law track. Indeed, he received his B.S. in 1969 from Fordham University and the School of Business Administration, and as one who is not a lawyer and indeed has come up through the ranks of business administration, that's a special delight to take note of, but above and beyond that, he was a graduate of the New York University School of Law in 1972, the National Institute of Trial Advocacy from which he graduated in 1976.

In his judicial experience, which is quite extensive, he served as a judge in the New York City housing part of the Civil Court from 1980 to '85, a court which requires considerable strength of character and willingness to intercede in all sorts of tenant/ landlord disputes and went on in 1986 and '87 to be a judge of the New York City Civil Court and Criminal Court.

Judge Brandveen has been a justice of the New York State Court of Claims from 1987 to the present and he is also a scholar and teaches as an adjunct law professor at the Jacob D. Fuchsberg Law Center at Touro College as noted by my colleague, Senator Lack. In addition, he was an adjunct law professor in the spring of 1991 at Touro College in legal methods at the same center.

Mr. President, this is a highly respected justice. He has substantial roots in the Harlem community and has had a very signif icant service to that community, serving in the Central Harlem Senior Citizens Coalition. He

was a past member of its board of directors, the Harlem Legal Services, Incorporated and a variety of other very important and noteworthy ventures in that community and also as an individual who has had military service. From 1969 to 1972, he served in the United States Air Force as a first lieutenant. With this excep tional and diversified record, it's a pleasure to second his nomination.

ACTING PRESIDENT DeFRANCISCO: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

As usual, Senator Goodman has given us a fair perusal of the educational ex perience and the legal credentials, the admis sions, the professional experience and the teaching experience, the public service and the military service that Judge Brandveen brings to this nomination.

I just wanted to speak from personal experience knowing him and also he is the second greatest legal mind in his family.

His wife, Fern Fisher Brandveen, is the one who is really the great jurist, but I would say that in his own right, he is distinct and the fact that he can do so well in the shadow of such another great legal scholar is a real test of his ability, but personally, there is no one who is more affable, no one who is more concerned, no one who is more thorough in his delibera tions, and I can't think of really the words to describe the type of human being that Judge Antonio Brandveen has been, and I think it is wonderful that Senator Lack and Senator Goodman -- Senator Waldon wants to say something. There are many who aren't here who -- whose feelings we are reflecting as we confirm him and also confirm him with adulation.

ACTING PRESIDENT DeFRANCISCO: Senator Waldon.

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

It is good to see someone from the 'hood do extremely well.

Tony and I met many, many years

ago and his reputation precedes him as charact erized by both, while I was in the chambers, Senator Goodman and Senator Paterson, but it is nice to know someone that you studied for the bar with, that you had some pain and suffering collectively with because the bar exam and the whole law school experience sometimes can be very, very painful, but he is a brother who did it all. He not only rose above those bumps in the road that were the examinations in law school and the post-law school experience, but has now made his mark on the judiciary, and for some of us who practice law, that is the highest calling.

I applaud what he has done, but more importantly, I applaud what he will continue to do and will do in the future.

This man will make his mark on the bench and will be an example for the rest of us who may one day wish to aspire to follow in his shoes.

I applaud you. I applaud your family. I'm told, Tony, that your father is

here, and it must be a great day for him to see you achieve so much while he's here still to experience it with you. Congratulations.

ACTING PRESIDENT DeFRANCISCO: Senator Mendez.

SENATOR MENDEZ: Mr. President - Mr. President, I really want to congratulate Governor Pataki for submitting to this body the names of highly qualified individuals for our judicial -- to serve in our judicial branch of government.

I happen to know judge Antonio Brandveen for some years, and I have always been impressed because, although I know that he has a very incisive mind, although we all know that he has the right judicial temperament -- the right temperament to serve in the -- in the justice system, yet he's a very -- a very wonderful, decent human being who relates to everybody in a -- from a human point of view and doesn't allow statues to interfere in his relationship with others.

I have great affection and

respect for the judge. I am most pleased that he is being reappointed. So, again, I congratulate the Governor for his reappointment.

Thank you, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Oppenheimer.

SENATOR OPPENHEIMER: Actually, I came into the chamber a few minutes late, and I would just like to take one minute, if I may, to say a few words about Judge Phyllis Bamberger.

She is a woman of extraordinary intellect and a genuinely thoughtful person who, on the bench, has shown what is her nature to be empathetic and to be caring, and she has been a brilliant judge, and I'm just very proud to be her friend of 38 years, and I congratulate the Governor and all of us on this reappointment.

Thank you.

ACTING PRESIDENT DeFRANCISCO: The question is on the nomination of Antonio I. Brandveen to be a judge on the New York State Court of Claims. All those in favor signify by

saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Antonio I. Brandveen is hereby confirmed as a judge of the New York State Court of Claims, and I welcome Judge Brandveen, along with his wife, Justice Fern Fisher Brandveen, who we've learned is the preeminent judge in the family; his parents, Antonius and Louisa Brandveen, the court attorney, Ronald C. Travis and senior secretary Edward M. Ortas.

We congratulate you for your appointment and we thank you for your service to the state of New York.

(Applause)

The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nomination: Judge of the New York State Court of Claims: Robert J. Hanophy of Flushing.

ACTING PRESIDENT DeFRANCISCO:

Senator Lack.

SENATOR LACK: Thank you, Mr. President.

Once again, I rise to move the nomination of Robert J. Hanophy of Flushing for reconfirmation to the Court of Claims.

Judge Hanophy appeared before the Committee this morning, was unanimously endorsed and the nomination was moved to the floor, and it's my privilege to yield to Senator Maltese.

ACTING PRESIDENT DeFRANCISCO: Senator Maltese.

SENATOR MALTESE: Mr. President, I've had the honor of being a good friend of the distinguished jurist, Bob Hanophy, for some 30 years. I congratulate the Governor and our former colleague who has -- who is with us, Chris Mega, on the selection of Judge Hanophy.

I sat in on the hearings before the Judiciary Committee and do not recollect a more distinguished group of judicial nominees for the Court of Claims.

The cases that Judge Hanophy has

handled over the last ten years are the most difficult homicide cases. They are the most agonizing to deal with and extremely complex. Despite that, Judge Hanophy has repeatedly conducted himself with great distinction, has received the approbation of many groups, rating groups, always rated as among the top ten judges. He has received awards from victims rights groups. He works very, very well with court officers, court personnel and lawyers, both defense and prosecution.

The reputation he's achieved is -- goes beyond our state borders. This has led the Court of Claims to appoint him to supervise the assignment and -- of the homicide cases in Queens and as a result, Queens County has one of the most enviable records of any urban county probably in the nation. Hundreds of cases have moved with fairness and at the same time been handled individually with due regard for the severity of the charges -- the charge of homicide.

The combination of experience and

diligence and background that Judge Hanophy brings to these cases make him certainly a per son most commendable and worthy of renomination to the Court of Claims.

I congratulate Judge Hanophy, not only for his distinction on the bench but for his application of not only education and back ground but good, old-fashioned common sense.

I congratulate him, his wife Chris. He also has the privilege and honor of having two children follow in his footsteps, Bob, Jr. and his daughter who are both assistant district attorneys in Queens County.

I am honored to move the nomination of Judge Robert Hanophy.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Gold.

SENATOR GOLD: Mr. President, let's be fair. When Senator Maltese, a dedicated conservative Republican says that Governor Pataki sends us fine judges, you know, we expect that, but what is I hope as

significant is that Senator Dollinger and Senator Leichter and Senator Abate and myself, who are not exactly dedicated conservative Republicans have on prior occasions and today again say that we are delighted that the Governor has really taken his judicial appointments beyond politics, and I mean that from the point of view of his initial appointments have been wonderful and for some of the appointments which are reappointments of the Cuomo administration, and it is just really a good feeling. The judiciary, particularly in this day and age, needs a certain amount of independence and I think the Governor, while some of his press statements have not thrilled me, with his appointments he certainly has shown that.

In that regard, as I pointed out in the Committee, we are elected, every two years as the Assembly and the Congress, and we're used to getting our brains beaten out by the press, but we appoint or elect judges for much longer periods of time hoping that there

will be a certain amount of independence, and in that regard, Judge Bamberger's responses that judges have been changing their luncheon talk but don't worry about it, they're doing great in the courtrooms was encouraging.

I asked Judge Juviler about the sentencing process and the plea bargaining process and off the record he said to me, "Look", he says, "that goes with the territory and you got to be tough" and those are encouraging answers, but we still are only people, and I am glad that the Governor is sending us people who have a sense of personal strength and who in the courtroom can forget about the press and stick with the law.

In this regard, this particular nominee, Judge Hanophy, has the good luck and - I don't want to give him a kind of hurrah as we say, but he's done pretty good with the press and rightfully so.

An extremely hard-working judge, an extremely fair judge and someone who I can tell you has the respect of his presiding judge,

Judge Lehner and the other members of the bench in Queens County, and I'm delighted that the Governor has continued this fine gentleman on the bench. He is a credit to the bench and it certainly is a feather in the Governor's cap.

ACTING PRESIDENT DeFRANCISCO: Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President.

I think Senator Maltese and Senator Gold gave you a very good picture of the nominee, Judge Hanophy.

I've known Judge Hanophy for about 25 years, and over that period of time, I think it's fair to say that he reached the judiciary the old-fashioned way, hard work and dedication to the law, and has demonstrated the wisdom of his original appointment as you've heard here already by virtue of a career and a level of expertise that is, in many instances, unparalleled in the city of New York.

He's a very fine person. One of his greatest assets is his wife who has a

beautiful backhand on the tennis court, which is -- not much that I can say for Judge Hanophy, but nevertheless, I'm proud to stand here and second the nomination on behalf of my constituent and friend, Judge Hanophy.

ACTING PRESIDENT DeFRANCISCO: The question is on the nomination of Robert J. Hanophy to be a judge on the New York State Court of Claims. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Judge Robert J. Hanophy is hereby confirmed as a judge of the New York State Court of Claims.

(Applause)

Judge Hanophy, on behalf of Senator Bruno and the entire Senate, I want to congratulate you on your past work and all the fine work that you're going to do in the future.

Thank you.

The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nomination: Judge of the New York State Court of Claims: Michael R. Juviler of Douglaston.

ACTING PRESIDENT DeFRANCISCO: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

Once again, I rise to move the nomination of Michael R. Juviler as a judge of the New York State Court of Claims. His credentials have been examined, found eminently satisfactory by the Committee. Judge Juviler appeared before the Committee this morning and was unanimously confirmed and the nomination moved to the floor and with -- at this point, I'd just like to yield to Senator Padavan.

ACTING PRESIDENT DeFRANCISCO: Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President.

We have an abundance of riches

here today, certainly in my case to have the opportunity to speak on behalf of another fine individual whom I've known for over two decades and to talk a little bit about his background.

After graduating from Yale Law School, he joined the district attorney's office in Manhattan under Frank Hogan. For those of you in law I'm sure know that that was a crucible unparalleled probably in any county at any point in time, and he was there for 14 years. Distinguished himself in so many different ways in arguing cases, in frequently arguing before the New York State Court of Appeals on behalf of D.A. Frank Hogan.

He was of immense assistance to this legislative body as counsel to the New York State Office of Court Administration under Administrative Judge Richard Bartlett, who I'm sure many of you remember. He also had an opportunity to advise the -- one of your predecessors, chairman of Judiciary, Senator Gordon, on a number of very significant issues.

As a judge of the Criminal Court

which he served from 1979 to '82, he drafted a piece of work that was of particular interest to me at that time as chairman of the Senate Committee on Mental Health, dealing with the Insanity Defense Reform Act of 1980, which we adopted.

His writings and his research and development of law in that very, very difficult and very tricky area was written about, applauded, discussed throughout the state, if not throughout the country.

As an acting Supreme Court justice from '82 to '86, he again distinguished himself and from '86 to present, he has, of course, served in Supreme Court, Kings County, assigned to the criminal term.

And so we're here today on his reappointment, and I have spoken to his professional credentials, but let me say in addition to that, he's a fine person, a very active member of his community, a good father, a good husband, very interested in what goes on in this state, not only where he lives but on a

very -- on a very broad and all encompassing basis.

So it's my honor to second his nomination and to congratulate him and all of the nominees. I think we again have a -- as has been said here several times, a marvelous day in terms of the quality of those who are being submitted to us for reappointment to the New York State Court of Claims.

Thank you, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Leichter.

SENATOR LEICHTER: Yes. Mr. President, Senator Padavan gave a very full background of really a very distinguished judge, but he left out -- and I want to correct -- you failed to mention that his college was Swarthmore College, and he and I shared the same alma mater, but what I really wanted to get up and say is I had the opportunity as the ranking member of the Judiciary Committee to sit and hear all of these nominees who are up for reappointment come before us, and I was struck

by the uniform excellence of the people that we're confirming, and last week we confirmed some new appointees, new judges, and again, I think the members of both sides of the aisle got up and said really what fine people, what fine additions these were to the judiciary.

The point I want to make is that there have been just too many instances, it seems to me, where the judiciary has been attacked and where all judges have been maligned and where the public is given the impression that there's incompetent, ineffective, uncaring judges on the bench, and that just isn't true, and when you take a look at these judges -- and somebody like Judge Juviler, with his extensive background, who's dedicated himself to law enforcement, to a good, sound criminal justice system, I think that we maybe should really pause and those who have been leading these attacks on the judiciary really ought to stop and think for a moment what they're doing because they're really weakening the regard that people have for the judiciary, for law

enforcement. They're putting judges under intolerable pressure, judges who cannot defend themselves.

Yes, certainly no one in our government, in our society is above criticism, but I think there's such things as fair criticism. There's also pandering, and I'm afraid that what we've seen is pandering.

So as we confirm these people, I think that we also ought to, in every way that we can, let the public know what exceptionally fine people we have in the judiciary of the state of New York and certainly this nominee is an example of that.

I'm very pleased to second his nomination.

ACTING PRESIDENT DeFRANCISCO: The question is on the nomination of Michael R. Juviler to be a judge on the New York State Court of Claims. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Judge Juviler is hereby confirmed as a judge of the New York State Court of Claims. Congratulations.

(Applause)

The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nomination: Judge of the New York State Court of Claims: Gabriel S. Kohn of Searingtown.

ACTING PRESIDENT DeFRANCISCO: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

Once again, I rise to move the nomination of Gabriel S. Kohn for reconfirmation as a judge of the Court of Claims. Judge Kohn has appeared before the Committee, was unanimously confirmed to move the nomination to the floor and as another adjunct professor at Touro Law School, it is my privilege to yield to Senator Tully.

ACTING PRESIDENT DeFRANCISCO: Senator Tully.

SENATOR TULLY: Thank you, Mr. President.

As everyone in this chamber knows and the public knows, the court calendars are clogged. We have some eminent jurists awaiting confirmation, I think four more, including the one I'm about to nominate. We want to get them the heck out of here. So we could talk for hours on each and every one of these eminently qualified jurists, and I'm very pleased to congratulate the Governor on his recommendations, and I'm going to be very brief with respect to my nominee.

He has a plethora of judicial qualifications. There are very, very few areas of the law that he has not served in, but he has, besides all of that, qualification in the law, the qualifications of compassion, the qualifications of humility, the qualifications of judicial temperament, and I'm pleased to recommend to this body and second the nomination

of judge Gabriel S. Kohn to the New York State Court of Claims.

ACTING PRESIDENT DeFRANCISCO: The question is on the nomination of Gabriel S. Kohn to be a judge of the New York State Court of Claims. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Gabriel S. Kohn is hereby confirmed as judge of the New York State Court of Claims. Congratulations.

(Applause)

The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nomination: Judge of the New York State Court of Claims: Dan Lamont of Cobleskill.

ACTING PRESIDENT MAZIARZ: Senator Lack.

SENATOR LACK: Thank you, Mr.

President.

I rise once more to move the nomination of Daniel Lamont of Cobleskill as a judge of the Court of Claims. He is not from downstate. He is from upstate. So I can yield to Senator Seward, but we're happy once again in a very short time to welcome Judge Lamont back to our chamber so that we can go through a very nice and again cordial reconfirmation ceremony here this morning, particularly since he's accompanied by his entire family, but I will yield for those purposes to Senator Seward, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Seward.

SENATOR SEWARD: Thank you, Mr. President.

How quickly a year goes by. In June of last year, we were here congratulating Governor Pataki on nominating Judge Dan Lamont to be a judge of the Court of Claims for a short tenure and today we're back once again congratulating the Governor on the renomination

of Judge Lamont to the Court of Claims, and I'm delighted to be standing to move his confirmation.

Judge Lamont is a graduate of Hamilton College and received his doctorate of laws degree with honors, by the way, right here at Albany Law School, and after a very distinguished legal career which included such stints as being an assistant attorney general employed by our former Attorney General, Louis Lefkowitz, service in the United States Navy where he served as trial counsel, defense counsel and as a military judge and then for many years as a practicing attorney in Schoharie County.

In 1978, Judge Lamont was elected as the Schoharie County judge, Surrogate and Family Court judge for a ten-year term, and he was re-elected in 1988.

Senator Lack mentioned that we were confirming an upstate judge, and for - those of my downstate colleagues may not be familiar with what a three-hatted judge does in

a small county upstate, handling not only the county judge duties but also Surrogate and Family Court, same judge, and through that experience, many, many years of that experience, Judge Lamont dealt with all aspects of the law, a wide breadth of experience and he did so very capably and ably.

And as I mentioned, in June of 1995, he was appointed by Governor Pataki and confirmed by this body as a judge of the New York State Court of Claims and throughout this past year, he has been assigned as acting Supreme Court justice to hear criminal cases in the Capital District and throughout the state. He is known throughout the state as a fair but firm judge, a man of integrity, very fine qualities.

On a personal level, I have always known Judge Lamont to be hard-working, a very fine person, a very gracious individual, caring, compassionate, a strong family man, a very positive influence in his community.

This is certainly a day of pride

for the entire Lamont family, Schoharie County and for me personally to be able to move the nomination of Judge Dan Lamont, and before doing so formally, Mr. President, I would like to have the opportunity to just mention to my colleagues that Judge Lamont is accompanied today by his wife, Beth Lamont, their children Wendy, Kathryn, Seth and Sarah, his mother, Mrs. Rie Holcomb, his brother, Henry Lamont, his confidential secretary, Donna Robtoy and confidential law clerk Darrin Dietz.

As I said, this is a day of pride for all of us who know Judge Lamont and respect him very highly. I move his nomination.

SENATOR COOK: Mr. President.

ACTING PRESIDENT MAZIARZ: The Chair recognizes Senator Cook.

SENATOR COOK: Mr. President, Senator Seward has very appropriately outlined Judge Lamont's legal qualifications and personal qualifications, and I simply want to add that - the assurance to everyone in this chamber, that if you were to take a poll in Schoharie County

of the person who is identified as the most warm, respected and beloved person in the county, Dan Lamont would be that person, and I am very pleased to consider him to be among my close friends and to join in congratulating the whole family on this great day.

ACTING PRESIDENT MAZIARZ: Senator Hoblock.

SENATOR HOBLOCK: Mr. President, it gives me great pleasure to rise to join with Senator Seward and Senator Cook in seconding the nomination of Dan Lamont as a Court of Claims judge.

Dan and I are classmates and we go back almost 30 years, and I can tell you that almost 30 years ago, most of us tried to look over his shoulder because of Dan's intelligence, perception and dedication to his studies, and it has shown through his career -- and he's had a distinguished one. I don't know of too many individuals that are as principled and dedicated as Dan Lamont.

I think it was an excellent

suggestion by the Governor last year and an excellent one this year for renomination to this important court, and I think that we can all look upon Dan with a great deal of pride because I know that he is going to return that trust and confidence that we will give him today. He will serve as an extreme example of one dedicated to the jurisprudence. Just a nice guy and he will do a great job.

So, Dan, congratulations. I'm proud to second your nomination.

ACTING PRESIDENT MAZIARZ: Thank you, Senator.

The question is on the nomination of Dan Lamont of Cobleskill to be a judge on the New York State Court of Claims. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Judge Lamont is hereby confirmed as a judge of the New York State Court of Appeals -- Court of Claims. I'm sorry. Court

of Claims.

(Applause)

Judge, on behalf of Senate Majority Leader Bruno and all of my colleagues in this body, I want to congratulate you, welcome your family here to the New York State Senate and may you have a long career in the New York State Court of Claims before you go to the Court of Appeals, Judge.

Senator Volker.

SENATOR VOLKER: Mr. President - Mr. President, on behalf of Senator DeFrancisco, I would like to announce an immediate meeting of the Tourism Committee in Room 332 of -- the Republican Conference Room, Room 332, a Tourism Committee.

ACTING PRESIDENT MAZIARZ: There will be an immediate meeting of the Tourism Committee in Room 332.

The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nomination: Judge of the New York

State Court of Claims: Michael F. Mullen of Huntington.

SENATOR LACK: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

With that little interruption by Senator Volker, Gordie Howe walked over to me and said we just got to interrupt for a moment and call a committee meeting. I suggested that he ask Senator Volker to stand up and say we were interrupting these confirmations because a message just arrived from the second floor. We might get back to it in a few minutes so we could see what would happen to Mike Mullen who happened to be the next confirmation but, Judge Mullen, you should know that Gordie said that under no circumstances would he ever do it to such an old friend such as you, but everybody else who is standing around here did vote that that's exactly what should happen, but in any event, it is surprising how many years nine and

a half can be when it's compressed to once again reconfirming -- confirming on this floor Mike Mullen as a judge of the Court of Claims.

It's my pleasure as Chair of the Committee on Judiciary to stand up to move the nomination. Mike Mullen, as certainly most of us in the Senate know, was counsel to my predecessor, the late Senator Bernard Smith. After that, he became an assistant counsel to Senator Warren Anderson, the then Senate Majority Leader. To many of us, he was known as Father Mike only because when we would go and ask to try to get our bills reported to the floor, we would have a very nice conversation. We felt better as a result of it. We didn't necessarily get our bills to the floor, but the one thing we could always certainly count on in dealing with Mike Mullen as a counsel and as assistant counsel to the Senate was that he was thoroughly prepared, could deal with any problem that any member could bring him and did so judiciously, fairly and honestly, and you can't really ask for more than that in terms of

somebody becoming a judge, and Mike Mullen in the last nine and a half years has eminently proved that.

He is now the supervising judge of the Superior Criminal Courts in Suffolk County which makes him responsible for all major felony trials that are conducted in Suffolk County, one of the busiest Criminal Courts in the state, not the busiest outside the city of New York.

His reputation as an eminently fair jurist precedes him and he is universally regarded by all attorneys and all judges in which he deals with.

It's my pleasure, Mr. President, to move his nomination and to welcome Judge Mullen, if only for a short time, back to our Senate chamber.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Lack.

Senator LaValle.

SENATOR LAVALLE: Thank you, Mr. President.

It's a great privilege, and I do so enthusiastically, to second Judge Mullen's nomination.

It seems but, as Senator Lack mentioned, a short time ago that we were on this floor confirming Judge Mullen, and during that period of time that he has been on the bench, he has handled many, many difficult cases back on Long Island.

He's done so in a very scholarly fashion. He's brought a great deal of intellect and has a -- just a wonderful judicial temperament in presiding over the very, very difficult cases that he has had.

As Senator Lack mentioned, before going on the bench, Judge Mullen worked here in the Senate as counsel to the Majority Leader, and I had a great deal of interaction with the judge because he handled education and higher education for the Majority Leader's office, and I can tell you during that time, he looked at each bill in a very, very careful and fair way but the judge, whether it was here or on the

bench, no detail is too small that he does not look at it, examine it and make sure that it does not escape careful scrutiny.

So it's with great pleasure that I second this nomination, Mr. President.

ACTING PRESIDENT MAZIARZ: Thank you, Senator LaValle.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I rise to enthusiastically support the nomination of Mike Mullen.

Let me just say this, that not only was he a distinguished counsel as Senators LaValle and Lack have both said, I had the opportunity to work with him on one of the most difficult environmental criminal liability polluting bills that was ten years in trying to get it through this house, and he put it together to the satisfaction of almost everyone. Brilliant counsel.

Incidentally, I find reading today -- and I did not know that -- that he was

-- went to a fine Jesuit school and was an outstanding basketball player and was on a basketball scholarship, but not only is a brilliant lawyer and a great judge and a nice person, I think it's imperative that this house confirm him because he has six kids and he really needs the job.

ACTING PRESIDENT MAZIARZ: The question is on the nomination of Michael Mullen to be a judge on the New York State Court of Claims. All those in favor please signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Judge Michael Mullen is hereby confirmed as a judge of the New York State Court of Claims.

(Applause)

Congratulations, Judge. On behalf of Senator Joseph Bruno and all of my colleagues here in the New York State Senate, we want to welcome you and congratulate you and

also welcome your wife Ann Marie here with us this afternoon. Congratulations, Judge.

The Secretary will read.

SENATOR VOLKER: Mr. President, excuse me.

ACTING PRESIDENT MAZIARZ: Senator Volker.

SENATOR VOLKER: Excuse me just one second. Would you recognize Senator Babbush for a second, please.

ACTING PRESIDENT MAZIARZ: I'm sorry. Senator Babbush.

SENATOR BABBUSH: If I was here yesterday, I would have voted against Calendar Number 1351, 1352, 1358 and 1361.

ACTING PRESIDENT MAZIARZ: The record will so reflect, Senator.

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Volker.

SENATOR VOLKER: On behalf of Senator Norman Levy, there will be a Transportation meeting at 11:30 in Room 124. A

Transportation meeting, 11:30, Room 124.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nomination: Juanita Bing Newton of New Rochelle.

ACTING PRESIDENT MAZIARZ: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

It's with real pleasure that I rise once again to move the nomination of Juanita Bing Newton of New Rochelle to succeed herself as a judge on the New York State Court of Claims.

Judge Newton, as with Judge Mullen and others that we'll be considering on Thursday, has more than distinguished herself in her first term on the Court of Claims and currently serves as administrative judge of the criminal branch of Supreme Court in Manhattan and is widely regarded as one of our finest

jurists in that city, and it is with great pleasure that I yield to Senator Goodman.

ACTING PRESIDENT MAZIARZ: Senator Goodman.

SENATOR GOODMAN: Mr. President, although this is last on our calendar, it is, indeed, by no means least. This is a highly significant nomination in that as Senator Lack has indicated, Judge Juanita Bing Newton is the administrative judge of the criminal branch of the First Judicial District. One cannot emphasize highly enough the importance of that post because it involves the administrative skills, as well as the judicial skills overseeing one of the most crowded and complex court parts in the United States of America.

Indeed, the functioning of our Criminal Court in this area is one of the pillars of the criminal justice system and unless it is ably administered, it can cause tremendous overcrowding, a jam-up in the disposition of crucially important criminal matters and, therefore, the fact that Judge

Newton has been entrusted with this high responsibility I think is a unique tribute to both her skill and her unique ability as an individual who can administer others in the pursuit of justice.

Mr. President, Juanita Bing Newton's career is a classic one in the sense that she emerged from a mid-western university and then had the great good sense to come back to her home state in New York. In addition to serving as administrative judge, she has climbed up the ladder in successive steps that are most impressive.

I'll just start with the year 1974, at which time she was a researcher in the United States Justice Department in the Law Enforcement Assistance Administration counsel's office. She then became assistant district attorney in Bronx County, serving in that post from September 1975 to March 1984. She was the executive director and general counsel to the New York State Sentencing Guidelines Committee from March '85 to November '85, and you will

remember that sentencing guidelines were a critical matter since there were substantial imbalances and curious inequities that had crept into that system and she was instrumental in getting that problem straightened out. She was executive assistant to the deputy chief administrative judge for the City Courts and the OCA from November '85 to December '86 and from January 1987 to the present has served as a judge of the New York State Court of Claims, an acting justice of the New York State Supreme Court.

I do think the record should also point out that she has had a significant participation in several judicial committees and programs of the highest importance; to wit: the New York State Judicial Conduct Commission, the New York State Violence Against Women Advisory Board, the state's Judicial Committee on Women in the Courts, the Franklin Williams Judicial Commission on Minorities in the Courts, the state Advisory Committee on Criminal Practice and Procedure, and she is the past chairperson

of the anti-bias committee and panel of the Supreme Court of New York County.

Mr. President, I deem it a privilege and a very high honor, indeed, to second the nomination of this outstanding jurist and distinguished court administrator.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Goodman.

Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

Again, Senator Goodman has outlined with great thoroughness the credentials of this candidate and has pointed out what a stellar jurist she has been.

During the period of time 1984-1985 when my father was serving on the Sentencing Guidelines Committee of New York State, he told me of the work of the executive director and general counsel, Juanita Bing Newton.

It seems that I was in a conversation with the chief administrator of the

New York City Courts a couple years later and heard the same raving and accolades that were due upon Judge Newton based on her work as the executive assistant to the deputy chief administrator of the city of New York, and so it appears that every place she goes, those around her are made well aware of her great competence, her great ability and her contribution to the law.

She has served on the Court of Claims since 1987, as Senator Goodman pointed out and as he further pointed out, has been a chief administrative in the 1st Judicial District in the Bronx, which is very difficult area to supervise, and so we wish her well as a -- as a judge and would say that if she continues in the path that she seems to be setting, there is no standard that she can't reach in the judicial system, and I've never heard her sing, but if her legal record reflects her abilities in that area, I would be sure that Juanita -- that Anita Baker would not have anything on her and, again, we encourage that

the body move this nomination.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Paterson.

SENATOR LACK: Mr. President, if we could ask -

ACTING PRESIDENT MAZIARZ: Senator Lack.

SENATOR LACK: We could ask Judge Newton to sing before she's confirmed. Senator Paterson has made a great suggestion. I'm just kidding, Mr. President.

ACTING PRESIDENT MAZIARZ: The question is on the nomination of Juanita Bing Newton to be a judge on the New York State Court of Claims. All those in favor please signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Judge Juanita Bing Newton is hereby confirmed as a judge of the New York State Court of Claims.

(Applause)

Judge Newton, on behalf of Senate Majority Leader Bruno and all my colleagues in the New York State Senate, we want to congratulate you and welcome you, along with your staff, Olivia L. Dennis, Joseph Maccario, Mrs. Mary Simon and Ms. Monica Simon to the Senate chambers here this afternoon. Congratulations and good luck, Judge.

(Applause)

Senator Volker.

SENATOR VOLKER: Mr. President, can we return to motions and resolutions, please. Can we adopt the Resolution Calendar in its entirety, please.

ACTING PRESIDENT MAZIARZ: The question is on the adoption of the Resolution Calendar. 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 Volker.

SENATOR VOLKER: Mr. President. Can we -- we'll continue with the controversial calendar.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: On page 14, Calendar Number 581, by Senator Libous, Senate Print 6197A, an act to amend the General Business Law.

ACTING PRESIDENT MAZIARZ: The Secretary will read the last section, please.

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

ACTING PRESIDENT MAZIARZ: Senator Libous, an explanation had been requested by Senator Paterson.

SENATOR LIBOUS: Certainly, Mr. President.

Basically, this bill would amend Section 396(z) of the General Business Law to increase the maximum liability of an authorized driver from $100 to $300 for actual damage or

loss to a rental vehicle.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Mr. President. If Senator Libous would yield for a question?

ACTING PRESIDENT MAZIARZ: Senator Libous, will you yield for a question?

SENATOR LIBOUS: I would be especially honored to yield to a question from Senator Paterson.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

Senator Libous, you probably more than any other member in this chamber would be aptly familiar with why I wouldn't have any interest in really renting a car, but let's say I was and the liability coverage or the liability responsibility of $100 is being raised to $300 and we're going to do that, but my question is, if that's the case, if there's

going to be, in a sense, less insurance, wouldn't there be a lower premium to the person who is renting the car?

SENATOR LIBOUS: A lower premium in what respect, Senator?

SENATOR PATERSON: In other words, that the contribution that the consumer would make when renting the car would be lower because they are not being covered as well, because the limit is being raised from $100 of personal liability to $300.

SENATOR LIBOUS: Mr. President, that's the whole, I guess, concept behind this legislation by moving it from 100 to 300. Right now, what's happened, Mr. President, and Senator Paterson, is that in the late 1980s this body removed the law that talked about collision damage waiver, and basically what's happened since that time is, the liability to a car renter has been only $100. So if anyone in this room rents a car in New York State -- let's say it's a $25,000 car -- you can take that car out, you can total it, and you can come back, throw

the keys on the counter, and, basically, you are only liable for $100 in damage. That's what the law presently says in New York State.

Because of that, rates have gone up. As a matter of fact, rates have gone up about 250 percent in New York State since that law was removed and they have stayed, actually, fairly stable in other states.

So, Mr. President, and Senator Paterson, what this will do is, hopefully stabilize the cost to the consumer because, right now, the small rental companies, in particular -- and by the way, Mr. President, we have lost over 250 businesses since we have enacted the law back in 1988.

So I think to answer Senator Paterson's question, what this is going to be doing is helping to stabilize the cost and, hopefully, over time will reduce the rate.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: If Senator

Libous would continue to yield.

ACTING PRESIDENT MAZIARZ: Senator Libous, would you yield for another question?

SENATOR LIBOUS: Be happy to, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Well, Senator, you definitely outlined the necessity for wanting to change the law in this particular area if we are losing hundreds of businesses since the laws we adopted in 1988.

I guess that my question really is that when the personal liability is increased, therefore, the rental car company will need less insurance, as you pointed out - and the premium at that point would be reduced that the rental car company has to pay to the insurance company -- but I guess what I'm asking is, if we just look at it from the point of view of the consumer, we're stating it will stabilize the industry; but is it not true that the

consumer actually is not going to get any benefit but will incur 200 extra dollars of personal liability?

Now, if that's what it takes to ensure the stability of businesses, then perhaps that's what we have to do. But I just want to have the record reflect clearly exactly what the result will be for the consumer. If there's going to be no result -- in other words, if this is just an encumbrance, that the consumer will pay the same rates and have to incur $200 extra liability, bringing the total to 300, then that's just the way it is.

But what I'm asking is, is there any benefit to the consumer in this legislation?

SENATOR LIBOUS: Mr. President. I think the answer there is quite simple. The benefit to the consumer is, as I said, since 1988 rental car prices in New York State have gone up by 250 percent. The action in this legislation will, hopefully, stabilize those costs because, as I said to you, it's a matter of personal responsibility.

Right now, in this state, you're liable for $100. You can take, as I said, a $20,000 or $30,000 automobile. You can total it, and you are only liable for $100. Because of that, we have lost over 250 companies in this state, and because of that, the price to rent a car to you and I and to every constituent we represent in this state has gone up by 250 percent.

So, Mr. President, and Senator Paterson, there will be the savings to the consumer by the fact that it will help to stabilize the increased cost.

And let me just make this statement. We're talking about personal responsibility here. I don't think it's unfair to say that if you or I or anyone in this state rents an automobile and that if we damage that automobile, that we have some liability to that automobile, and at this point, the liability that we each would share is only $100. What we're doing is taking a very moderate increase, saying $300 is more than fair.

ACTING PRESIDENT MAZIARZ:

Senator Paterson.

SENATOR PATERSON: Thank you very much, Senator Libous.

Mr. President. On the bill.

ACTING PRESIDENT MAZIARZ:

Senator Paterson on the bill.

SENATOR PATERSON: I'm going to vote against the bill, Mr. President, but I want to be proved wrong. I'm hoping that this "No" vote is one that I will look back upon in the future and be proven wrong because what Senator Libous is saying is correct, that it will stabilize the rent-a-car business and that the rates will not continue to spiral at 250 percent above the rate as it was in 1988, as Senator Libous is pointing out.

We just don't feel assured that this change would really -- is just creating $200 extra savings per accident to the rent-a car company is exactly the reason or the sole reason that perhaps the rates have actually gone up. We can not, in our understanding, fathom

how this is actually going to benefit the consumer at any point other than the fact that the consumer is going to have greater responsibility if there is an accident or if there is liability.

And so, for that reason, we're not going to support this legislation, but based on some pretty well-stated dicta from Senator Libous, perhaps we will get an indication, if this legislation becomes law, as to whether or not there really is a benefit to the consumer and perhaps at that time we will get a better indication of whether this was the catalyst for the loss of business and the increase in rates to the consumer on the 30th day.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 581 are Senators Connor, Kruger, Lachman, Onorato, Padavan, Paterson and Waldon. Ayes 46, nays 7.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1088, by Senator Johnson, Senate Print 575, an act to amend the Penal Law, in relation to the administrative provisions.

SENATOR PATERSON: Explanation, please.

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT MAZIARZ: The bill is laid aside for the day.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Crime and Crime Victims Committee in Room 332 of the Capitol.

ACTING PRESIDENT MAZIARZ: There

will be an immediate meeting of the Crime Victims, Crime and Corrections Committee in Room 332.

Senator Skelos.

SENATOR SKELOS: And a reminder that the Transportation Committee meeting is taking place in Room 124 of the Capitol.

ACTING PRESIDENT MAZIARZ: The Secretary will continue with the controversial calendar.

THE SECRETARY: Calendar Number 1117, by Senator Skelos, Senate Print 5732A, an act to amend the Family Court Act, in relation to proof of a neglected or abused child.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MAZIARZ: Senator Skelos, an explanation has been requested by Senator Paterson.

SENATOR SKELOS: Mr. President, this bill would provide that when a mother uses an illegal drug during her pregnancy causing her infant to be born with positive toxicity for such drugs that that is sufficient proof of

neglect, this would, in turn, allow the state to take protective measures necessary for the child on the sole basis of a positive toxicology report.

What I would like to do is basically run through what happens when a child is born in a hospital, compare existing law to what my bill would do.

And I want to thank, first, Senator Saland for working on this legislation with me and, of course, the great job he does on behalf of our children.

A child is born in the hospital, obviously my legislation cannot change that. The child is born in the hospital. A blood or urine test is taken if a doctor makes a determination that the test is appropriate for clinical or medical reasons, there is no change in this legislation. The test is taken to see if a child tests positive for illegal drugs. There is no change by this legislation.

If a test is positive for illegal drugs, a hot line report is made to the child

abuse hot line. This phone call is mandatory. The hot line then accepts this phone call alleging positive toxicology of a newborn for investigation purposes. No change by this legislation. The phone call is transmitted from the child abuse hot line to the local child protective agency automatically for an investigation. There is no change by this legislation.

Now, under current law, despite the positive toxicology report, the child can go home. Sixty days are given for a case worker to find the report indicated or unfounded. "Indicated," basically, that credible evidence exists; "unfounded" that no credible evidence exists.

What my legislation would do, the Skelos-Saland bill, would say that a positive toxicology of a newborn would be an indicated report automatically. No other evidence of neglect or abuse would be needed. The 60 days are not needed. The child protective agency may keep the baby at that time.

Now, under a Court of Appeals ruling, in 1995, a positive toxicology is not enough alone for a fact finding or an indicated report. Under our current system, the state can not take protective action on behalf of a child until some additional evidence of child abuse or neglect exists after the birth. Due to the fact that a newborn child has only been in the hospital, there is no opportunity for developing other evidence until the baby goes home and, of course, too often we read in the newspapers, we hear on the radio and we see on the TV and, of course, national reports indicate that when a child, in many instances-- when a child is born to a drug-addicted, crack-addicted mother, that in many instances the child -- when they go back to that home, they are neglected, they are murdered, they are mistreated, and before the state can really step in and protect this very innocent life. The positive toxicology report also supports a Family Court fact finding of child neglect without other corroboration.

ACTING PRESIDENT MAZIARZ:

Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If Senator Skelos, after giving a very thorough explanation, would yield for a few questions?

SENATOR SKELOS: Yes, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Skelos, would you yield for a question?

SENATOR SKELOS: Yes, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Senator, the reports to the 800 number would come from concerned individuals or medical personnel, I would assume?

SENATOR STAFFORD: Yes, it would come from the hospital, as is existing law.

SENATOR PATERSON: Yes.

No, I was just wondering how the reports would actually be administered.

If the toxicology report is the

prima facie evidence, that it needs no other evidence to corroborate a finding of neglect by the child protective agency, if that is the case, what protections does the parent of the child have in case there is a belief that the toxicology report might be incorrect?

SENATOR SKELOS: They can overcome that presumption but, initially, what we're saying by this legislation is that a positive toxicology report should be sufficient to say the state should take some sort of action to protect that child rather than sending them home to a potential destructive environment where they can be injured or perhaps, unfortunately, as we see so often, murdered.

Now, let me just say this, that when we talk about a positive toxicology report because of the half-life of these drugs, you literally in the instance of cocaine or "crack", have the mother going into the maternity ward taking the cocaine or "crack," literally in the cab or the car, or however they are going to the hospital, literally taking this drug for their

to be an indication of a positive toxicology report because of its half-life.

So we're talking of a situation where a mother is being extremely, extremely neglectful of that child about to be born within a 24, 36, perhaps a 3-day period.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Absolutely. It actually typifies why there does need to be legislation on this issue.

As Senator Skelos has just pointed out, the toxicology report indicates that this is something that happened a while back and it is still in the system. This is something where there had been some substance abuse in a very short period of time when, presumably, in a world that we would rather live in, a mother would be avoiding any kind of substance, even different types of foods that could aggravate her during the pregnancy.

So I'm pleased that Senator Skelos has done more than notice it and has

tried to legislate on this particular issue. But what I'm saying is, there are a lot of false positives in these types of reports and, because of that, I was just asking. I just wasn't clear on what would the mother or the family do if there is a positive toxicology report and they are contending that the report is wrong?

SENATOR SKELOS: You can overcome that presumption in court. But what we're saying is that since there is reliability with these drug tests, that even if there should be a mistake, that we should err in favor of protecting that child since so many reports that have been issued throughout this country indicate that when an infant is born with a positive toxicology report and that they are returned to that household from birth, that in a disproportionate share of times that that child is abused within that household.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Yes. As Senator Skelos has pointed out, this is a very

grim situation. I don't know that ten years ago any of us would have fathomed that we would have to talk about this kind of legislation. It seems almost remote from our sense of thinking or our sense of reality that this kind of situation would visit us. However, I don't -

I would like a further explanation, if Senator Skelos would yield -

SENATOR SKELOS: Yes, Mr. President.

SENATOR PATERSON: -- as to how this presumption would be overcome in court when it seems that the way the legislation is laid out, it is -- in other words, if Senator Skelos was saying this is evidence of neglect, well, clearly this is evidence of neglect, and I think verbally we would all agree this is neglect if this is the case. If this is a positive toxicology report, that is prima facie neglect right there.

But what I am asking is that since there's question of reliability with these tests, particularly for toxicology, these

toxicology-type reports, then do we, Senator Skelos, want it to be the sole indicator to such an extent that I don't know if what you are averring here is true? I don't know if there is a presumption that can be overturned in court if the actual presumption allows for it to be the sole evidence, giving the child protective agency authority to take the child away. Now you have to go back to court.

How do you prove that the test was wrong because a period of time has elapsed, so now if you take a second test, presumably the infant will not test positive in the second toxicology test because it's so much further after from the first one, if you follow what I'm saying.

SENATOR SKELOS: Well, first of all, we're talking about it's prima facie evidence that can be rebutted in the Family Court proceeding. You can show evidence that the toxicology report was in error. Unfortunately, in the Court of Appeals decision, the Court indicated that a positive toxicology

report is insufficient to find neglect. As we know, a child that is born, there is no history as to that child being outside of the womb and outside of the hospital so that any type of neglect can be shown by the mother or some other family setting, so that what we're saying is that this should be sufficient and that there is a -- studies show that there is a direct correlation between a finding of positive toxicology and neglect and abuse of that child once put back into that household.

That in and of itself -- you may disagree with me, but what I'm saying is that in and of itself is sufficient for this Legislature to make a positive finding of public policy that that child should be protected at that point.

Now, you may disagree with me on that. Is there 100 percent certainty on every toxicology test? The answer is no.

But because they are basically reliable and we're dealing with an infant that cannot protect itself, cannot defend itself, cannot speak, and that there is no prior history

for that child outside of the hospital, that that in and of itself is enough for child protective agencies to step in and care for that child, protect that child.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Actually, Senator Skelos, I do agree with you. I agree that a positive toxicology would, in my opinion and, I think, in the opinion of most reasonable people, be indication enough of neglect by itself. In other words, if there are substances in the newborn at the point of the test, it's my opinion that that is prima facie evidence of neglect. There's absolutely no disagreement on that particular point, and that's the reason in some form or fashion, I think, this legislation needs to be passed. I am speaking really as a supporter of the legislation.

What I am asking you is, so that we are protecting against what could -- would not be a significant number. I'm not saying the test is unreliable half the time, but it's not a

scintilla. It's a reasonable period of time that the tests are, for some reason, inaccurate, and I'm trying to protect against the situation where there is a kind of a stigma against single mothers or unwed mothers or mothers of a different race or national origin. They just come into a hospital and somebody just makes a presumption against them because of really what are bias feelings and conducts this test; and so, just to make sure, what I'm just trying to elicit from you -- because I, again, want to make you aware that I agree with you, but I just want to make sure that in a situation where you have a positive toxicology, aren't you going to also have other indications that are going to be there? Is the error in our system perhaps that we have just not addressed this issue? In other words, that we have a positive toxicology, it would seem to me, after that, all you have to do is look, and then you have other evidence that would create the presumption that we're trying to do in this legislation.

SENATOR SKELOS: First of all,

when we're dealing with a doctor, a doctor is going to look for certain signs before they will order a toxicology report. I mean it's like an eyeball test. They will look to see if the mother presents unexpected placental separation, premature labor which is unusual, deformities by ultrasound, HIV positive if known, depressed mother, incoherence, response to verbal commands, pinpoint pupils, sites of injections, a number of things that the doctor will look for before he orders the positive toxicology report and -- orders a test or a toxicology report.

You also look for -- the baby: Irritability, does not feed well, shakes and tremors, excessive crying, shrill, high-pitched crying, depressed Apgar score which measures muscle tone, increased muscle tone. I can go on and on.

SENATOR PATERSON: Right.

SENATOR SKELOS: So there are many things that the doctor is going to look for both in the birth mother and in the baby before he orders the urine test, and remember that

there is a 96-hour maximum for drugs to show in the urine and, thus, there is an imminent risk to that child when they are born with a positive toxicology showing. That should be deficient.

Now, you may disagree, but that, in my mind, should be sufficient for child protection to come in and take care of that child, and we can debate all day back and forth on that, but, in my mind, this legislation, that should be sufficient.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Senator, you are trying to force me to disagree with you. I don't know why you are doing that because I haven't disagreed with you.

SENATOR SKELOS: We can sit down and have a vote and we all can agree.

SENATOR PATERSON: Yes, we can. We can agree on what will be the best possible legislation. That's why we're talking about it. That's what we get paid for.

SENATOR SKELOS: You're right.

ACTING PRESIDENT MAZIARZ: Senator Paterson?

SENATOR PATERSON: Yes.

ACTING PRESIDENT MAZIARZ: Are you asking Senator Skelos to continue to yield for a question?

SENATOR PATERSON: Yes, if the Senator will continue to yield.

ACTING PRESIDENT MAZIARZ: Senator Skelos, will you continue to yield?

SENATOR SKELOS: Yes, Mr. President.

ACTING PRESIDENT MAZIARZ: He yields.

Senator Paterson.

SENATOR PATERSON: Senator, you just laid out -- and I think we're really getting somewhere -- the criteria that would establish the threshold that would force the doctor to order the test. Would not -- so, therefore, the doctor can't just randomly order a test, can they?

SENATOR SKELOS: In their medical

judgment, they can. It's a urine test.

SENATOR PATERSON: Okay. All right. So the doctor -- in other words, without the indications that you were just pointing out, you are saying a doctor can order the test?

SENATOR SKELOS: That's their medical judgment. We're not questioning the medical judgment of a doctor. There are no set guidelines for a doctor in terms of how he feels he should best treat that child when they are born.

SENATOR PATERSON: But, Senator, you just laid out about 25 indications that there is a need for a test.

SENATOR SKELOS: Yes. That's information received from Dr. Albert Bartoletti, Chairman of the Department of Neonatology at St. Peter's Hospital.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: If the Senator would continue to yield.

ACTING PRESIDENT MAZIARZ:

Senator Skelos.

SENATOR PATERSON: Through you, Mr. President. What I'm saying, Senator, is, the doctor's statement of the other physical symptoms plus the test would actually meet the same presumption that in your legislation you just have the test presuming. So what I'm saying to you is, if you had a circumstance where a doctor ordered a test, could cite none of these symptoms as the catalyst for ordering the test, and then you get a positive reading in the toxicology test -- so now we've got the test is positive, we have no other corroborating medical evidence, it's possible that it's a false positive.

And all I'm saying is, if your legislation said, if we had the test plus any medical evidence -- and I don't even think you have to list -- you could list them parenthetically as possible medical evidences. But, in other words, what I'm trying to protect against is a doctor that makes a seat-of-the pants judgment that there needs to be a test,

then you have a positive, and then you have intervention by the child protective agency.

It seems to me that your legislation is very much on the right track, and all I'm saying is the test results standing alone, in my opinion, would be buttressed even by an extra line in your legislation that says, "and the medical opinion of the doctor that the test needed to be taken," so that we're protected from just random testing. That's all.

Everything else that you said I agree with wholeheartedly.

SENATOR SKELOS: First of all, the statute does not substitute medical judgment. We're not looking at the initial stages to subpoena doctors to come in for testimony. We're treating this type of toxicology test, positive toxicology, as any other medical report that will be issued when a child is born or other medical tests that may occur in a hospital with other individuals.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Mr. President, I want to thank Senator Skelos.

Mr. President, on the bill.

ACTING PRESIDENT MAZIARZ: Senator Paterson, on the bill.

SENATOR PATERSON: The point that Senator Skelos made that I think in the end is the one we probably should follow is that if this situation applied to adults or it applied in some way where the individual who is affected had a greater voice, then I think the combination of some criteria would really reach the standard that Senator Skelos is trying to -- is reaching for through this legislation.

What I guess I would just say is when Senator Skelos said he would rather err in the direction of a law that would favor the best interests of the child, I think I'm willing to go along with that. I have some real problem with the cursory acceptance of a toxicology report even without any understanding of why it was ordered in the first place.

But I think I will follow Senator

Skelos' edict in this case and if a couple of people have false positives, it isn't what our system is really about but because of what we have seen in a lot of newborns who tested positive and what their very lugubrious fates were, I think that it would be best that we pass this legislation.

ACTING PRESIDENT MAZIARZ: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would like to ask if the sponsor would yield.

ACTING PRESIDENT MAZIARZ: Senator Skelos, would you yield for a question?

SENATOR SKELOS: Yes, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Montgomery.

SENATOR MONTGOMERY: Senator Skelos, you are amending the Family Court Act. Is this -- that's what I have here -

SENATOR SKELOS: Yes.

SENATOR MONTGOMERY: -- "to amend

the Family Court Act." How does that work? Does the Judge make the decision, or the doctor makes the decision? I'm not clear about what is the process.

SENATOR SKELOS: If the mother has a positive toxicology report, at that point it's prima facie evidence to not release that child to a potentially dangerous household.

SENATOR MONTGOMERY: The court automatically places the child.

SENATOR SKELOS: Protective services would then step in and not have to go through the potentially 60-day period of finding out whether a report is indicated or unfounded. We're saying there is such an imminent danger to that child at that point that, as public policy, we should step in and protect that child until you can find, perhaps, a rebuttable presumption that there was not a positive toxicology report, that the child will not be going into a potentially neglectful or abusive household.

ACTING PRESIDENT MAZIARZ: Senator Montgomery.

SENATOR MONTGOMERY: Mr. President, through you, if the Senator would continue to yield.

ACTING PRESIDENT MAZIARZ: Senator Skelos.

SENATOR MONTGOMERY: The finding of child abuse, if there is evidence of child abuse or child neglect, does that person not get reported to the child abuse registry?

SENATOR SKELOS: Yes.

SENATOR MONTGOMERY: So, essentially, we're talking about the automatic reporting of any woman who comes into the hospital whose child tests positive. Automatically, they go into the registry.

SENATOR SKELOS: That's presently existing law.

SENATOR MONTGOMERY: Yes, I understand.

SENATOR SKELOS: I just want to make it very clear. All we're saying in this legislation is that if there is a positive report that that's a prima facie case of neglect

and that protective services should come in at that point. That's all we're changing. Reporting by doctors, indicated, unfounded, all of that, is not being changed by this legislation.

We're just responding to a Court of Appeals decision that indicated that unless there's other indications of abuse and neglect other than a positive toxicology report, you can not remove that child from that household. We're saying that because there is no other history with that child, again because the child is just being born, that there is no way you can find an additional element to remove that child from that potentially dangerous household. By not doing this, we're saying send the kid to that house, let the kid be abused, and then we'll step in. That's unnecessary. That should not happen.

ACTING PRESIDENT MAZIARZ: Senator Montgomery.

SENATOR MONTGOMERY: Yes, if you would continue to yield.

ACTING PRESIDENT MAZIARZ:

Senator Skelos.

SENATOR MONTGOMERY: I know Senator Paterson asked questions about this. I'm still not clear on the testing process. Who does the testing? Are we also, with this legislation, requiring that every child be tested for drugs, or is that a requirement now? In other words, is this a mandatory testing bill, as well?

SENATOR SKELOS: No.

SENATOR MONTGOMERY: So what if the hospital decides that they are not, in fact, going to test the babies.

SENATOR SKELOS: That's a medical judgment. We're not interfering with the medical judgment of the doctor. All we're saying is if the doctor in his judgment orders this report and if it comes back indicating that the mother has taken drugs -- and remember that 96-hour period -- that then is sufficient to find neglect and that protective services should step in and protect that child.

SENATOR MONTGOMERY: Okay.

ACTING PRESIDENT MAZIARZ: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, through you. I want to ask the Senator if the -- based on the fact that most of the women that we're talking about, I would assume, trying to deal with by this legislation, come in at the time of delivery either to an emergency room or just when they are -- I mean they are not necessarily people who have been through prenatal care, unfortunately, and so, in other words, we're leaving it up to the doctor; and what happens? Because the person is there, the baby is born, and they have not more than 48 hours and they are out. What are we suggesting happens in cases like that?

SENATOR SKELOS: The existing law is that protective services would step in and take custody of that child. The doctor has to report. Nothing is changed in the law. The procedures that the doctor has to follow, the hospital has to follow, protective services has

to follow, nothing is changed by this legislation.

All that is changed is, again, if a positive toxicology report is found and we're responding to a Court of Appeals decision, that that in and of itself is sufficient to find neglect for protective services to step in. We're not changing anything else. We're not mandating drug testing. We're not changing any other aspect of the law other than what a positive toxicology report should mean in terms of protecting that child, and the fact that there is such a direct -- all studies show that there is such a direct correlation between a positive toxicology report, drug abuse - "crack" cocaine, particularly -- at the time of the birth, and the harm to that child when the child is released from the hospital.

The harm is generally not going to occur in the hospital. There is no history at that point of neglect of that child, other than the drug use. What we're saying is, don't release that child to that household to be

abused, to be mistreated, to be hurt, to be murdered. Let's protect that child right now.

SENATOR MONTGOMERY: One last question, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Montgomery.

SENATOR MONTGOMERY: Senator Skelos, you mentioned -- on the memorandum in support under fiscal implications, you said "none."

Now, my assumption is that if we are now going to be automatically removing babies who are born with a positive toxicology, it's going to be a tremendous -- a tremendous new additional burden on the state and locality in terms of providing protective services for these babies; and given the fact that we are now -- we have cut the children and family block grant funding, how do you see the state paying for this additional -

SENATOR SKELOS: First of all, this was the existing law prior to the Court of the Appeals decision, so this type of protection

was occurring until the 1995 decision by the Court of Appeals saying that type of report is insufficient, so these children were being cared for within the system and the money being spent on these children until this decision was made. That's why I do not believe there's going to be a fiscal impact on the state because this system occurred. This was happening until the Court of Appeals said, "No, you can't do this." and now we're responding by changing the law.

They strictly construed the legislation as existed. We are now responding by changing the law to make sure that the system that existed prior to that Court of Appeals decision continues.

SENATOR MONTGOMERY: Thank you, Senator.

ACTING PRESIDENT MAZIARZ: Senator Montgomery.

SENATOR MONTGOMERY: Yes, on the bill.

ACTING PRESIDENT MAZIARZ: Senator Montgomery on the bill.

SENATOR MONTGOMERY: Mr. President, I'm just concerned that by establishing this positive toxicology as prima facie evidence of child neglect and abuse it will now require that every person be put into the neglect/child-abuse registry, and also that we're not really addressing the cause of these children being born or attempting to identify specifically what kinds of intervention we need to be establishing for these women who come in and have clearly been abusing substances of all sorts, alcohol, drugs, and what have you.

Certainly, we do know -- I agree with Senator Skelos. We do know the consequences of babies being born in those circumstances, but we also, I think, know the consequences of automatically removing those babies without appropriate intervention to help that parent become enabled as a parent to take care of a child.

So I really -- I have some reservations about the legislation, though I think it's well intended. We certainly do want

to protect babies that are born in these circumstances, but I think we need to look more carefully at ways in which we can intervene in a positive sense, and that is not being done with this legislation.

So I will be voting against it because I think it requires a different approach and a more in-depth look at ways in which we can more positively intervene.

Thank you.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MAZIARZ: Senator Saland, to explain his vote.

SENATOR SALAND: Mr. President, I would like to commend Senator Skelos for his

efforts on this particular legislation. I had the good fortune of being able to work with him as the chairman of Children and Families in endeavoring to craft this legislation, which directly responds to a Court of Appeals case, as Senator Skelos mentioned.

This bill is an enormous step in the right direction in protecting children and families, particularly those who are actually and quite literally born into this world as a clean slate. They have been in utero. They have known no other contact other than through whatever it is that may be provided by way of either their genetics or by whatever may have previously been engaged in by way of conduct by the mother; and, in this case, as was pointed out, the use of drugs in close proximity to birth certainly should be a prima facie indication with a positive toxicology of neglect and, certainly, is an enormous step in the right direction of correcting what I believe to have been an inappropriate Court of Appeals decision.

Again, I commend Senator Skelos. I think this bill should send a very loud and clarion signal that we are absolutely and unequivocally serious about dealing with drug abusing mothers who bring children into this world, children who, in effect, are doomed from the start by reason of a host of studies that indicate rather objectively, either medical or social science, birth defects, developmental abnormalities, physical abnormalities as well as a greater likelihood of being neglected, abused, or even killed once returned to their household.

I vote in support of this legislation and thank Senator Skelos for bringing it to the floor.

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes 53, nays 1, Senator Montgomery recorded in the negative.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President.

There will be an immediate meeting of the Rules Committee in Room 332 of the Capitol.

ACTING PRESIDENT MAZIARZ: There will be an immediate meeting of the Rules Committee in Room 332 of the Capitol.

Senator Mendez.

SENATOR MENDEZ: Mr. President. I was out of the chambers when the roll was called on Bill Number 1117. I would like to be recorded in the negative. Do I have time to explain my vote?

ACTING PRESIDENT MAZIARZ: Without objection, Senator, you will be recorded in the negative on Calendar 1117.

Secretary will read.

THE SECRETARY: Calendar Number 1137, by Senator Marchi, Senate Print 1753, an act to amend the Vehicle and Traffic Law.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT MAZIARZ: Senator Marchi, an explanation has been requested of Calendar Number 1137.

SENATOR MARCHI: Mr. President,

the members of the organized militia of the state of New York -- there are some 34,000 of them, the Army National Guard, the Naval Militia, the State Guard, the Army -- can, upon request, receive appropriate distinctive license plates for which a fee of $15 is assessed. The actual number of people who are in this category are 423 registrations.

Assuming that this bill were passed, in that case, of course, we would be foregoing $6,450. That's the minimal, because there would be others who presumably might take advantage of the arrangement.

I would like to point out -

ACTING PRESIDENT MAZIARZ: Senator Marchi, excuse me for one second.

Senator Stachowski.

SENATOR STACHOWSKI: Senator Marchi, if you will just yield to one question, I think we can probably cut this down.

SENATOR MARCHI: Certainly.

ACTING PRESIDENT MAZIARZ: Senator Marchi, will you yield to a question?

Senator Stachowski.

SENATOR STACHOWSKI: Senator, your bill on the title says, "to any organized militia," and I believe that in your explanation you explained that it's only the New York State -

SENATOR MARCHI: Yes.

SENATOR STACHOWSKI: -- Reserves and that -

SENATOR MARCHI: Yes.

SENATOR STACHOWSKI: -- not any, you know -

SENATOR MARCHI: No.

SENATOR STACHOWSKI: -- any of those other -- although they're organized, none of those other militias will be eligible for this.

And, you know, with them being so high-profile currently, I just didn't want anybody to get the mistaken idea that New York State is passing a bill saying organized militias can get a distinctive license plate.

SENATOR MARCHI: As a matter of

fact, Mr. President, I believe your concern is appropriate, and I believe Senator Leibell is preparing or is introducing legislation to address the very fact that we are both concerned about.

No, this is the real thing.

SENATOR STACHOWSKI: Thank you.

ACTING PRESIDENT MAZIARZ: Read the last section.

SENATOR DOLLINGER: Mr. President, just on the bill, briefly.

ACTING PRESIDENT MAZIARZ: Senator Dollinger.

SENATOR DOLLINGER: Just one brief point. I think in some of the research I did six months ago that, actually, any unorganized militia, any organization that gets together is actually banned in this state. There's no such thing as an unorganized militia. The only kind of militia that we have that are legal are the kinds that are mentioned in your bill, and, as Senator Stachowski said, those other groups that call themselves militias

are actually illegal under the New York State Military Law.

SENATOR MARCHI: It has all the elements of mischief, as we've seen take place around the country. I think the sooner we address that abusive -- well, horrible. They have inflicted awesome casualties and damage, and they have that potential. It's an existing potential. I believe the earlier we address that aspect, I think we'll all be better off.

SENATOR DOLLINGER: I just want to join Senator Stachowski in supporting the organized militia, and let's draw a firm line that the unorganized groups that call themselves militias are illegal in this state and don't deserve the imprimatur of license plates or anything else.

SENATOR MARCHI: We're in total agreement, Senator.

SENATOR DOLLINGER: I appreciate that.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1312, by Senator Padavan, Senate Print 701, an act to amend the Social Services Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MAZIARZ: Senator Padavan, an explanation has been requested by the Acting Minority Leader, Senator Paterson.

SENATOR PADAVAN: Thank you, Mr. President.

I believe most of you, if not all, are familiar with something known as the sponsor's agreement, where an individual who is seeking entry to this country as a legal alien

obtains an agreement from a sponsor, the person who is making him/herself responsible for that immigrant in terms of economic needs. Those agreements are required, provided for in law, Federal Immigration Law.

Now, what we're saying here in this proposal is that the conditions of that agreement be enforced; that if someone is seeking social service benefits, that our social service agency will reach out to that sponsor who put his or her name on a piece of paper saying, "I will assume these responsibilities."

Now, if that person, that sponsor is no longer in a position to provide that financial assistance, that support, or is no longer in the state, the bill before us allows social services to immediately take that into consideration and provide the needs of the individuals applying.

That, in essence, is the bill.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Thank you, Mr.

President. If Senator Padavan would yield.

ACTING PRESIDENT MAZIARZ: Senator Padavan, would you yield for a question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Senator, you just said that the purpose of the bill is to make sure that the responsibilities of the sponsorship be enforced. However, as is well held federal law and it even appears in your sponsorship memorandum, we're aware that you can't enforce a contract between the sponsor and the legal alien for that kind of an agreement.

So as the law stands right now, and it is a federal law so we assume preemption, I don't understand how that can be the purpose of your legislation because, if it is the purpose of your legislation, it is basically void by the preempting federal law.

SENATOR PADAVAN: By the what? I don't understand your question, Senator.

What I'm saying is that federal

law provides for the sponsorship agreement. That's a fact. I don't think anyone quarrels with that. We're saying that our Department of Social Services in New York should initiate action to seek the support that that sponsorship agreement provides for, with the exceptions that I explained before.

So, again, I don't understand your question.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. I will restate the question for Senator Padavan.

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

SENATOR PADAVAN: Yes. Yes, I do.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: I don't know what the bill initiates. What it does, it makes the individuals ineligible for social services

based on the fact that they are not receiving continued sponsorship from the sponsor, and I'm saying that in your opening statement you said that the reason that -- the purpose of the bill was to make the responsibility of the sponsor something that's enforceable. Those were actually the words you used.

And I was just asking you how you could say that when in the federal law that is, in my opinion, the supervening law, it says that you can not make that relationship enforceable as in a contract.

SENATOR PADAVAN: There's something that I'm either not hearing or not understanding.

The bill, in effect, by virtue if it ever were enacted, makes our social service agencies responsible to reach out to that sponsor in the first step. By the way, this applies for three years under federal law. That's what we want to happen, and there is a reason for it. It's not an arbitrary idea. By the way, it's not my idea initially. I will

tell you a little later where it came from.

But the cost to the State of New York in social services as provided by the Department of Social Services is anywhere from 500 million to 786 million in terms of social service costs. That is all the categories. So we're not talking about something here that's insignificant.

Now, we acknowledge, as I said before in my explanation, that sponsors' situations change. They might die. They might move. They may have their own economic problems, so that it might not be enforceable for that reason, and we provide for that.

But what I said -- and if I didn't make myself clear, let me clarify it. What I said was, the sponsorship agreement exists in federal law. We want it applied, because it's not being applied, at least not in New York State, and that's what this bill seeks to do.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Maybe we'll take this issue by going a different direction. What happens, Senator, under your legislation if a sponsor refuses to provide the legal alien with assistance?

SENATOR PADAVAN: Now, if that's your question, I understand it. You are referring to court cases such as the Mannino case and others. Am I correct, just so I can properly answer your first question?

SENATOR PATERSON: Well, Senator, I know what the Mannino case held, but I'm really just asking, what happens if the sponsor refuses to make resources available to a legal alien?

SENATOR PADAVAN: The cases that have been reported on that particular point do provide some inhibiting factor in seeking those funds from a sponsor. However, in the reading of those cases, you will find it's basically based in terms of the inadequacy of our law in this state, and that's why we have introduced this bill to clarify it.

Now, I think in many instances, any judicial action might not be necessary. I think if a social service agency simply reaches out to Mr. Jones and says, "Mr. Jones, you have a sponsor's agreement which you entered into; we feel that, obviously, you are not in good faith maintaining your agreement," that would be the end of it in many instances, and that would inure to the benefit of the taxpayers of New York State.

Let me share one other thing with you. Are you familiar -- because we discussed it many times here in the Senate -- the U.S. Commission on Immigration Reform, which was chaired for a number of years by Barbara Jordan, who passed away last year. In that report, the Commission, which was created by the Congress and the President, they made many, many recommendations, but I would like to share with you this one recommendation that relates specifically to the bill before us, and I'm reading the report: "Sponsors should be held financially responsible for the immigrants that

they bring to this country. In particular, the Commission believes that the affidavits of support signed by sponsors should be legally enforceable with contingencies made if the sponsor's financial circumstances change significantly for reasons that occurred after the immigrant's entry."

That's what this bill does. It tracks specifically the recommendation of the Commission, and we're doing it in New York.

Now, as you know from the media reports, the Congress is considering even more stringent obligations on the part of sponsors. For instance, they are considering changing three years to five years, one proposal to ten years and a variety of other things.

But we in New York have to deal with what we have, and the law is clear. We have an opportunity to reach out to the sponsor irrespective of any court action that might have to be initiated, or whatever, or any that have already been dealt with. We have a responsibility on behalf of the taxpayer to

reach out to the sponsor and remind them, firmly and politely, "You have an obligation. Now, let's sustain it. Do what you said you were going to do."

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Mr. President, I agree with Senator Padavan's premise, but I think Senator Padavan is putting the cart before the horse.

On the bill, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Paterson on the bill.

SENATOR PATERSON: Senator Padavan referred to the Federal Commission, and the Federal Commission made some suggestions. One of the reasons that they wanted to make the sponsor responsible and wanted to make that agreement enforceable as Senator Padavan read it is because right now it's not. It's not enforceable, and Senator Padavan knows that. It's in his memorandum.

So, because of the fact that it's

not enforceable, that's what the Mannino case was all about. What Senator Padavan is trying to do is to legislate on the state level to - in a sense, try to, in many ways, subrogate what has already been legislated on the federal level.

If we want to change the federal law, Senator Padavan, then perhaps the Commission's recommendations will be heeded by our Congress, and we will be able to change the federal law, but in the interim, trying to, in a sense, undercut the federal law by putting this piece of legislation in, which I am suggesting would not hold up to any court challenge because we not only have judicial cases that hold against this legislation we have actual law that contradicts in legislation.

What Senator Padavan is trying to do in this legislation is to -

SENATOR PADAVAN: Mr. President, would Senator Paterson yield?

ACTING PRESIDENT MAZIARZ: I'm sorry.

SENATOR PADAVAN: Would Senator Paterson yield?

SENATOR PATERSON: Yes, most certainly.

SENATOR PADAVAN: Could you share with us, Senator Paterson, any law in this state that prohibits a social service agency from reaching out to a sponsor in terms of their fulfilling their obligation? I didn't say court now. I said law.

SENATOR PATERSON: No. As a matter of fact, Senator -

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: -- I cannot cite any law in this state, because I don't have the slightest problem with the -- with our government, with our social service agencies reaching out to the sponsors who, in principle, made a commitment that they did not fulfill.

But what I have a problem with and where the law does apply is the fact that we are now trying to make the legal alien, who in

many ways is also a taxpayer in many instances, that this individual now becomes the object of serious economic harm because the sponsor didn't fulfill their agreement; and, quite often, the sponsor isn't an individual. It could be the company that hired them, and what is happening as a result of this legislation is that individuals are going to be affected negatively because they are not entitled to any social services because, specifically, the sponsor reneged on their agreement.

So what Senator Padavan is trying to do in this legislation is to find a way to go around the federal law and make that agreement enforceable.

Now, should the agreement be enforceable? That's an issue that Senator Padavan addressed when he talked about the Federal Commission. He believes it should be. The Commission certainly has dicta in their document that says that it should be, but that's something that we would have to legislate on the federal level.

What is occurring right here on the state level is that Senator Padavan is going to deny the privileges of social service to the indigent victims of sponsorship where the sponsor reneged, and the only way that the legal alien could respond would be to have had an air tight, enforceable contract with the sponsor, which is not valid under federal law.

So, no, I can't find anything in the state law that says that the social services agency shouldn't reach out to the sponsor, but I wasn't looking for it because I think that part of the legislation that Senator Padavan is introducing is fine, but the part that I have the serious objection with, and 17 members voted against last year, is this idea that these individuals who by the nature of the fact that they are legal aliens, who went through the procedures, who followed all of our rules, who sometimes have been workers, whose tax dollars have also helped provide the revenue base of this state, that they are going to be victimized for three years because their sponsors reneged

on an agreement.

I think that is a vitriolic way to treat people who want to be part of this country and didn't sneak in here, didn't lie, didn't cajole anybody, but followed all of our laws and all of our regulations, and this is the result, that because the sponsors were unable to deliver and even with the federal law notwithstanding that the federal law says that we cannot enforce a contract, we are telling them, "There will be a chilling effect. Don't even think about coming into this country unless you have a contract because there is no other way that you will be able to get services, because our social services agencies will not provide them no matter how much you cooperated with us."

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1312 are Senators Abate, Connor, Espada, Kruger, Leichter, Markowitz, Montgomery, Onorato, Oppenheimer, Paterson, Smith, Waldon, Mendez, Lachman. Ayes 41, nays 14.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1314, by Senator Padavan, Senate Print 3092, an act to amend the Social Services Law, in relation to inclusion.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MAZIARZ: Senator Padavan, an explanation has been requested of Calendar Number 1314 from the Acting Minority Leader, Senator Paterson.

SENATOR PADAVAN: Thank you, Mr. President. This bill deals with the issue of illegal aliens. Currently, federal law mandates that emergency health care be provided to an illegal alien at any time. However, we have

discovered through our work and the work of others, including, again, the Commission that I cited previously, that many such illegal aliens are receiving a broad base of health care beyond that which could even in any way, shape or form be defined as emergency.

The fiscal impact on the State of New York is enormous, and so we have this bill before us to require that certain steps be taken that precludes illegal aliens from receiving health care other than that provided for on an emergency basis.

Again let me share with you a recommendation from the Commission. It says, "Illegal aliens are now eligible for benefit programs. The Commission firmly believes that benefit policies should continue to send this message: 'If aliens enter the U.S. unlawfully, they will not receive aid except in limited circumstances.' Federal legislation should permit states and localities to limit eligibility of illegal aliens on this same basis," and so on, and that's what this bill

does.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Padavan.

Senator Espada.

SENATOR ESPADA: Thank you, Mr. President. If the sponsor would yield to a question or two, please.

ACTING PRESIDENT MAZIARZ: Senator Padavan, would you yield to a question from Senator Espada?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MAZIARZ: Senator Espada.

SENATOR ESPADA: Thank you, Senator Padavan. Your bill makes reference to publicly-funded health facilities. My first question is, what defines a publicly-funded health facility?

SENATOR PADAVAN: Can you point to the particular section of the bill that you are referring to?

SENATOR ESPADA: 363 (c).

SENATOR PADAVAN: Line what?

SENATOR ESPADA: Actually, line 3, "exclusion of illegal aliens from receiving publicly-funded health care."

SENATOR PADAVAN: Virtually every medical facility in this state.

SENATOR ESPADA: Pardon? I'm sorry, Mr. President. I'm trying to hear.

SENATOR PADAVAN: Well, we got a little background noise here that's outside the chamber.

ACTING PRESIDENT MAZIARZ: Excuse me.

SENATOR PADAVAN: I'll try and speak a little louder.

ACTING PRESIDENT MAZIARZ: Could we please have -

SENATOR PADAVAN: Every - virtually every medical facility in this state operates with some level of public funding, Medicaid being the most obvious.

SENATOR ESPADA: I accept that. Through you, Mr. President.

It also makes reference to

emergency care or the provision of emergency care; and so my question to you would be, prenatal care, immunization, TB or treatment for tuberculosis, a schedule of medications, et cetera, HIV virus, treatment for the AIDS virus, would those be emergency situations that would fall under this bill as conditions that would be treated?

SENATOR PADAVAN: The bill on lines 6 and 7 says, "other than emergency medical care as required by federal law." Now, if those categories you mentioned fall in that definition or in that framework, then they would apply.

SENATOR ESPADA: And through you, Mr. President.

And if I told you and medical practitioners told you that they do not fall into the classification as emergency care, would that at all change your mind about the health - the endangerment to the public health that letting people out with tuberculosis without proper immunization, without the ability to deal

with the knowledge and treatment of the HIV status, would that at all change your mind about what this bill should involve by way of health services?

SENATOR PADAVAN: No, it would not change my mind. And let me in fully answering that question share with you a speech that was given by the President of the United States last May.

It says, "Our immigration policy is focused on four areas: First, strengthening the border patrol; second, protecting American jobs by enforcing laws against illegal immigrants in the workplace; third, deporting criminal and deportable aliens; fourth" -- and here is the one that we are talking about - "giving assistance to states who need it and denying illegal aliens benefits for public services or welfare." That's what the President said, and he's right.

We cannot, Senator, no matter how charitable we wish to be, be the health care provider for the world. We cannot be a magnet

for people coming into this state, into our city, seeking a full range of health care.

Now, Senator, you are -- if you would yield. Would you?

SENATOR ESPADA: Of course.

SENATOR PADAVAN: You are in the health care business, as I understand it -

SENATOR ESPADA: Right.

SENATOR PADAVAN: And many of your clients who come into that facility, I assume, are illegal immigrants, are they, or any of them? Some? Little? Many?

SENATOR ESPADA: We don't have a method nor are we required nor is it desirable to means test access kinds of provisions.

In the medicine that I'm familiar with, what we do is: A person comes in. We assess whether they can pay for their service, if they have insurance. If not, they are on a sliding fee scale. The ability to pay would determine how much they are charged, but even if we could not charge and recoup from them a single penny, if a person were to come to us

with tuberculosis, with presenting symptoms that would indicate that the HIV virus may be present or certainly needs to be tested for confidentially, if a baby would come in need of immunizations, our first interest, our first concern would be the health status of that particular individual and, more importantly, the health status and the endangerment to the larger community if that particular element was not treated.

SENATOR PADAVAN: That's laudatory. But, Senator, let me ask you something.

SENATOR ESPADA: No, that's just policy, and that's good health.

SENATOR PADAVAN: But you don't inquire as to their immigration status, obviously -

SENATOR ESPADA: No.

SENATOR PADAVAN: -- under those circumstances?

SENATOR ESPADA: No, we don't.

SENATOR PADAVAN: How do you

get -

SENATOR ESPADA: And, by the way, through you, Mr. President, if I may just qualify -

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

SENATOR PADAVAN: I think he had yielded to me, and he was answering a question.

ACTING PRESIDENT MAZIARZ: And he just asked if you would yield to him.

SENATOR ESPADA: If you would kindly allow me to embellish on that thought before we lose it.

SENATOR PADAVAN: Sure, by all means.

SENATOR ESPADA: And that is, that of the six centers that we operate, given the absence of financial barriers and protections that I mentioned, all of them -- all of them -- operate without a deficit, sir.

SENATOR PADAVAN: Without what?

SENATOR ESPADA: Without a

deficit.

SENATOR PADAVAN: May I ask, Senator, in those cases that you just described, how the cost of doctors, nurses, supplies and everything are provided for such individuals? Who pays for that?

SENATOR ESPADA: Right now, most of it is either Medicaid or on a fee for service basis where the patients themselves pay. A great number of the people that we service don't have insurance. They are the working class people of my district, like your district, that are caught in between, can't qualify for Medicaid and must pay out of pocket.

One of the many problems, as you know, with our health care system is that we don't cover the working class people, whether they be of whatever immigrant status. They really pay out of pocket, most of them.

SENATOR PADAVAN: Do any of these -

ACTING PRESIDENT MAZIARZ: Senator Padavan.

SENATOR PADAVAN: Would you yield again, Senator?

SENATOR ESPADA: Yes, of course.

SENATOR PADAVAN: Do any of these individuals -- I assume, on occasion, referred to local hospitals -- fall into what we call the bad debt and charity pool in this state?

SENATOR ESPADA: I'm glad you raised that point because one of problems with this legislation, apart from the public health safety concerns that we've raised, is this issue of the state of health care in our state and how services on Medicaid or services that are not reimbursable through this entitlement are paid for; and, yes, that is a bad debt and charity pool.

But even with the bad debt and charity pool that is now part of law, that will soon expire unless both houses do something about it real soon. Many of our health care facilities, be that in the inpatient settings in the hospital or in centers on the primary care front, are living from paycheck to paycheck.

Many of them, including last week if we didn't pass the institutional budget on time, would not have been able to make payroll.

So, yes, there is this kind of safety valve that we have created, but even with our access in that safety valve, that pool of money, our institutions are suffering, sir. They can't meet their payroll from one week to the other.

SENATOR PADAVAN: But, Senator, I just, in the cordiality of our dialogue here, share with you that in looking at one of the city hospitals in my county, Elmhurst specifically, 30 percent -- actually, it's a little more than that -- of their total costs were bad debt and charity care pool costs, meaning almost a third of that hospital's overall -- two-thirds did not either qualify for Medicaid or did not have any insurance and the other third was picked up by the taxpayers of this state.

SENATOR ESPADA: Right.

SENATOR PADAVAN: And of that

percentage, based on information provided to me, a significant percentage were immigrants, both legal and illegal.

Now, we're talking in this bill about illegal, to get back to your original question to me. If the health care does not conform to the federal regulations, then it should not be provided and the provisions of this bill, this proposal, should kick in.

SENATOR ESPADA: If I may, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Espada.

SENATOR ESPADA: A follow-up question to this bad debt and charity care.

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

SENATOR PADAVAN: Yes.

SENATOR ESPADA: Thank you, Senator Padavan.

Again, I'm very glad that you raised the bad debt and charity pool issue

because it impacts directly on the fiscal health of the institutions that you and I represent. But, also, please keep in mind that when you say that legal immigrants or illegal immigrants are disproportionately taxing that bad debt and charity, first and foremost, we are absolutely wrong if we conclude that. It is the working class American citizens in your district and mine, through no problem that they have brought on themselves -- we have corporate downsizing in this state and throughout this country. We have American citizens losing their jobs with no health care insurance. You have no portability to health care insurance even if you move from one job to another. We have fundamental problems with our health care system as it's currently structured and financed.

So let's not mix this notable, laudable thing that this state should be proud of, the bad debt and charity pool, which is targeted to the working class poor, with some assumptions and misinformation about the disproportionate use of this particular pool and

that money by legal residents or illegal residents. It simply does not bear fruit at all.

Mr. President, if I may, on the bill.

ACTING PRESIDENT MAZIARZ: Senator Espada, on the bill.

SENATOR ESPADA: I think when we study the health care system, when we look at what our health care providers are telling us, not one -- not one health care administrator, not one primary care provider, not one doctor or social worker, would come up to you or any one of the 61 Senators and say, first and foremost, that what is needed is an Immigration Naturalization Service deterrent at the hospital emergency rooms or on the front lines of the provision of care in the health care settings in this state. It is absolutely a health care stealth bill that is being proposed here.

We will not only hurt those people that are, in fact, legal, or illegal, but people that look a certain way, and this thought

and this prejudice and this bias runs through the five bills that were introduced last year by Senator Padavan. They absolutely would provide and reinforce a discrimination against those people that look a certain way.

But, beyond that, if we just study the absolute concrete implications of this, we're talking about denying service which is not emergent to children, their immunization schedules, to persons who have tuberculosis and other communicable diseases, HIV, you name it. These are classified as nonemergency services.

If people go untreated, undiagnosed, it is endangering the public health. This is a most dangerous bill, as are several of the others, but this, we must be very careful because we understand that no provider at all would accept this mandate. No health care facility could afford this at this time or any time, because it runs against the grain of why doctors and social workers are out there helping people in the helping professions at this time.

We vote no, and we encourage all of our colleagues on both sides of the aisle that are cognizant of the dangers of this bill and the financial distress that could result to also vote no.

Thank you.

ACTING PRESIDENT MAZIARZ: Senator Abate.

SENATOR ABATE: Yes, Mr. President. Would Senator Padavan yield to another question?

ACTING PRESIDENT MAZIARZ: Senator Padavan, would you yield to a question from Senator Abate?

SENATOR PADAVAN: Yes, I'd be glad to.

ACTING PRESIDENT MAZIARZ: Senator Abate.

SENATOR ABATE: Senator, I understand your intentions around saving dollars, and you articulated your goals very clearly, but I can conceive of a case where a hospital or a public facility would be in

tremendous conflict. Let me give you a situation.

There is an illegal alien who happens to be a pregnant woman and she's seeking prenatal care before that health facility, and certainly we understand that when a woman receives prenatal care it's not just to benefit the health of her but also the future viability of that child and the future health of that child. So, understanding that when that woman gives birth to that child that child will be a citizen, are we going to be denying under this bill health care to this pregnant woman who also happens to be an illegal alien?

ACTING PRESIDENT MAZIARZ: Senator Padavan.

SENATOR PADAVAN: We would be.

SENATOR ABATE: We would be?

SENATOR PADAVAN: We would be, just as the federal government says we should.

Now, I understand what you are saying but, again, I repeat what I said to Senator Espada. It would be marvelous if we

could provide prenatal health care for people all over the world who would like to come here and have us provide it. The fact of the matter is we don't have the resources.

As you know, our health care system, particularly in our urban centers, New York City being paramount -- our health care capacity is overtaxed, stretched to the limit, hospitals in tremendous financial crisis, all kinds of things happening. Now, when you take that into consideration, you really have to come to one conclusion. We cannot do any more.

Now, what are we talking about? Well, we had input from Welfare Inspector General, Mr. Elmer Toro -- I'm sure you've heard of him -- who told us that in this state illegal immigrants -- illegal -- were receiving health care, other than emergency, at a cost -- this was in 1993, for that calendar year -- of over $68 million.

Now, you might say, well, we should spend it anyhow. But what I'm saying to you, we don't have it to spend and we've got to

draw the line. Now, the federal government has drawn the blueprint for us, and we have to follow it. By the way, I might add parenthetically here if you have been paying attention to what's going on in Washington, they are considering going much further in many respects. So what we're doing, I think, is reasonable.

SENATOR ABATE: Thank you, Senator.

On the bill.

ACTING PRESIDENT MAZIARZ: Senator Abate, on the bill.

SENATOR ABATE: Our actions in New York State do not have to mirror or reflect the actions in Washington. If Washington makes a mistake, we should not necessarily replicate that mistake, and the example I gave is exactly what is wrong with this bill. A pregnant woman is denied prenatal care, and there is a rippling effect that will have a negative impact directly on the child who she will give birth to in the near future. I believe, while the intent of

this bill is to save dollars, it will not save dollars.

Last year, 15 people voted against this bill. We should vote down the legislation completely because so many things have changed between last year and this year, and what has changed is the hospitals, the health facilities, are facing billions of dollars in Medicaid cuts. As Senator Espada said, they are fighting for their survival. They are fighting to be able to provide very important and critical services. In the guise of saving dollars, we are now asking -- and I believe it will be limited dollars. We're asking them to take on an enormous administrative apparatus, take on collecting paper, doing investigations, setting up new personnel departments to figure out who is legal, who is illegal, which agencies they need to reach out to. What kind of investigation needs to be done? This is not a cost free agenda. It's not a cost-free endeavor. It will cost the providers enormous amounts of dollars.

I believe the business in determining who is legal and illegal is a law enforcement function. They are trained to investigate these matters. They are trained to collect evidence, to interview people, to make sure that justice is done. The hospitals are ill-equipped to carry on this function, and it should be left with the INS.

I also agree that this will have deleterious effects on public health. We are all affected when people in our neighborhood are sick, have contagious disease or aren't provided with preventive health measures. We as a community in every community around the state are affected when we do not have an aggressive public health agenda. It's not good for us. It's not good for the hospitals, and it's not good for the children and the women who will be left behind with this bill.

I urge all my colleagues to vote no on this legislation.

ACTING PRESIDENT MAZIARZ: Senator Mendez.

SENATOR MENDEZ: Thank you, Mr. President. I wonder if Senator Padavan would yield for a question.

ACTING PRESIDENT MAZIARZ: Senator Padavan, would you yield for a question from Senator Mendez?

SENATOR PADAVAN: Yes.

SENATOR MENDEZ: Senator Padavan.

ACTING PRESIDENT MAZIARZ: Senator Padavan.

SENATOR PADAVAN: Yes. Yes.

SENATOR MENDEZ: I just wanted to make sure. Senator Padavan, oftentimes, we hear of the local communities and other local institutions crying out for all of us here to stop sending them -- requiring them to comply with mandates when we don't give them a penny.

Now, in this instance that was mentioned also by Senator Abate, the doctor and the people working in the emergency rooms, first of all, they would have to write a letter - according to your bill, would have to write a letter to the person saying, "Sorry, you are ill

but we must leave you die until we are able to find out whether or not you are an illegal alien," and after that is done, Senator Padavan, then the person in the hospital -

SENATOR PADAVAN: That's not true.

SENATOR MENDEZ: Wait, wait, wait, wait.

SENATOR PADAVAN: That's not true.

SENATOR MENDEZ: When a person - when an illegal person goes to an emergency room for medical emergency treatment when allowed by the federal government, over there that person will not be receiving medical services; right?

SENATOR PADAVAN: No. That person will. That person will receive it.

SENATOR MENDEZ: How?

SENATOR PADAVAN: If that person is seeking emergency health care, the federal government -- and, by the way, just to clarify that I said that the federal law is defined and it does include inoculations against contagious

diseases.

SENATOR MENDEZ: But when a person goes to the hospital not for emergency medical service, how will that person be handled? Isn't the hospital personnel supposed to first find out if person X is an illegal alien or a resident alien or a U.S. citizen? What is the process of doing so?

SENATOR PADAVAN: Sorry, Senator. I didn't quite understand the question.

SENATOR MENDEZ: Suppose the illegal alien goes to the hospital seeking any other medical service.

SENATOR PADAVAN: Other than emergency, as defined.

SENATOR MENDEZ: Except emergency, because you allow -- your bill allows emergency medical services because those are the ones that are allowed by the federal government, but if they do go to the hospital very, very sick, how will that person be handled, being an illegal alien.

SENATOR PADAVAN: If they are very, very sick, that's an emergency, then they would be cared for.

SENATOR MENDEZ: Come on. Your bill -

SENATOR PADAVAN: Senator, let me answer it this way. The federal government has provided certain guidelines, and they talk about emergency medical services, immunization and testing, treatment for symptoms of communicable disease, in-kind emergency, and so on and so on. An emergency is an emergency. It's a medical judgment. If that person is simply there for an annual checkup or for something that is not an emergency, then they would not be under the provisions of our bill consistent with the federal -

SENATOR MENDEZ: Senator.

SENATOR PADAVAN: Let me just finish the sentence. To answer your question, if it was not an emergency as defined, then, as you see here on line 20, the facility shall not provide such person the services.

SENATOR MENDEZ: Keep reading, please.

SENATOR PADAVAN: That's it.

SENATOR MENDEZ: Keep reading, please.

SENATOR PADAVAN: The rest of it is after the fact. The rest of it is, we want -

SENATOR MENDEZ: Senator, your bill, "The facility shall not provide such person with services."

SENATOR PADAVAN: Right.

SENATOR MENDEZ: "The facility shall in writing notify such person of his suspected illegal immigration status."

SENATOR PADAVAN: Yes.

SENATOR MENDEZ: "The facility shall also notify the Commissioner, the Attorney General and the United States Immigration and the Naturalization Service of the suspected illegal status and shall provide any additional information that may be requested by any other public entity."

All that process are mandates to the hospital that are surviving -- trying to survive because of economical situations, and so they must become agents for the Immigration Department. They must become Assistant D.A.s for the District Attorney -- you know, all that process.

So wouldn't you have to agree, Senator Padavan, that this bill will be giving unfunded mandates to hospitals and other health organizations?

SENATOR PADAVAN: I don't agree, and I will explain why, Senator.

SENATOR MENDEZ: You're not giving them a penny.

SENATOR PADAVAN: May I explain why I don't agree?

SENATOR PADAVAN: We decided that there will be a chilling effect in terms of cost because in so doing we will reduce finally the number, we will reduce the number of illegal aliens coming into the country, into the United States, particularly in the city of New York.

As Mr. Toro has cited, in that year alone, there was $50 million in city hospitals alone in the city of New York in terms of cost for illegal aliens. A very small percentage of it was for emergency, very small percentage.

In the course of this chilling effect, this process that we are trying to implement, we would save millions and millions of dollars for the state, but more importantly for the hospitals you're referring to because they are the ones -- and I ask you, Senator, if you haven't done it already, and you probably have -- sit in a clinic or emergency ward at one of our city hospitals. I have. Sit there for a while. Talk to the intake people, talk to the doctors who are there serving. Listen to what they have to say. They say, We're overwhelmed here. We're overwhelmed. That's where the benefit would come in.

SENATOR MENDEZ: I know -- I know that this bill of yours is positively motivated to make sure that we save some money. You are a man with a great heart and you want to save

money for the state of New York, and I mean that. If you weren't on the floor of the Senate I would tell you, Senator Padavan, You are a good man, Charlie Brown; but I can't do that because we are on the Senate floor of the chamber.

But in any event, on a serious note, this bill of yours, besides provoking great pain and suffering of individuals, that yes, they do not have the right to be here according to our law but, if they are here, it's because among other things, because the -- our federal government is not doing the job, period, and they are here exactly the same way that many other previous immigrants did come into the - into the country.

But this, this bill, besides pain and suffering that it would provoke to all these people, will also be provoking economic pain to our hospitals and clinics. You'll be saving on the one hand, I don't know how much you'll be saving, but the fact remains that these hospit als that are streamlining like all corporations

are nowadays, they will have other tasks and responsibilities to perform when we here -- if we pass this bill.

We are not providing them with one single penny and you know very well that with the issue of medical reimbursement and you know, of course, we are not going to have a budget as yet, but you know how important for these hospitals Medicaid reimbursement, any reimbursement, is so this is a bill whose time has not come. This is the worst time to be even beginning with this. So, therefore, I really, Mr. -- Mr. President, do urge my colleagues to vote against it.

Thank you.

ACTING PRESIDENT MAZIARZ: Thanks, Senator Mendez.

Senator Marchi.

SENATOR MARCHI: I think we fail to focus on one aspect. I can understand, Senator, your feeling because I share it, if people are in trouble, and to slam the door in their face, circumstances here provide even for

assistance where that -- where there is an absence of a sponsor, or in some of the other cases, but we don't -- we have no control over the immigration laws of this state and to the extent that a few areas in the country make tremendous efforts -- and I think they're laudable -- to meet human need, how can you refuse need -- to assist people in serious difficulty.

But do you realize that we are penalizing people who are on welfare? They're not living on champagne and caviar; they're living on a very, very narrow margin. Their marginal -- their existence is marginal. It's also marginal because the costs of adminis trating and providing for that program is inflated and diluted, the dollars that are available are diluted by -- by programs and circumstances that are not under our control or developed by us, and there are few places around the country, I guess, that have that circumstance.

So how -- how do we develop a

consistency and a sensitivity in the federal government? And this has been the truth, I think, as you stated it before. No matter what the administration is, they can be Democrats, they can be Republicans, but they wash their hands. They don't -- they just don't face up to that responsibility. Yet, they have that responsibility, and we don't have it and being human beings, we want to meet that need, but we also have to realize that there is a negative impact on our -- on indigenous people here who are not -- they're not wallowing in food or the benevolence of the state. They're barely sub sisting right now, and unless we keep an eye, as Senator Padavan is directing our vision, unless we do that, we're going to get more water in the soup for these families, and I think if we're going to restore some order and get -- and do justice to the people that we have, and with the responsibility -- ineluctable, it's irreversible -- I think we have it and we should have it and we ought to meet it in a -- in a sensitive way, not in a mean-spirited way but in a sensitive

way to human need, we're aggravating the problem.

So I think Senator Padavan is telling us here, we don't want more water in the soup for people. Let's try to focus on responsibility where we can. Where it's impossible then, of course, relief is provided, but it's a serious problem and until -- until a greater sensitivity takes over in Washington and I'm a little -- I'm not too optimistic about that, whatever happens in any election in the future, but I think we have -- the only way we can dramatize that need is by taking the guidance that's provided here by Senator Padavan in trying to devise a policy that meets that need.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ:

Senator Leichter.

SENATOR LEICHTER: If I may, to explain my vote.

ACTING PRESIDENT MAZIARZ:

Senator Leichter, to explain his vote.

SENATOR LEICHTER: Mr. President, certainly there is a problem to some extent with illegal immigration, but it's a federal matter and it has to be dealt with on the federal level. I think when we try to do the sort of things that Senator Padavan is doing which are really sort of lashing out at a problem without going to the source of the problem or going to the forum where the problem needs to be solved, I think we end up with the sort of difficulties that this bill has.

I think it was pointed out very correctly by Senator Padavan, this is a counterproductive bill. You're saying people who are sick, who may be carrying diseases, children who won't be immunized, we're going to leave them around in our community spreading

diseases because we're unwilling to provide the help that we ought to do for our own self-interest. I submit we also ought to do it for humanitarian reasons. Whether these people are here legally or not, they're still in our communities. They still are human beings. They still are entitled to basic -- to basic services.

So, Mr. President, one, this bill doesn't accomplish anything. Secondly, I think it sort of brands us as immigration bashers, as people who deny to children, to women, to others, the services that they ought to have, and certainly people don't come to this country because they want to get medical health care. They come to this country to try to work.

Now, everybody should come here legally, but you're certainly not going to deter people by saying you're not going to provide medical services. All you're going to do is place the community-at-large at risk and, as I say, brand us as people who are really neglect ful of our humanitarian obligations.

Mr. President, I vote in the negative.

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1314 are Senators Connor, Espada, Gonzalez, Kruger, Lachman, Leichter, Markowitz, Mendez, Montgomery, Nanula, Oppenheimer, Paterson, Smith and Waldon. Ayes 43, nays 14.

ACTING PRESIDENT MAZIARZ: Senator Marcellino.

SENATOR MARCELLINO: Announce the results, please. The bill is passed?

ACTING PRESIDENT MAZIARZ: The bill is passed.

SENATOR MARCELLINO: Mr. President, would you please recognize Senator DeFrancisco.

ACTING PRESIDENT MAZIARZ: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I'd like the record to reflect that had I been in

the chambers when Calendar Number 1060, Senate Print 6269-C, was voted on yesterday, I would have voted in the negative.

ACTING PRESIDENT MAZIARZ: The record will so reflect.

SENATOR MARCELLINO: Would you recognize Senator Sears first and then Senator Gonzalez.

ACTING PRESIDENT MAZIARZ: Senator Sears.

SENATOR SEARS: Yes, would you please remove the star from Calendar Number 26, Senate Bill 210-D.

ACTING PRESIDENT MAZIARZ: Star is removed.

Senator Gonzalez.

SENATOR GONZALEZ: Yes, Mr. President. May I have unanimous consent to be voted in the negative on 1312, Calendar Number 1312.

ACTING PRESIDENT MAZIARZ: Without objection, so ordered.

SENATOR MARCELLINO: No

objection.

ACTING PRESIDENT MAZIARZ: Senator Leichter.

SENATOR LEICHTER: Yes. May I have unanimous consent to be recorded in the negative on Calendar 1102.

ACTING PRESIDENT MAZIARZ: Without objection, so ordered.

Senator Nanula.

SENATOR NANULA: Thank you, Mr. President.

I'd like to request unanimous consent to be recorded in the negative on Calendar Number 1324.

ACTING PRESIDENT MAZIARZ: Without objection, so ordered.

Senator Marcellino.

SENATOR MARCELLINO: Could we return at this time to the normal calendar.

ACTING PRESIDENT MAZIARZ: I'm sorry. Senator Rath.

SENATOR RATH: Mr. President, one more housekeeping item. I'd like to have the

star removed from my bill, Calendar Number 944.

ACTING PRESIDENT MAZIARZ: Star is removed.

Senator Farley.

SENATOR MARCELLINO: You have housekeeping.

SENATOR FARLEY: Yes, Mr. President. On page 4 I offer the following amendments, on behalf of Senator LaValle, to Calendar Number 22, Senate Print 3292-A, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MAZIARZ: Amendments received.

SENATOR FARLEY: On behalf of Senator Goodman, Mr. President, I wish to call up his bill, Senate Print 1605, which was recalled from the Assembly which is now at the desk.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: Calendar Number 1135, by Senator Goodman, Senate Print 1605, an

act to amend the Vehicle and Traffic Law.

SENATOR FARLEY: I now move to reconsider the vote by which this bill passed.

ACTING PRESIDENT MAZIARZ: Call the role on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 57.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT MAZIARZ: Senator Farley. Amendments received.

SENATOR FARLEY: On behalf of Senator Lack, Mr. President, I wish to call up Calendar Number 1057, Assembly Print 2417-A.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: Calendar Number 1057, by member of the Assembly Robach, Assembly Print 2417-A, an act to amend the Surrogate's Court Procedure Act.

SENATOR FARLEY: I now move to reconsider the vote by which this Assembly bill

was substituted for my bill 4529-A, on 5-28.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll on reconsideration.)

ACTING PRESIDENT MAZIARZ: Senator Farley.

SENATOR FARLEY: I now -- I now move that the Assembly Bill 2417-A be recommitted to the Committee on Rules and that Senator Lack's Senate bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT MAZIARZ: Assembly bill is recommitted.

SENATOR FARLEY: And I now offer the following amendments.

ACTING PRESIDENT MAZIARZ: Amendments received.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, may we deviate for one moment and move to Bill Number 1320, Calendar Number 1320.

ACTING PRESIDENT MAZIARZ: Clerk

will read.

THE SECRETARY: Calendar Number 1320, by the Assembly Committee on Rules, Assembly Print 7839, an act to amend the Executive Law.

SENATOR STACHOWSKI: Explanation.

SENATOR LAVALLE: Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator LaValle, explanation has been requested by Senator Stachowski.

SENATOR LAVALLE: Let me just indicate as a preface before I explain some of the provisions of the bill, one of the things that or some of the things that have led to the introduction of this bill that has already passed the Assembly.

As we know, many corporations, many employers, in an attempt to control health insurance costs, some employers are seeking to have prospective employees tested for a range of genetically influenced health conditions

including genetic predisposition to disease or disability and a carrier status.

We are finding that tests that are being developed are proceeding at an extremely fast pace. The knowledge of how genes produce diseases is somewhat limited and, as a result, there is a limited possibility of predicting whether a particular genetic disposition will result in disease or disability and so, what this bill sets out to -- to do, is to say that under the Executive Law that employers cannot directly or indirectly solicit or require, administer a genetic test to a person as a condition of employment or pre-employment application, and this is also not only for employers but also for labor organization membership or for licensure, and there is some exceptions narrowly carved out in the bill in which an individual might request - an employee might request a genetic test in certain circumstances pursuant to a Workers' Comp. claim or pursuant to civil litigation or to determine the employee's susceptibility to

potentially carcinogenic, toxic or other hazardous chemicals.

It also would allow an employer to require a specific genetic test as a condition of employment where the test would show to be directly related to an occupational environment, and that is -- that's pretty much -- pretty much the scope of the bill, the rationale of why the bill was filed.

We have worked with the Commission on Science and Technology in the development of this legislation. Assemblyman Sweeney is the sponsor in the Assembly and, as I've indicated, the bill has already passed that house.

ACTING PRESIDENT MAZIARZ: Thank you, Senator.

Read the last section.

THE SECRETARY: Section 6. This act -

ACTING PRESIDENT MAZIARZ: I'm sorry. Senator Dollinger.

SENATOR DOLLINGER: Would the

sponsor yield for just a couple quick questions?

ACTING PRESIDENT MAZIARZ: Senator LaValle, would you yield to a question from Senator Dollinger?

SENATOR LAVALLE: Yes, I will.

ACTING PRESIDENT MAZIARZ: Senator yields.

SENATOR DOLLINGER: Senator, I apologize that I have not perhaps read the full extent of this bill, but to what extent would this affect the insurance that would be purchased by the employer for the employee?

SENATOR LAVALLE: I don't think it would have any effect on this.

SENATOR DOLLINGER: Well, just again through you, Mr. President.

SENATOR LAVALLE: Yes.

SENATOR DOLLINGER: Does the bill expressly prohibit the insurance carrier of the employer from requesting the test after employment has been arranged but prior to the employee qualifying for benefit?

SENATOR LAVALLE: I -

SENATOR DOLLINGER: In other words, Senator, in many cases -

SENATOR LAVALLE: Yeah.

SENATOR DOLLINGER: -- you apply for the job; you're asked all the pre-employment questions which are all set by law or largely governed by law. You're offered the job. Once you take the job, then you're brought in for the benefits discussion in which you actually sign up for the benefits. You get your Blue Cross/ Blue Shield and get your pension benefits or whatever else you're entitled to.

My question is does this prohibit the insurance company after you've actually been employed, from acquiring a genetic test as a condition of getting employment?

SENATOR LAVALLE: The language in the bill says that to directly or indirectly solicit, require or administer a genetic test to a person as a condition of employment, pre-employment application, so that I would say that both before you actually accept or as a

term and condition of employment while you're employed, that you can not be required to take a genetic test unless the two -- the situation is -- the individual requests that themselves, the employee, or the employer, under the situation that I described in the bill where there is an environmental -- an occupational environment that might lead to some sort of problem.

SENATOR DOLLINGER: O.K. Again through you, Mr. President, to Senator LaValle, I think that's the correct articulation of the law, and I see exactly what you're doing.

SENATOR LAVALLE: Yes.

SENATOR DOLLINGER: You're trying to say that, if you can show the genetic predisposition, in essence, as a term of employment, that it would be a factor in determining employability. For example, if you had susceptibility to iodine or some such genetic predisposition and yet the job involved dealing with iodine and that exposure -

SENATOR LAVALLE: That's correct.

SENATOR DOLLINGER: Then the

genetic test would be critical to determine your fitness as an employee.

SENATOR LAVALLE: That's correct. You're right on the money.

SENATOR DOLLINGER: And I think that's a good provision, but my position with respect to the first question I asked about the carrier imposing it as a condition of getting benefits, it seems to me the statute doesn't directly deal with that and leads to my next question, through you, Mr. President.

The fact that the employee can consent, doesn't that in most instances as a practical matter, doesn't that mean that the consent will actually be given, because -- and Senator, again, I'm just trying to make sure I fully understand it. If you take the job and they then say as a condition of getting your benefits you've got to consent to this test, most people would say, Gee, I've finally got the job, I'll give the consent, and it -- although it is a voluntary consent probably under the law, it's one of those consents where, if you

don't consent, you're not going to get the job and, Senator, I would add I think that's a common problem with these types of issues to set up a truly voluntary scheme in the employment contracts when it appears as though the weight of everything is pushing you toward that less than pristine voluntary consent.

SENATOR LAVALLE: Senator, I -- I suppose in the real world, as you know, where there are pressures, I suppose an individual might consent to something because he wants to hold onto the job. However -- and we're trying to balance all of these things when we -- when this legislation was created. I don't know if -- if it will satisfy you in the inquiry that you have made, but the very last provision in the bill says what the employee has to go through; it's the (d) on page 4.

SENATOR DOLLINGER: Yeah.

SENATOR LAVALLE: If an employee consents to genetic testing for any of the aforementioned allowable reasons, he or she must be given and sign an authorized authorization of

consent form which explicitly states the specific purpose, uses and limitations of the genetic test and the specific traits or characteristics to be tested, so I don't know if that fully would satisfy where you're -- your concern, and I understand your concern that people, because they have a job, are then pressured and say, Well, O.K., and what we try to do, as you well know as an attorney, is that when you go through and you put something in writing, and you say to a person you understand what you're signing and you go through that, it then allows that person to fully consider all the ramifications of what they are signing and what they are authorizing and what they're doing.

I'm not sure in the real world that you could in a bill that would -- would receive majority votes in both houses, be able to deal with all of the possibilities and potential coercion that an individual might be put under. I share your concern. I don't know how to deal with it as a practical matter.

SENATOR DOLLINGER: I concur. I guess I'll speak on the bill, Mr. President. I appreciate my colleague's, Senator LaValle's candid discussion.

ACTING PRESIDENT MAZIARZ: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I agree because I think, as a practical matter, trying to come up with a truly voluntary situation where you've got someone who's applied for a job, others have been offered the job, and suddenly you toss this factor in, the consent may be less than willful or may be less than voluntary, but it's probably as voluntary as we're going to get it.

We have to assume that someone who signs a form that says, "I know I'm doing that in a voluntary fashion; I know I can refuse to do it" which is, I assume, what the form of the contract would say, and I have these other protections and counseling and information, in most cases I assume that it will be even like lawyers who have been known to sign contracts as

I signed one to have my house sided where it simply said, Are you insured? I said, Yes, and I assume it's probably in the contract, and it's probably true of employees as a practical matter here.

I'm going to vote for this bill, Senator LaValle. I think this is a good first step down the road. I think that the one thing I would be concerned about and perhaps, if it some day gets to conference and some day gets to the second print, that the other term and condition of employment should specify that the person not be tested as a requirement of the insurance carrier who's providing them with benefits, that oftentimes in the employment process, it's not a term and condition of employment, it's a term and condition of obtaining the benefits that you're -- that you would otherwise be entitled to as an employer or as an employee.

As you know, in many instances in working families where you have both men and women who have eligibility for benefits as part

of their health insurance plan, you may find that you want to select benefits from one of the two employers depending on their availability and their -- the extent that they assist your family, and I guess I would be concerned that we make it clear that the insurance company cannot genetically test someone as a condition of disqualifying them from getting health insurance or life insurance benefits that would otherwise be available as part of the benefits package made available.

So with that in mind, I'm going to vote in favor of it. I just -- I hope we continue down this path, because I know I have a genetic testing bill in that does some other things, but I think this is a good step down the road, and I hope we get down to the point where we will not hold anyone's genetic make-up against them as we look to making sure that people have health and life insurance benefits available to them as part of their employment, something that's important here in New York State, and we should continue.

ACTING PRESIDENT SEWARD: Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 90th day.

ACTING PRESIDENT SEWARD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SEWARD: Announce the results.

THE SECRETARY: Ayes 57.

ACTING PRESIDENT SEWARD: The bill is passed.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT SEWARD: Senator Marcellino.

SENATOR MARCELLINO: Would you please recognize Senator Saland, please.

ACTING PRESIDENT SEWARD: Senator Saland.

SENATOR SALAND: Mr. President, I'd like to remove a sponsor's star from Calendar Number 1173, Senate 4060.

ACTING PRESIDENT SEWARD: The star is removed at the request of the sponsor.

SENATOR MARCELLINO: Mr. President, at this time we'd like to announce an immediate meeting of the Higher Education Committee in Room 124. An immediate meeting of the Higher Ed' in Room 124.

ACTING PRESIDENT SEWARD: The Higher Education Committee will be meeting immediately in Room 124 of the Capitol.

SENATOR MARCELLINO: Mr. President, can we now go back to Calendar Number 1318.

ACTING PRESIDENT SEWARD: The Secretary will read Calendar Number 1318.

THE SECRETARY: Calendar Number 1318, by Senator DeFrancisco, Senate Print 4231, an act to amend the Public Health Law, in relation to the establishment or incorporation of hospitals by a limited liability company.

ACTING PRESIDENT SEWARD: Read the last section.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT SEWARD: Oh, explanation has been called for.

SENATOR DeFRANCISCO: Two years ago -

ACTING PRESIDENT SEWARD: Senator DeFrancisco.

SENATOR DeFRANCISCO: Two years ago, we passed the legislation which allowed companies in this state to become limited liability corporations, but in doing so, it turned out that there was no amendment or no reference to the health law and as a result a determination was made by the Health Department that hospitals and nursing homes could not incorporate in such a fashion since they were not -- that specific law was not amended.

I contacted the sponsor shortly after I was contacted by the New York State Health Facilities Association to see whether or not there was a reason for the omission, and I was informed that it was unintentional, that there would be no objection to modifying it. That was the intent, to have all included and,

as a result, this is what this bill does: It amends the health law, Public Health Law, in order to allow hospitals and health care facilities to become eligible or to participate as a limited liability corporation.

SENATOR DOLLINGER: Mr. President, will Senator DeFrancisco yield to a couple questions?

ACTING PRESIDENT MAZIARZ: Senator DeFrancisco, would you yield to a question from Senator Dollinger?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MAZIARZ: Senator Dollinger.

SENATOR DOLLINGER: Senator, I understand the concept of limited liability questions, and I think that this bill, if that's all it does, I'm going to vote in favor of it. My question is, does this open the door for for profit ownership of hospitals and nursing homes beyond what we have currently in this state?

SENATOR DeFRANCISCO: No, it doesn't.

SENATOR DOLLINGER: O.K. So this is solely to take -- we do have proprietary nursing homes that are owned by corporations. This would simply take the limited liability corporation, the features of that combination of limited liability corporation and partnership law and allow them to change their corporation to get the benefits of that statute?

SENATOR DeFRANCISCO: Correct.

SENATOR DOLLINGER: But it doesn't -- it is in no way intended to alter our long-standing policy to allow for not-for-profit ownership of hospitals and nursing homes?

SENATOR DeFRANCISCO: That's correct.

SENATOR DOLLINGER: O.K. This doesn't open the door to Columbia H'Care or anybody else coming in and doing something that we've prohibited in the past? That's my concern.

SENATOR DeFRANCISCO: For the third time, that's correct.

SENATOR DOLLINGER: Thank you,

Mr. President.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Abate.

SENATOR ABATE: Yes, I ask for unanimous consent to be recorded in the negative on Calendar Number 1314.

ACTING PRESIDENT MAZIARZ: Without objection.

SENATOR ABATE: Thank you.

ACTING PRESIDENT MAZIARZ: Senator Gold.

SENATOR GOLD: Yeah, Mr. President. I ask unanimous consent to be voted in the negative on Calendars 1312 and 1314,

please.

ACTING PRESIDENT MAZIARZ: Without objection.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we call up Bill Number 1390 at this time, please.

ACTING PRESIDENT MAZIARZ: Clerk will read.

THE SECRETARY: Calendar Number 1390, by Senator Marcellino, Senate Print Number 7328-A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we lay aside for the day Calendar Number 1392 at the request of the sponsor. 1392.

ACTING PRESIDENT MAZIARZ: Calendar Number 1392 is lied aside for the day.

Senator Marcellino.

SENATOR MARCELLINO: Can we now return to the regular order of the controversial calendar.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: Calendar Number 1345, by Senator DiCarlo, Senate Print 7494, an act to amend the Public Authorities Law, in relation to providing reduced rate tokens.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT MAZIARZ: Senator DiCarlo, an explanation has been requested by the Acting Minority Leader, Senator Stachowski.

SENATOR DiCARLO: Thank you, Mr. President.

This bill would require the Triborough Bridge and Tunnel Authority to offer to residents of the great county of Kings, the borough of Brooklyn, tokens for use on the Verrazano-Narrows Bridge at a 20 percent discount.

For a number of years now, the residents of half of my district in Staten Island, who have been saddled along with my Brooklyn residents with a toll on a bridge that connects both ends of my district and two boroughs in the city of New York, the residents of Staten Island have fought successfully and gotten that 20 percent discount.

For too many years, the residents of Kings County, Brooklyn, New York have been saddled with an exorbitant toll on the Verrazano-Narrows Bridge. These are two communities and two boroughs that are very much similar and there isn't a person in my community in Brooklyn that doesn't have a friend or a

relative on the other side of the Verrazano Bridge in Staten Island.

The toll right now is $7 for non Staten Island residents, $7 to go visit your grandchild, $7 to go visit your parent, and that's a situation we do have in Brooklyn and Staten Island as families that are on either side of the bridge. What we, in Brooklyn, are looking for is some equity and that would mean giving us in Brooklyn the same discount that Staten Island residents have, and that is a 20 percent discount on the toll.

We also have, and if this goes into effect, 20 percent discount would bring the toll to $5 instead of $7. We also have had two surcharges on the toll on the Verrazano Bridge for a dollar each for a total of $2. Under my legislation, that $2 surcharge would be eliminated for residents of Brooklyn, bringing the toll down to $4, and if the residents in Brooklyn use the E-ZPass, as do residents of Staten Island, the toll will go from $7 for Brooklyn residents to the $3.20 that Staten

Island residents now enjoy.

For those reasons, I would urge the passage of this legislation.

ACTING PRESIDENT MAZIARZ: Read the last section.

Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator DiCarlo would yield for a question.

ACTING PRESIDENT MAZIARZ: Senator DiCarlo, would you yield for a question from Senator Paterson?

SENATOR DiCARLO: Certainly.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: I'm just wondering what the cost -- what the fiscal impact really would be if we're going to do this for Brooklyn residents -

SENATOR DiCARLO: There would be -

SENATOR PATERSON: -- to use the TBTA.

SENATOR DiCARLO: There would be

no impact on the state or the city of New York. There would be an impact on the TBTA. We're not sure what that would be, but I would argue that if we lowered the toll for residents of Kings County, that more grandmothers and grandfathers and children would visit their relatives because they can't do that now because of the $7 toll and I don't know whether there would be any negative impact on the TBTA.

ACTING PRESIDENT MAZIARZ: Read the last section.

I'm sorry, Senator Gold.

SENATOR GOLD: Yeah. Senator DiCarlo, I just got a call from -

ACTING PRESIDENT MAZIARZ: Senator DiCarlo, will you yield for a question?

SENATOR DiCARLO: Senator Gold, absolutely.

SENATOR GOLD: Yeah, you're right. I just got a call from a delightful Italian lady. I heard Pavarotti singing in the background, and she lives in Queens and says that she's got grandchildren in Staten Island

and wants to know whether or not she's going to have to pay any more than anybody else to go visit her grandchildren.

SENATOR DiCARLO: I think they should look towards their Queens representatives to introduce their legislation so that the grandmother in Queens might not have to pay this exorbitant toll also.

ACTING PRESIDENT MAZIARZ: Senator Gold.

SENATOR GOLD: I'm stunned by the answer.

ACTING PRESIDENT MAZIARZ: I could see that, Senator.

Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Gold, on the bill.

SENATOR GOLD: No, just want to explain my vote.

ACTING PRESIDENT MAZIARZ: I'm sorry. Senator Gold, to explain his vote.

SENATOR GOLD: Just explain, yeah.

Mr. President, I understand very well where Senator DiCarlo is coming from and I respect that. I really do. I just think that when it comes to bills like this, I mean we need a plan and it may be that every once in a while something sneaks through the cracks, but we really got to have a plan. We have people in Queens who are running back and forth to the Bronx every day, and the Bronx to Queens and from Queens to Manhattan and very few people in Manhattan come to Queens, unfortunately, but the point is that it just ought to be part of a plan, and I respect that there's politics involved and, Senator DiCarlo, I respect your concern for your constituents, but until we have an overall plan that makes some sense for the region, I would vote no.

ACTING PRESIDENT MAZIARZ: Senator Abate to explain her vote.

SENATOR ABATE: Yeah, I would just like to explain my vote.

For what was just cited by Senator Gold, I obviously am concerned. We all care about the residents of Brooklyn. We want them to be able to visit their relatives, but that same argument could also apply to residents of other boroughs and traveling to Staten Island and so I -- I agree that maybe there is a way to produce some remedies, but we need to look at the revenue loss and the cost and do it in an equitable way that just does not favor one part of New York City at the expense of the other. Perhaps we can look at it regionally, as Senator Gold said, and maybe do it -- maybe it's possible, maybe we're not talking about an enormous revenue loss, but to do it piecemeal, I do not think will benefit our mass transit system or our travel to and from the borough, so I can not support this bill today, and I look forward to your leadership for a proposal that

would affect the City as a whole.

ACTING PRESIDENT MAZIARZ: Senator DiCarlo, to explain his vote.

SENATOR DiCARLO: Thank you, Mr. President. To explain my vote.

The Verrazano-Narrows Bridge, so that everybody from outside the City understands this, does not connect New Jersey to New York City, does not connect Connecticut to New York City. This connects one part of New York City to another part of New York City.

I don't believe there are any tolls connecting Manhattan to Brooklyn. I don't believe there are any tolls connecting Manhattan to the Bronx, or at least there is a way to get from Manhattan to the Bronx without having to pay a toll on a bridge. We make exceptions for, I believe, some of the Rockaway crossings for Queens residents already. There is no exception for Brooklyn residents to get to Staten Island. There are exceptions for Staten Island residents to come into Brooklyn, but not the other way around.

I don't believe that we should be paying tolls to get over from one end of New York City to the other end of New York City. This is not a bridge that connects another state to New York but one borough to the next, one community to the next, and I would be happy to support legislation by Senator Gold to eliminate also the toll for Queens residents to Staten Island, but this legislation, I think we have to start with making some equity between Brooklyn and Staten Island in terms of the tolls.

So I would vote in the affirmative.

ACTING PRESIDENT MAZIARZ: Senator Onorato.

SENATOR ONORATO: Yes, to explain my vote.

ACTING PRESIDENT MAZIARZ: Senator Onorato, to explain his vote.

SENATOR ONORATO: I feel that the intentions of Senator DiCarlo are very honorable but my county is most heavily impacted by the amount of tolls that we have to pay to travel

from Queens to Manhattan, to the Bronx, or into Rockaway. I live in Queens, and I have relatives in the Rockaways and I have to pay a fare to see my grandchildren who used to live in the Rockaways every day.

If I want to take the Queens Midtown Tunnel to Manhattan, which is close to my home, or the Triboro Bridge or the Throgs Neck or the Bronx Whitestone Bridge, I have to pay full fare. I never got a break from anybody and, if we're going to eliminate any particular segment of the City, I think we should make it a balanced ball field or perhaps all of the residents of the city of New York should be entitled to a discounted fare on all tolls in and out of the metropolitan area and, if you brought forth such a bill, I would be very happy to co-sponsor it and vote for that bill, but under -- until that time comes, I will vote no on this one.

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

SENATOR DOLLINGER: Mr.

President, I'm a (unintelligible), I represent a district a long way from Staten Island, and I guess I'm always astounded that people who say that they live on islands choose to live on islands, whether it's Grand Island in the middle of the Niagara River, or Manhattan island in the middle of the Hudson, or Staten Island which is, I guess, at the confluence of the ocean and the Hudson, that everybody would say, I want to live there but I don't want to have to pay for the bridge or the ferry that gets me there, but Senator DiCarlo has got me convinced. If this is going to produce more cars in Staten Island because more people will be using the bridge, and more pollution, more parking problems and more emission problems on Staten Island, and the man who represents it wants all those things to happen, good enough for me.

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1345: Senators Abate, Gold, Nanula, Onorato, Paterson and

Stachowski. Ayes 51, nays 6.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1362, by Senator Hoblock, Senate Print 2278, an act to amend the Labor Law, in relation to excluding from an employer's experience rating charge, voluntary separation from last employment.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT MAZIARZ: Senator Hoblock, an explanation has been requested for Calendar Number 1362 by the Acting Minority Leader, Senator Stachowski.

SENATOR HOBLOCK: Mr. President, this bill amends the Labor Law having to do with the payment of unemployment insurance benefits and the charge for the payment of those benefits.

This bill provides that, if a claimant is leaving employment to follow his or her spouse to another locality, and is otherwise

eligible for unemployment insurance benefits, then the charge for that benefit will not be to the employer's account or the actuary for the computation of the employer's account, but rather will be charged to the general account and be spread.

This is a social policy change to encourage the continuance of the family unit and to permit and ease the relocation of employees and not to have one particular employer be penalized for that.

SENATOR STACHOWSKI: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Stachowski.

SENATOR STACHOWSKI: Would Senator Hoblock yield for a couple of questions, please?

ACTING PRESIDENT MAZIARZ: Senator Hoblock, would you yield for a question from Senator Stachowski?

SENATOR HOBLOCK: Sure.

ACTING PRESIDENT MAZIARZ:

Senator Stachowski.

SENATOR STACHOWSKI: Senator, as I understand the point of your bill and how it's going to help those companies that are going to allow the spouses to relocate, but won't this be since it's charged to the general account, won't this be a new expense to other companies that are doing business in New York?

SENATOR HOBLOCK: Well, the expense is there and it's a question of whether one employer should pay it or it be spread out through the general account which, who knows what it would be, but it would certainly be at a very minimum if spread out across the state.

SENATOR STACHOWSKI: Would the Senator continue to yield?

ACTING PRESIDENT MAZIARZ: Senator Hoblock, would you continue to yield to a question from Senator Stachowski?

SENATOR HOBLOCK: Yes.

ACTING PRESIDENT MAZIARZ: Senator Stachowski.

SENATOR STACHOWSKI: Senator, are

you aware that the AFL-CIO has a memo that opposes this particular bill?

SENATOR HOBLOCK: Has a memo what?

SENATOR STACHOWSKI: It's on the opposition memo, and it's one of the bills they oppose.

SENATOR HOBLOCK: No, I haven't got that memo.

SENATOR STACHOWSKI: And if Senator Hoblock would continue to yield for one more question?

ACTING PRESIDENT MAZIARZ: Senator Hoblock, do you continue to yield?

SENATOR HOBLOCK: Yes.

ACTING PRESIDENT MAZIARZ: Senator Stachowski.

SENATOR STACHOWSKI: The last question is, I don't understand why we're doing this bill because later, on this very calendar, Calendar Number 1388 eliminates this right in the first place in the whole system. We have a bill coming up later this afternoon that's on

the lay aside that eliminates this very right of a spouse to get unemployment benefits because their spouse has been relocated; so why would we bother doing this bill?

SENATOR HOBLOCK: The bill you just referred to is being laid aside for the day and we'll be talking about it but, in answer to your question as to why the bill, Bill, this is a carry-over from my predecessor, your good friend, Howard Nolan, who carried it for quite a while, and the Assembly sponsor being Ron Canestrari, and I picked it up from Senator Nolan.

SENATOR STACHOWSKI: On the bill.

ACTING PRESIDENT MAZIARZ: Senator Stachowski, on the bill.

SENATOR STACHOWSKI: I don't have a problem with this bill. I think that the policy is a good policy, and that's why in 1987 when we established it to put the keeping of the family together above the little expense for unemployment benefits for a worker, I thought it

was a great idea then. I think it's still a great idea now, and I like this bill.

The only reason I asked the questions on it was because we have another bill that says we're going to get rid of that policy because it's an added expense to doing business in New York State, which I find kind of peculiar.

So I'm for the bill. I hope we support the bill, and we'll deal with the other bill when it comes up.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1363, by Senator Velella, Senate Print 2586, an

act to amend Chapter 576 of the Laws of 1975.

SENATOR STACHOWSKI:

Explanation.

ACTING PRESIDENT MAZIARZ: Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. We're looking for the sponsor, if you would hold for two seconds. He's on his way in now. That is the sponsor, the breathless one.

ACTING PRESIDENT MAZIARZ:

Senator Velella.

SENATOR VELELLA: Yes.

ACTING PRESIDENT MAZIARZ:

Senator Velella, an explanation has been requested by Senator Stachowski of Calendar Number 1363.

SENATOR VELELLA: Yes. This bill would add some medical schools -- the following medical schools, University of Padua, Royal College of Surgeons in Dublin, Ireland, St. Georges School of Medicine in Granada to the list of schools which the Commissioner is

authorized to contract with in order to provide New York State residents opportunities to study medicine or dentistry in other schools outside of the United States.

SENATOR STACHOWSKI: Mr. President, would the sponsor yield for a question?

SENATOR VELELLA: Yes.

ACTING PRESIDENT MAZIARZ: Senator Velella, would you yield for a question from Senator Stachowski? Senator yields.

Senator Stachowski.

SENATOR STACHOWSKI: The question I have is, in a year when the policy seems to be cut back on support for graduate medical students, why are we extending this provision that enlarges the possibility for graduate medical students?

SENATOR VELELLA: Well, what we're doing is, hopefully, we're getting ready for the bounce back from the years that we've had of mismanagement, that new management in this state will recreate the great vibrant

society that we need, and we'll be ready to have these students enrolled in schools throughout the world where they can garner the best medical knowledge available, and we'll be able to support them once we've got the policies of the past eliminated.

SENATOR STACHOWSKI: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Stachowski.

SENATOR STACHOWSKI: Maybe I wasn't quite clear on that. I don't believe that past policies have anything to do with the current administration's position that New York spends too much money on educating doctors for every other place in the country, and that's what the position is in all the discussions over NYPHRM's replacement or continuation of NYPHRM or what would or would not be in, so with the administration having a position like that, I was just wondering if this is your position in answer to the administration's position or is this a part of the administration's position?

SENATOR VELELLA: Let me clarify that, in all seriousness. This program has not been funded for several years now. However, we are hopeful merely meeting with several of the people involved in this legislation that this may become available in the future as we face the problems.

There is no money being appropriated here. What we want to do is make these three schools eligible to be on a par with the schools that have this opportunity in the past, so it would open the door for them. There is no money flowing and, yes, we are talking about major changes in graduate medical education, new concepts, new ideas.

We'd like to have these three schools ready in the event that part of that change incorporates education abroad, that they would be qualified to fit into the program.

SENATOR STACHOWSKI: Do you think there will be any openings for anybody to sit and, like, make sure the students are coming in so you could spend the time on that island?

SENATOR VELELLA: I'm sorry?

SENATOR STACHOWSKI: Do you know if there's any openings for people that could be hired to make sure that New York State students were being treated right, so that that person being hired would then have to spend at least six months a year on this island?

SENATOR VELELLA: Well, let's say, sir, if there were some people who were interested in changing their careers, that could be arranged.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1363: Senators Connor, Gold, Holland, Onorato, Paterson,

Skelos, Smith and Stachowski. Ayes, nays 8.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 1373, by Senator Present, Senate Print 5908, an act to amend the Penal Law.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT MAZIARZ: Read the last -- Senator Present, an explanation has been requested by Senator Stachowski, the Acting Minority Leader.

SENATOR PRESENT: Mr. President, this changes the definition of an antique slot machine. It will be antique if it's 25 years old or older. The current law says it's manufactured prior to 1941.

SENATOR PATERSON: Mr. President -

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Present would yield for a question.

ACTING PRESIDENT MAZIARZ:

Senator Present, would you yield for a question from Senator Paterson?

SENATOR PRESENT: Yes.

SENATOR PATERSON: Senator, what would entail -- what would be the ramifications of changing 25-year-old slot machines to an antique designation? Will this in any way change the manner in which they're used, the places in which they're used; in other words, is there any way that these machines could be used for any purposes right now that we don't have a legal standing to have?

SENATOR PRESENT: No, it will not change their use. They cannot be used for gambling, just to put this on a par with other states. Apparently there is great traffic among antique collectors for these types of machines and in 19 other states they define antique slot machine as older than 20 to 30 years; four states, New York, New Jersey, Pennsylvania, South Dakota define it as pre-1941; 14 states allow collectors to have any machine; seven

states prohibit any machine.

This just increases the value and the traffic among antique dealers of slot machines.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: That's quite satisfactory, Mr. President. Thanks, Senator Present.

ACTING PRESIDENT MAZIARZ: Thank you.

Read the last section.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Gold.

SENATOR GOLD: Senator Present yield for a question?

ACTING PRESIDENT MAZIARZ: Senator Present, would you yield for a question from Senator Gold, please?

SENATOR GOLD: Senator, I don't really have the whole statute here. I don't even have a memo, but does the statute define

what a slot machine is?

SENATOR PRESENT: I don't believe so.

SENATOR GOLD: Well, Senator, if you yield to one more question. I don't -

SENATOR PRESENT: Maybe some other section does define it.

SENATOR GOLD: Well, Senator, let me get to my point. I can understand that gambling is illegal in the state and if anybody is running a gambling establishment they're violating the law, but if you were to go to many legitimate -- and I use that word in its fullest meaning -- stores, tobacco stores, other kind of stores, you see items which are slot machines. They're meant to be -- "toys" is a bad word, but people have them in their house and you put in a quarter or you don't put in a quarter, but obviously they are mechanically in any way set up to be worked 24 hours a day as a gambling device, but it seems to me that while nobody bothers these people -- and I would hope not, that maybe that is, in fact, a violation of

law.

I have been to homes where people have in their den a slot machine. They don't run gambling enterprises. They aren't eligible for Gamblers Anonymous. It's just an interesting thing and their grandchildren come over and throw quarters in and it comes out or it doesn't come out. Why in this day and age are we worried about people having slot machines if they -- if it is already, in fact, against the law to run gambling operations, and that I wouldn't argue? Why are we worried about slot machines to begin with?

SENATOR PRESENT: I think the only reason we're worried about it because under existing statute, a machine that's manufactured after 1921 would not qualify as an antique and you couldn't hold it, you couldn't possess it.

SENATOR GOLD: Well, let me ask you one more pointed question. Are the stores throughout this state which sell these miniature slot machines but which operate as a slot machine, are they, in fact, now in violation of

the law?

SENATOR PRESENT: I don't know, Senator.

SENATOR GOLD: Well, Senator, I'm not going to vote against your bill, but it may be something you want to look at but I'll bet you that, if this is the really the law in this state, and I'm sure it is because we're amending it, somebody wants to throw a bounty, ten bucks a store, you and I could make a fortune running around the state because they sell these in all of the stores and that's why I asked if there was a definition as to whether or not it has to be a certain size, whether it's got to be capable that it works, but if you're just talking about a machine where you put in quarters or dimes and it kicks out money, I'm telling you, they sell these all over the state.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

November.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MAZIARZ: The bill is passed.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. I was at a meeting of the Higher Education Committee and was out of the chamber when two bills were voted on. I request permission to be recorded in the negative on Calendars 1345 and 1353, please.

ACTING PRESIDENT MAZIARZ: Without objection.

SENATOR LEICHTER: Thank you.

THE SECRETARY: Calendar Number

1375.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: Calendar Number 1375, by Senator DeFrancisco, Senate Print 6185-A, an act to amend the Parks, Recreation and Historic Preservation Law, in relation to the powers of the Commissioner of Parks.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MAZIARZ: Senator DeFrancisco, an explanation has been requested by the Acting Minority Leader, Senator Paterson.

SENATOR DeFRANCISCO: This bill would amend the Parks, Recreation and Historic Preservation Law to allow the Commissioner of Parks to enter license agreements for up to 49 years, the theory being that substantial capital investment is needed in order for certain facilities that are presently in the parks to be upgraded and, in order to attract that private investment, they would need to have the authority to extend the amount of time when that

investment can be recouped.

Presently the Office of Parks has about a $267 million capital budget, and it has about one billion dollars in infrastructure needs, so this is one way to deal with the infrastructure needs of parks by providing longer leases to incentivize private corporations to invest capital dollars in our parks.

ACTING PRESIDENT MAZIARZ: Read -- I'm sorry. Senator Oppenheimer.

SENATOR OPPENHEIMER: I understand what you're trying to do, Senator DeFrancisco.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer, are you asking Senator DeFrancisco to yield for a question?

SENATOR OPPENHEIMER: Actually I think I'll just talk on the bill.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: Because I do understand that we have deteriorating park

structures, and I'd like to present the other side of this, though.

We could potentially be opening the door to inappropriate private development in that we are allowing the development of any facility, which historically has not been the case. It has been concessions in the past, and with very few exceptions, the current law does not permit the development of facilities in our parks other than the provision for capital im provements to these concessions, as I mentioned earlier, and by then it's -- and at that point it's only by a license agreement which would not exceed 20 years and this goes up to 49 years which is more than double the number of years which is presently permitted.

There are other examples within major agencies which point to the fact that we would probably not need this kind of doubling of the length of time of the contract. The National Park Service limits its license term - terms throughout the country to just 10 to 15 years, and they have very major, major hotels in

these parks and they're on a much more limited arrangement.

The -- our New York State Department of Transportation limited the initial lease of the Chelsea Piers in Manhattan on the waterfront. That was limited to 10 years with another 10-year option and there the developer invested multiple millions of dollars, tens of millions. I think that very often these long-term leases will lock the public into a potentially untenable arrangement with changes in public opinion and public acceptance and, therefore, I think this -- the length of time is just to -- to more than double the amount of time of our present leases, it seems to me to be unreasonable and if incompetent management came in during that period of time or if the lease was given to another person -- another organization who wasn't -- which weren't doing the kind of job that the first group did, how would we get rid of the incompetent management?

And lastly, I would say that the lack of opportunity for public input or any -

any community input would have to be rectified. Right now, only the A-G and the Comptroller can comment and they can only comment on the legal and the fiscal aspects.

So I think there has to be an opportunity for the community to -- to be heard. So those are my major objectives - objections to this bill, and I think there would have to be definite rules and regulations written in so that there would be a guidelines and, in promulgating those regulations, I would suggest we look at, number one, commercial ization. We don't want a lot of advertising going on in our historic sites.

We would look at the environmental alterations. I think that should be part of the rules and regulations. We, for instance, wouldn't want commercial logging in Allegheny State Park. I mean there's an instance, and I think we also have to put in some measure of local participation where the community will have an opportunity to be heard.

So I mention these to you. I am

going to request that those who feel as I do vote in opposition to this bill, but I would hope that by taking into account some of these suggestions, that we could have a more appropriate, a finer bill in the future.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Senator DeFrancisco.

SENATOR DeFRANCISCO: Like to explain my vote.

ACTING PRESIDENT MAZIARZ: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Just in response to a couple of points that were made by Senator Oppenheimer. If there was incompetent management, we would be in the situation to enforce whatever the provisions are in the

license agreement. The Parks Department will, of course, have provisions in the agreement which would require revocation or some modification of the license in the event that there was incompetent management and it was run down.

The problem that we have is that there are historic sites, buildings such as Minturn Mansion and the Beaver Island Casino which are in danger of being lost at this point in time and since we have not put the dollars in that we need to save these structures, this is the next best thing, and lastly, I also had some concerns about the period of time, and it was at my suggestion that the sliding scale of the amounts of investments that would have to be made before you go into that next section was changed by the bill that originally came down from Parks and Recreation, so that there would have to be increased investment as you carry out the licenses over a greater period of time.

So I'll vote yes.

ACTING PRESIDENT MAZIARZ:

Senator Stafford.

SENATOR STAFFORD: Mr. President, are we explaining our vote? Yes?

ACTING PRESIDENT MAZIARZ: Yes, we are, Senator. Senator Stafford to explain his vote.

SENATOR STAFFORD: First time I've explained my vote in 31 years.

SENATOR GOLD: Is that right?

ACTING PRESIDENT MAZIARZ: We can hardly wait.

SENATOR STAFFORD: What did he say? You sit down. People have got in trouble standing up.

SENATOR OPPENHEIMER: Boooo!

SENATOR STAFFORD: Now -- oh, come on!

Mr. President, this has nothing to do with the distinguished Senator from Westchester who so very, very effectively was a protagonist the wrong way. This situation is such that, if we're going to get our parks back in shape, have them used and also -- also make

sure that we have a viable economy in all areas of the state, we're going to have to take some of these steps.

Comparing us to the -- comparing us to the national parks, that is all a completely different situation, and I just can't help but say that our policy for the state park, both in the Adirondacks and in the Catskills is the laughing stock of the National Park Service. I just have to mention that. I hate to, but for those who are professionals in the forestry field, so please be sensible.

I compliment Senator DeFrancisco for this very sensible piece of legislation. I compliment the administration for trying to get the parks back in line. We're behind. All you have to do is go around to some of these parks both in upstate, Southern Tier, Long Island, anywhere, and if we don't get some private funding here, then we're just going to continue to go down the path the wrong way.

SENATOR OPPENHEIMER: Explain my vote.

ACTING PRESIDENT MAZIARZ:

Senator, I'm sorry. Senator Stachowski was next.

Senator Stachowski is yielding to Senator Oppenheimer.

Senator Oppenheimer.

SENATOR OPPENHEIMER: I explain my vote, please.

Well, I think in response to our illustrious chair of the Finance Committee, Senator Stafford -- Senator Stafford, in response to you, I have to say on behalf of Senator Maziarz and myself that it's hard enough being vertically challenged and -- and we have to live with it, because we never got much bigger than six -- vertically challenged. Those of us who are just a little over five foot -

SENATOR STAFFORD: Told to stand up.

SENATOR OPPENHEIMER: We don't have to be told to stand up. We are standing as big as we can, so Senator Maziarz and I take umbrage at the vertically challenged -

SENATOR STAFFORD: I apologize.

SENATOR OPPENHEIMER: - expression.

ACTING PRESIDENT MAZIARZ: For the record, Senator, I do not take umbrage at the comments of my good friend from the Adirondack region.

SENATOR OPPENHEIMER: Let me say that I concur that our parks do need a lot of work and that in many cases we have crumbling facilities, and I would say that perhaps physically extending the -- the period of time for these agreements to somewhat less than doubling would -- would be appealing, and I might sympathize with that, and also extending it beyond just concessions, that's something that I think we might also find appealing; but the thing that is the most difficult for me - and I cannot understand how we could move ahead without this -- is there is -- are actually no rules or regulations or stipulations. There is nothing put forth other than the administra tion's desire to -- to bring some kind of

commercial interest into our parks.

I think that there is an essential need to promulgate guidelines and in these rules and regulations, I would suggest there have to be certain issues addressed and that has to be commercialization, the environmental alteration and, above all, local participation.

With those changes, with the institution of these rules and regulations, I think the people of the state would feel a lot more protected, and so that is what I would recommend; but since this bill doesn't contain that, I recommend a no vote.

ACTING PRESIDENT MAZIARZ: Senator Stachowski.

SENATOR STACHOWSKI: Explain my vote.

ACTING PRESIDENT MAZIARZ: Senator Stachowski to explain his vote.

SENATOR STACHOWSKI: Explaining my vote, I happen to agree with Senator DeFrancisco that the length of these contracts

is important to attract the kind of companies and bids that will help bring our parks up to the level they want to be, and I might add that in some of these concession contracts now, for the larger areas, they expect these concession aires also to develop some kind of films that would be used to attract visitors, and that's all built into the contract, and I think that if you want to get these kind of concessionaires, which obviously aren't "mom and pop" kinds, to make that kind of major investment, well, then you have to allow them to have enough years to make the investment worthwhile.

I think that it's a good bill. I got to believe that the Department will do the best job they can to keep the integrity of the park. I think if you ruin the integrity of the park, then they're only defeating themselves and you're not going to get the visitors anyway, so I got to believe the park people are aware of that, they would keep that in mind and that this bill is a good idea to help us attract the kind of companies and dollars that will bring our

parks on an equal footing with everybody across the country and help us increase our tourism throughout the year in this state and help our economics also.

Thank you very much. I'm going to vote yes.

ACTING PRESIDENT MAZIARZ: Senator Gold.

SENATOR GOLD: Thank you, Mr. President.

Mr. President, I -- in case Senator Oppenheimer and others didn't understand Senator Stafford's argument, it's a simple one and that is what's good for General Bull Moose is good for the U.S.A., and all we have to do is take care of business, and big business, and we'll all be O.K.

Under existing law, we can deal with 20 years and I -- I feel, contrary to my very distinguished and beloved friend, Senator Stachowski, that 20 years is a lot of time and there are people who rent property, build buildings and after 20 years the building goes

to the landowner because in their economics 20 years is a lot of time for a business to be able to make back an awful lot of money. 49 years is basically half a century, and I cannot believe that that is really necessary in all cases or in a great majority of cases.

If there's a situation, I think we can always deal with a situation, but the concept of giving away land on a 49-year basis under this kind of authority, I think, is much, much too excessive, and I'm supporting my colleague from Westchester, in the negative.

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1375: Senators Abate, Connor, Dollinger, Gold, Goodman, Leibell, Leichter, Levy, Markowitz, Mendez, Montgomery, Nanula, Onorato, Oppenheimer, Paterson, Smith, also Senator Lachman. Also Senator -- ayes 40, nays 17.

ACTING PRESIDENT MAZIARZ: Did you get Senator Markowitz? The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, could we lay aside for the day Calendar Number 1388.

ACTING PRESIDENT MAZIARZ: The bill is laid aside.

SENATOR SKELOS: Mr. President, I believe the clergy is here who, there was a mix up in the time and, at this time, if we could have the opening-closing prayer of the day.

ACTING PRESIDENT MAZIARZ: Senator Skelos, we've been joined by the Reverend Kenneth Rodgers, United Methodist Church of Pleasantville.

Reverend Rodgers.

REVEREND KENNETH RODGERS: I would like to thank Senator Oppenheimer for inviting me to be with you and to deliver the prayer.

I am sorry that you had to do all this work without prayer, but it's always appropriate; every time is a time for prayer. So I would like for you to join me in opening

your hearts and minds to God in prayer.

Eternal God, we thank You for revealing to us that You are our Heavenly Father, and that all persons on this earth are Your children. Sometimes we have called our selves Your children but lived as if we thought others were not. When we forget or ignore the fact that all persons are members of the family of God, forgive us, we pray. If we have ignored other men and women for their ignorance, or denied them the means of knowledge, if we have forced them to fight for what they need but condemned their aggressiveness, or if we have offered them no opportunities except low paying jobs but complained because they were not able to stay off welfare, forgive us. Cause us to look within ourselves and see there all that we condemn in others, for most of us can say, there but for the grace of God go I.

Oh, God, Who daily bears the burden of our life, we pray for humility as well as forgiveness. As our state and country play their parts in the lives of our communities,

rural and urban, let that our nation's leaders are looked upon throughout this world of ours for their leadership. Help us to know that all wisdom does not reside in us and that other nations have the right to differ with us as to what is best for them as we have a right as a state to differ with the policies of other states and an obligation to help set our national agenda.

God, the Ruler of the Universe, give to every nation what we seek for our own country: Concern for human needs of every man, woman and child; sensitivity to moral issues; strength to be free and to carry the burden of freedom; readiness to accept responsibility and not to evade its consequences; deliverance from cynicism and despair.

And now, for all those who serve in this place of government, we pray that they may go through each day's work with faithful ness, strong to do justly, to love mercy and to walk humbly with You.

Amen.

ACTING PRESIDENT MAZIARZ: Amen. Thank you, Reverend Rodgers.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there's a report of the Rules Committee at the desk. I ask that it be read.

Following the reading of the Rules report, there will be a meeting of the Rules Committee in Room 332 of the Capitol.

ACTING PRESIDENT MAZIARZ: Secretary will read.

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

By Senator Espada, 7491-A, an act to authorize the city of New York;

By Senator Skelos, 2458-A, an act to amend the Family Court Act, in relation to orders of protection;

By Senator DiCarlo, Senate Print 2481-B, an act to amend the Executive Law;

By Senator Spano 2629-B, an act to amend the Retirement and Social Security Law;

By Senator Larkin, Senate Print 2807-A, an act to amend the Education Law;

By Senator Nozzolio, Senate Print 3982-A, an act to amend the Vehicle and Traffic Law;

By Senator Padavan, 4754-A, an act to amend the Administrative Code of the city of New York;

By Senator Present, Senate Print 5484-B, an act to amend the Highway Law;

By Senator Paterson, Senate Print 5486, an act to authorize Richard J. Mason to purchase retirement service credit;

By Senator Nozzolio, Senate Print 5996-A, an act to amend Chapter 530 of the Laws of 1988;

By Senator Wright, Senate Print 6126-A, an act to amend the Environmental Conservation Law;

By Senator Maltese, Senate Print 6135-A, an act to amend the Criminal Procedure

Law;

By Senator Kuhl, Senate Print 6195, an act to amend the Agriculture and Markets Law, in relation to making technical corrections;

By Senator Skelos, Senate Print 6250-A, an act to amend the Public Service Law, in relation to certain telephone company actions;

By Senator Velella, Senate Print 6319-A, an act to amend the Executive Law;

By Senator Marchi, 6330, an act to provide additional member funded service credit;

By Senator Trunzo, 6360-A, an act to amend the General Municipal Law and the Retirement and Social Security Law;

By Senator Holland, Senate Print 6364-A, an act to amend Chapter 534 of the Laws of 1993;

By Senator Kuhl, Senate Print 6413, an act to amend the Vehicle and Traffic Law;

By Senator Kuhl, Senate Print 6418-A, an act to amend the Highway Law, in relation to state highways in Steuben County;

By Senator Kuhl, Senate Print 6419-A, an act to amend the Highway Law;

By Senator Saland, Senate Print 6473, an act to amend the Executive Law;

By Senator Holland, Senate Print 6490-A, an act to amend Chapter 779 of the Laws of 1986;

By Senator Volker, Senate Print 6517, an act to amend the Criminal Procedure Law;

By Senator Nozzolio, Senate Print 6526, an act to amend the Criminal Procedure Law;

By Senator Wright, Senate Print 6739-A, an act authorizing the conveyance of certain state lands;

By Senate Seward, Senate Print 6740-A, an act to amend the Vehicle and Traffic Law;

By Senator Seward, Senate Print

6741-A, an act to amend the Vehicle and Traffic Law;

By Senator Volker, Senate Print 6780, an act to amend the Executive Law;

By Senator Stafford, 6814-A, an act to amend the State Law and the State Finance Law;

By Senator Trunzo, Senate Print 7046-A, an act authorizing the town of Islip to lease certain lands;

By Senator LaValle, Senate Print 7057-A, an act to amend Chapter 741 of the Laws of 1985;

By Senator Cook, Senate Print 7073-B, a act to amend the Environmental Conservation Law; and

By Senator Farley, Senate Print 7086-A, an act to amend the General Municipal Law.

All bills directly for third reading.

ACTING PRESIDENT MAZIARZ: Senator Skelos.

SENATOR SKELOS: Mr. President, is there any housekeeping at the desk? Could we return to motions and resolutions?

ACTING PRESIDENT MAZIARZ: Senator DiCarlo.

SENATOR DiCARLO: Yes, Mr. President. I wish to call up my bill, Print Number 6107, recalled from the Assembly which is at the desk.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: By Senator DiCarlo, Senate Print 6107, an act to amend the Executive Law.

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

ACTING PRESIDENT MAZIARZ: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT DiCARLO: Senator

DiCarlo.

SENATOR DiCARLO: I now offer the following amendments.

ACTING PRESIDENT MAZIARZ: Amendments received.

Senator DiCarlo.

SENATOR Dicarlo: Mr. President, on your behalf, on page 31, I offer the following amendments to Calendar 1069, Senate Print 7432, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT MAZIARZ: Amendments received.

Senator Hoblock.

SENATOR HOBLOCK: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 1375.

ACTING PRESIDENT MAZIARZ: Without objection.

Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President. 1375 wish to be recorded in the negative.

ACTING PRESIDENT MAZIARZ: Without objection.

Senator Spano.

SENATOR SPANO: Yes, on behalf of Senator Saland, page 6, I offer the following amendments to Calendar 258, Senate Print 2457-A, and ask the bill retain its place on Third Reading Calendar.

ACTING PRESIDENT MAZIARZ: Amendments received.

Senator Sears.

SENATOR SEARS: Mr. President, on page 12, I offer the following amendments to Calendar Number 545, Senate Print Number 4904-A.

ACTING PRESIDENT MAZIARZ: Amendments received.

SENATOR SEARS: I ask the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MAZIARZ: Amendments received.

SENATOR SEARS: Also, Mr. President, on page 27, I offer the following

amendments to Calendar Number 999, Senate Print Number 7094-A, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MAZIARZ: Amendments received.

Senator Farley.

SENATOR FARLEY: Mr. President, I wish to call up my bill, Senate Print 1378, which is recalled from the Assembly which is now at the desk.

ACTING PRESIDENT MAZIARZ: Secretary will read.

THE SECRETARY: By Senator Farley, Senate Bill 1378, an act to amend the Penal Law.

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

ACTING PRESIDENT MAZIARZ: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 57.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT MAZIARZ: Amendments received.

SENATOR FARLEY: On behalf of Senator Goodman, on page 18, I offer the following amendments to Calendar 747, Senate Print 5746, and I ask that that bill retain its place.

ACTING PRESIDENT MAZIARZ: Amendments received.

SENATOR FARLEY: On behalf of Senator LaValle, on page 6, I offer the following amendments to Calendar Number 329, Senate Print 4293-C, and I ask that that bill retain its place.

ACTING PRESIDENT MAZIARZ: Amendments received.

SENATOR FARLEY: On behalf of Senator Saland, I offer the following amendments to Calendar Number 1423, Senate Print 6473, and I ask that that bill retain its place.

ACTING PRESIDENT MAZIARZ:

Amendments received.

Senator Farley.

SENATOR FARLEY: On behalf of Senator Holland, I offer the following amendments to Calendar Number 772, Senate Print 6860-A, and I ask that that bill retain its place.

ACTING PRESIDENT MAZIARZ: Amendments received.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, we'd like to remind the members of the Rules Committee, that there is a Rules Committee meeting now in Room 332, ongoing.

Mr. President, may we stand - the Senate stand at ease pending the report of the Rules Committee.

ACTING PRESIDENT MAZIARZ: The Senate will stand at ease pending the report of the Rules Committee.

(Whereupon at 2:33 p.m., the Senate stood at ease until 3:05 p.m.)

ACTING PRESIDENT MAZIARZ: The

Senate will come to order.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Skelos.

SENATOR SKELOS: If we could return to reports of standing committees, I believe there's a report of the Rules Committee at the desk. I ask that it be read.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

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

Senate Print 303, by Senator Kruger, an act to amend the Penal Law;

Senate Print 2459-A, by Senator Skelos, an act to amend the Executive Law;

Senate Print 4699-A, by Senator Stafford, an act to amend the State Finance Law;

5801, by Senator Present, an act to authorize and direct the Education Department;

6365, by Senator Larkin, an act

to amend the General Municipal Law;

6395, by Senator Maziarz, an act to amend the Insurance Law;

6421, by Senator Nozzolio, an act to amend the Correction Law;

6523, by Senator Volker, an act to amend the Civil Practice Law and Rules;

6614, by Senator Nozzolio, an act to amend the Correction Law;

6619, by Senator Nozzolio, an act to amend the Correction Law;

6657, by Senator Nozzolio, an act to amend the Executive Law;

6784, by Senator Spano, an act to amend the Labor Law;

6923-A, by Senator Libous, an act to amend the New York State Medical Care Facilities Finance Agency Act;

7038, by Senator Trunzo, an act to amend the Retirement and Social Security Law;

7113-A, by Senator Velella, an act to amend Chapter 403 of the Laws of 1983;

7123, by Senator Marcellino, an

act to amend the Public Officers Law;

7136, by Senator Spano, an act to amend the Local Finance Law;

7143, by Senator Leibell, concurrent resolution of the Senate and Assembly;

7204, by Senator Cook, an act to amend the Economic Development Law;

7230, by Senator LaValle, an act to create the Brookhaven National Laboratory;

7244, by Senator Saland, an act to amend the Criminal Procedure Law;

7277-A, by Senator Maziarz, an act to amend the State Administrative Procedure Act;

7356, by Senator Marcellino, an act to amend the Environmental Conservation Law;

7384, by Senator Trunzo, an act to amend the Environmental Conservation Law;

7385-A, by Senator Trunzo, an act to amend the Retirement and Social Security Law;

7386-A, by Senator Trunzo, an act to amend the General Municipal Law;

7437, by Senator Wright, an act to amend the Workers' Compensation Law;

7485-B, by Senator Stafford, an in act in relation to authorizing the town of Willsboro;

7512, by Senator Maziarz, an act to amend the Executive Law;

7532, by Senator Cook, concurrent resolution of the Senate and Assembly;

7552, by Senator Holland, an act to amend the Social Services Law;

7553, by the Committee on Rules, an act to amend the Public Health Law and the Insurance Law;

7574, by Senator Spano, an act to amend the County Law;

7583, by Senator Lachman, an act in relation to allowing Mr. Browne to be reclassified as a Tier I member;

7590, by Senator Volker, an act to amend the Civil Practice Law and Rules;

7592, by Senator Seward, an act to amend the Public Service Law;

7593, by Senator Skelos, an act to amend the Business Corporation Law;

7634, Senator Skelos, an act to amend the Executive Law;

7634, by Senator DiCarlo, an act to amend the Executive Law;

7664, by Senator Seward, an act to amend the Local Finance Law;

7690, by Senator Trunzo, an act to amend the Executive Law;

7701, by Senator Goodman, an act to amend the Tax Law;

And 7729, by Senator Velella, an act to amend the Public Health Law.

All bills directly for third reading.

ACTING PRESIDENT MAZIARZ: Senator Sears.

SENATOR SEARS: Yes, Mr. President.

On page number 4, I offer the following amendments to Calendar Number 26, Senate Print Number 210-E and ask that the said

bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MAZIARZ: The amendments are received and without objection, all bills are reported to Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Any other housekeeping?

ACTING PRESIDENT MAZIARZ: There's no housekeeping at the desk.

SENATOR SKELOS: Mr. President, there being no further business, I move we adjourn until Wednesday, June 12th at 10:00 a.m. sharp.

ACTING PRESIDENT MAZIARZ: The Senate stands adjourned until Wednesday, June 12th at 10:00 a.m.

(Whereupon, at 3:09 p.m., the Senate adjourned.)